

Basically CDBG for States

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CHAPTER 1: OVERVIEW OF THE PROGRAM



CHAPTER PURPOSE & CONTENTS

This chapter provides a general overview of the Community Development Block Grant Program (CDBG), including a brief synopsis of the history of the program and a summary of the objectives of the program.

SECTION	TOPIC
1.1	Program History & Primary Objective
1.2	States v. Entitlement Formula Allocations
1.3	Key Definitions
1.4	Introduction to Eligible Activities
1.5	Ineligible Activities
1.6	CDBG Resources

1.1 Program History & Primary Objective

✓ This section explains the history of the CDBG program and its goals.

Key Topics in This Section	✓ Programs that preceded CDBG ✓ CDBG primary objective
Statutory Citations	Section 101(c)
Other Reference Materials on This Topic	Not applicable

✓ The CDBG Program is authorized under Title I of the Housing and Community Development Act of 1974, as amended (HCDA). Prior to this point in time, there were numerous federal programs which addressed community development issues.

✓ CDBG grew out of the consolidation of eight categorical programs under which communities competed nationally for funds. The consolidated programs include:

- Open Space;
- Urban Renewal;
- Neighborhood Development Program grants;
- Historic Preservation grants;
- Model Cities supplemental grants;
- Public Facilities loans;
- Neighborhood Facilities grants; and
- Water and Sewer grants.



- ✓ The initial recipients of the CDBG program were local governments, which are known as entitlements. Entitlements may be metropolitan cities or urban counties and each receives annual CDBG funding via an established formula.
- ✓ From 1975 to 1981, states did not participate in CDBG program and HUD conducted an annual competition to fund small cities. Amendments to HCDA in 1981 permitted states to administer the CDBG program for small cities starting in 1982.
- ✓ Under the state CDBG program, states are responsible for:
 - Developing the consolidated plan;
 - Designing the CDBG program within statutory and regulatory parameters;
 - Setting priorities and deciding what activities to fund;
 - Distributing funding according to the method of distribution;
 - Establishing financial management, recordkeeping, reporting, monitoring, audit and close-out systems for their programs; and
 - Ensuring compliance by state grant recipients.
- ✓ Under the state CDBG program, non-entitlement localities are known as Units of General Local Government (UGLG) and they are responsible for:
 - Prioritizing the types of activities they apply for;
 - Handling local citizen participation;
 - Carrying eligible activities; and
 - Complying with federal and state requirements.
- ✓ The U.S. Department of Housing and Urban Development (HUD) is responsible for monitoring the states to ensure compliance with CDBG program requirements.
- ✓ The primary objective of HCDA is the development of viable communities.
- ✓ These viable communities are achieved by providing principally persons of low and moderate income:
 - Decent housing;
 - A suitable living environment; and
 - Expanded economic opportunities.
- ✓ To achieve these goals, the CDBG statutory and regulatory requirements set forth eligible activities and the national objectives that each activity must meet. As recipients of CDBG funds, states are charged with ensuring that these requirements are met.
- ✓ Under the state CDBG program, states are provided maximum feasible deference. This concept is stated in the regulations at 24 CFR 570.480(c); however, the term is not specifically included in the statute. It was created by HUD's General Counsel. This term:
 - Provides for minimal regulation beyond the statute; and



- Means that states can adopt more restrictive requirements, provided they do not contradict or are inconsistent with the HCDA statute.
- ✓ States must adhere to the HCDA statute and the state portion of the CDBG regulations; however, the CDBG regulations for entitlements may be used as safe harbor. CDBG regulatory requirements are located at 24 CFR Part 570.
- ✓ Included as an Appendix to this manual is a copy of the CDBG regulations and statute.

1.2 States v. Entitlement Formula Allocations

- ✓ This section explains the CDBG program formula and its applicability to states v. entitlement programs.

Key Topics in This Section	✓ The Formula
Statutory Citations	Section 106
Other Reference Materials on This Topic	CDBG Formula Targeting to Community Development Need Study

1.2.1. The Formula

- ✓ After CDBG funds are distributed to Indian Tribes (i.e., 1% of the appropriations amount from Congress), the formula allocation is split among entitlements and states.
 - 70% is allocated to metropolitan cities and urban counties (entitlements); and
 - 30% is allocated to states.
- ✓ Congress designed a formula that is intended to provide larger grants to communities with relatively high community development needs and smaller grants to communities with relatively low community development need.
 - Nonentitlement areas use population instead of growth lag used by entitlement areas
 - For entitlement grantees, the formula factor or percentage for each individual entitlement city or county is compared to the total number/average for all entitlement cities & urban counties.
 - For nonentitlement areas, the formula factor or percentage represents the sum of all nonentitlement areas in that state; the nonentitlement sum for each state is compared to the total number/average for nonentitlement areas in all states.
- ✓ The addition of new urban counties or entitlement cities doesn't affect state funding as much—state may lose less than the new entitlement gains as it's often one of the wealthier nonentitlement areas---and states still get 30% of the money.
- ✓ The study, CDBG Formula Targeting to Community Development Need, was released in early 2005. The study examined the current formula's targeting to need and analyzed four options for an alternative formula. Any change in the formula would need Congressional



approval. CDBG Reform proposal was submitted, Congress at this time has not taken any action on the proposal.

- ✓ The following chart illustrates these differences between states and entitlement formula allocations.

NON-ENTITLEMENT	ENTITLEMENT	WEIGHTING
FORMULA "A"		
Population	Population	x.25
Percent of population in poverty	Percent of population in poverty	x.50
Number of overcrowded housing units	Number of overcrowded housing units	x.25
FORMULA "B"		
Percent of population in poverty	Percent of population in poverty	x.30
Number of pre-1940 housing units	Number of pre-1940 housing units	x.50
Population	Growth Lag	x.20

- ✓ For nonentitlement areas, the formula factor number or percentage represents the sum of all nonentitlement areas in that state; the nonentitlement sum for each state is compared to the total number/average for nonentitlement areas in all states.
- ✓ In Hawaii, HUD gives each of the three counties that portion of the funding that they contributed to the state's total nonentitlement allocation.
- ✓ For entitlement grantees, the formula factor number or percentage for each individual entitlement city or county is compared to the total number/average for all entitlement cities & urban counties.
- ✓ The weighting of factors is the same for both the entitlement and nonentitlement programs.
- ✓ In both the entitlement and nonentitlement programs, northeastern and midwestern grantees tend to do better under formula B; southern and western grantees tend to do better under formula A. Because growth lag is not used in the state program, this pattern is somewhat less pronounced for the State CDBG program.
- ✓ The Census Bureau does not collect the same level and types of information in the U.S. territories, so HUD does not use these formulas for the Insular Areas. Insular Area funding is distributed among the territories based only on their relative population.



1.3 Key Definitions

✓ This section provides definitions of key CDBG topics and terms.

Key Topics in This Section	✓ Key definitions needed for entitlement programs
Statutory Citations	Section 102
Other Reference Materials on This Topic	Not applicable

CDBG Recipient or State: Under the State CDBG Program, states receive funding directly from HUD and provide it to non-entitled communities, also referred to as units of general local government.

Community Development Financial Institution (CDFI): An organization that: has as its primary mission the promotion of community development; serves an investment area or targeted population; provides development services and equity investments or loans; maintains accountability to residents within its investment area; and is not a public agency or institution.

Consolidated Plan: The Consolidated Plan is prepared by the state in accordance with 24 CFR Part 91, and describes needs, resources, priorities and proposed activities to be undertaken with respect to HUD's CPD formula programs, including CDBG. An approved Consolidated Plan is one which has been approved by HUD.

Contractors: A contractor is an entity paid with CDBG funds in return for a specific service (e.g., construction). Contractors must be selected through a competitive procurement process.

Family: All persons living in a household who are related by birth, marriage or adoption.

Household: All the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any groups of related or unrelated persons who share living arrangements.

HUD: As discussed previously, CDBG funds are provided to states through the U.S. Department of Housing and Urban Development (HUD). HUD established the regulations and requirements for the program and has oversight responsibilities for the use of CDBG funds.

Income: States may select a definition of income. States commonly choose among three existing options: (1) Annual income as defined under Section 8; (2) Annual income as reported under the Census/American Community Survey long form; or (3) Adjusted gross income as defined by the IRS Form 1040. States may also develop their own definition of income.

Low – and Moderate Income: Low- and moderate income (also referred to in this manual as LMI) means family or household annual income less than the Section 8 Low Income Limit, generally 80 percent of the area median income, as established by HUD.

✓ For the state CDBG program, the 80% limit is calculated as 80% of the non-metro statewide median or the county median, whichever is greater. In metropolitan areas, the median income for the entire metropolitan area is used.

✓ Below is a **sample** income chart indicating the Section 8 low income limits, as well as the 30% of median income and 50% of median income limits.



Area: Sample		FY 2010 Median Family Income: \$68,600						
	ADJUSTED INCOME LIMITS (by household size)							
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8+ Persons
30% Limits	\$14,400	\$16,450	\$18,500	\$20,600	\$22,250	\$23,850	\$25,500	\$27,150
Very Low Income (50% Limits)	\$24,000	\$27,450	\$30,850	\$34,300	\$37,050	\$39,800	\$42,550	\$45,300
Low & Moderate Income (80% Limits)	\$38,400	\$43,900	\$49,400	\$54,900	\$59,250	\$63,650	\$68,050	\$72,450

Low-Income Household/Family: A household/family having an income equal to or less than the Section 8 Very Low Income limit (50% of the area median income) as established by HUD.

Microenterprise: A business that has five or fewer employees, one or more of whom own the enterprise.

Moderate-Income Household/Family: A household/family having an income equal to or less than the Section 8 Low Income limit (80% of area median income) established by HUD, but greater than the Section 8 Very Low Income limit (50% of area median income) established by HUD.

State CDBG Program: The State CDBG Program provides CDBG grants to state governments (except in the state of Hawaii where HUD directly administers the program). Under this Program, state governments then provide CDBG assistance to non-entitlement communities within their jurisdiction.

Unit of General Local Government (UGLG): Means any city, county, town, township, parish, village or other general purpose political subdivision of a state, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa or a general purpose subdivision thereof.

1.4 Introduction to Eligible Activities

✓ This section describes the range of activities that are eligible under the CDBG Program.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Activities Related to Housing ✓ Other Real Property Activities ✓ Public Facilities ✓ Activities Related to Public Services ✓ Activities Related to Economic Development ✓ Assistance to Community Based Development Organizations ✓ Other Types of Activities ✓ Planning and Administration ✓ Eligible Activities and National Objectives
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Statutory Citations	Section 105
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States - Chapter 2

- ✓ CDBG offers states a high level of flexibility in choosing program activities. States are free to select those activities that best meet the needs of their communities, in accordance with the national objectives and requirements of the CDBG Program.
- ✓ Please refer to Section 105(a) of the CDBG statute for a more complete description of each of these eligible activities. The Guide to Eligible Activities and National Objectives is another good resource for determining the eligibility of activities.
- ✓ Determining under which category of eligible activities an activity falls is very important for various reasons. The regulations and statutes place certain requirements and stipulations on certain categories and not others. For example, the regulations and statute cap the amount of CDBG funds that can be used for public service and program administration activities. Additionally, the category of eligibility may dictate the costs that are eligible, the national objective under which the activity falls, and the rules that are triggered.

1.4.1. Activities Related to Housing

- ✓ There are many activities related to housing that are eligible under the CDBG Program. The list of eligible activities includes:
 - Housing services in connection with Home Investment Partnerships (HOME) Program activities (105(a)(20));
 - New construction of housing by eligible organizations (105(a)(15)) or as last resort housing under 24 CFR Part 42;
 - Homeownership assistance (e.g., homebuyer counseling [105(a)(8)] and down-payment assistance interest subsidies [105(a)(25)]);
 - Rehabilitation to buildings which are residential, low-income rental or homeowner housing (105(a)(4) and (a)(5)). This also includes conversion of non-residential structures for residential use. The following types of rehabilitation activities may be undertaken:
 - Acquisition for rehabilitation and rehabilitation for residential purposes;
 - Labor, materials, etc. for rehabilitation of properties;
 - Loans for refinancing existing secured indebtedness;
 - Energy improvements;
 - Water efficiency improvements;
 - Connection to water and sewer lines;
 - Some homeowner warranty, hazard and flood insurance premiums;
 - Testing for and abatement of lead-based paint;
 - Costs of acquiring tools to be lent for rehabilitation;
 - Rehabilitation services;



- Assistance for the rehabilitation of housing under Section 17 of the United States Housing Act of 1937; and
 - Removal of material and architectural barriers that restrict accessibility.
 - Lead-based paint testing and abatement as a stand alone program or included as rehabilitation as noted above (105(a)(25)); and
 - Activities that support new housing construction such as acquisition (105(a)(1)), clearance (105(a)(4)), and street improvements (105(a)(2)).
- ✓ Additional information about these types of activities may be found in Chapter 4: Housing Activities.

1.4.2. Other Real Property Activities

- ✓ In addition to the housing-related activities outlined above, many other real property activities are eligible to be funded by CDBG such as:
- Acquisition (105(a)(1));
 - Disposition (105(a)(7));
 - Clearance and demolition (105(a)(4));
 - Rehabilitation of publicly- or privately-owned commercial or industrial buildings (105(a)(4));
 - Code enforcement (105(a)(3));
 - Historic preservation (105(a)(4));
 - Renovation of closed buildings (105(a)(2));
 - Interim assistance to arrest severe deterioration or alleviate emergency conditions (§ 570.201(f))—Note: this activity is not explicitly listed in the statute but states may refer to the entitlement regulations for guidance; and
 - Privately-owned utilities -- Note: this activity is not explicitly listed in the statute but states may refer to the entitlement regulations for guidance.
- ✓ Additional information about these types of activities may be found in Chapter 5: Other Real Property Improvements.

1.4.3. Public Facilities

- ✓ CDBG funds may be used for the acquisition, construction, reconstruction, rehabilitation, or installation of public improvements or public facilities. (105(a)(2))
- “Public improvements” includes, but is not limited to, streets, sidewalks, water and sewer lines, and parks.
 - “Public facilities” includes, but is not limited to, neighborhood/community facilities and facilities for persons with special needs (e.g. homeless shelters, group homes, and halfway houses).
- ✓ Additional information is provided in Chapter 6: Public Facilities, Special Assessments, and Privately Owned Utilities.



1.4.4. Activities Related to Public Services

- ✓ Public services are also generally eligible under the CDBG Program (105(a)(8)). These public service activities may include, but are not limited to:
 - Job training and employment services;
 - Health care and substance abuse services;
 - Child care;
 - Crime prevention; and
 - Fair Housing counseling.
- ✓ Additional information about the various types of public services is provided in Chapter 7: Public Services.

1.4.5. Activities Related to Economic Development

- ✓ CDBG funds may also be used for activities related to economic development. The following are examples of eligible activities that can be funded by CDBG:
 - Microenterprise assistance (105(a)(22));
 - Commercial rehabilitation (105(a)(4)); and
 - Special economic development activities (105(a)(17)) and 105(a)(14)).
- ✓ Additional information about economic development activities may be found in Chapter 8: Economic Development & Section 108.

1.4.6. Assistance to Nonprofit Development Organizations

- ✓ CDBG recipients may also provide grants or loans to nonprofit development organizations to carry out the following types of projects (105(a)(15)):
 - Community revitalization;
 - Community economic development; and
 - Energy conservation.
- ✓ Additional information about nonprofit development organizations may be found in Chapter 2: Activity Selection and Implementation.

1.4.7. Other Types of Activities

- ✓ Certain other types of activities are also eligible under CDBG, including:
 - Payment of non-Federal share of grants in connection with CDBG-eligible activities (105(a)(9));
 - Relocation assistance (105(a)(11));
 - Loss of rental income (related to relocation) (105(a)(6));
 - Technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities (105(a)(19)).



Note that this activity is rare under the State CDBG program because technical assistance is also allowed under the 3% administrative cap; and

- Assistance to institutions of higher education with the capacity to carry out other eligible activities (105(a)(21)).

1.4.8. Planning and Administration

- ✓ CDBG funds may be used for planning activities (105(a)(12)) and (105(a)(16)). Such activities might include:
 - Comprehensive plans;
 - Community development plans (including the Consolidated Plan);
 - Functional plans (for housing; land use and urban environmental design; economic development; open space and recreation; energy use and conservation; floodplain and wetlands management; transportation; utilities; historic preservation; etc.);
 - Other plans and studies (e.g., small area and neighborhood plans; capital improvements program plans; individual project plans; general environmental; urban environmental design; historic preservation studies; etc.); and
 - Policy planning, management, and capacity building activities.
- ✓ Finally, within certain caps and constraints, states may use CDBG funds for program administration activities (105(a)(13)). Such activities may include:
 - General management, oversight and coordination;
 - Public information;
 - Fair Housing activities;
 - Indirect costs;
 - Submission of applications for Federal programs.
- ✓ More details concerning planning and administration costs can be found Chapter 11.

1.5 Ineligible Activities

- ✓ This section describes activities that are not eligible under the CDBG Program.

Key Topics in This Section	✓ Ineligible Activities
Statutory Citations	
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States - Chapter 2

- ✓ The general rule is that any activity not specifically authorized under the CDBG regulations and statute is ineligible to be assisted with CDBG funds.
- ✓ The state CDBG program relies on the statute to describe eligible programs and its regulations do not directly address ineligible programs. States may use the entitlement program regulations as guidance.



- ✓ The entitlement regulations stipulate that the following activities may **not** be assisted with CDBG funds:
 - Buildings for the general conduct of government are ineligible. However, the removal of architectural barriers from government buildings is eligible under the category of public facilities and improvements.
 - General government expenses are ineligible.
 - Financing for political activities or to engage in other partisan political activities are ineligible. However, a facility assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, if the building is available to all community organizations on an equal basis.
- ✓ Per the entitlement regulations, the following activities may **not** be assisted with CDBG funds unless authorized as a special economic development activity or when carried out by a Community Based Development Organization (under the state program, these organizations are known as nonprofit development organizations under 105(a)(15)):
 - Purchase of equipment is generally ineligible.
 - Compensation for the use of construction equipment through leasing, depreciation, or use allowances is eligible.
 - Fire protection considered an integral part of public facilities is eligible. This includes fire engines and specialized tools such as “jaws of life” and life-saving equipment as well as protective clothing worn by fire fighters.
 - Purchase of personal property, including equipment, fixtures, motor vehicles, furnishings, or other personal property is generally ineligible.
 - Operating and maintenance expenses (of public facilities, improvements, and services) are ineligible.
 - Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program;
 - New housing construction except under certain conditions or when carried out by a CBDO (105(a)(15) nonprofit development organization).
 - Income payments made to an individual or family for items such as food, clothing, housing, or utilities are ineligible. One time grants, emergency type grants, or loans for such purposes may be eligible under the category of public services.

1.6 CDBG Resources

The following resources are helpful to states and UGLG administering CDBG activities:

- ✓ Community Development Block Grant Program: Guide to National Objectives and Eligible Activities for the State CDBG Program.
- ✓ “A Guidebook for Grantees on Subrecipient Oversight: Managing CDBG.” (Revised March 2005) Available on HUD web site and via Community Connections.
- ✓ The resources listed above as well as websites, notices, guidebooks, and other documents may be found in a list in the appendices.



Attachment 1-1: Glossary of Common Acronyms & Abbreviations in the CDBG Program

ABA	Architectural Barriers Act of 1968
ADA	Americans With Disabilities Act
AFFH	Affirmatively Furthering Fair Housing
AI	Analysis of Impediments to Fair Housing
ARC	Appalachian Regional Commission
BNA	Block Numbering Area (now obsolete)
CAPER	Consolidated Annual Performance Evaluation Report (the annual Con Plan report)
CBDO	Community-based development organizations
Certs	Certifications
CDFI	Community Development Financial Institutions
CFR	Code of Federal Regulations (24 CFR is HUD regulations)
COG	Council of Governments
ConPlan	Consolidated Plan
CP	Citizen Participation
CPD	HUD Office of Community Planning & Development
CRSA	Community Revitalization Strategy Area
CT	Census Tract
ED	Economic Development
EZ/EC /RC	Empowerment Zones/Enterprise Communities/Renewal Communities
FHA	Federal Housing Administration –HUD Office of Housing
FmHA	Farmers Home Administration (sometimes also called FHA; both are obsolete), now the Rural Housing Administration in the Department of Agriculture
FHEO	HUD Office of Fair Housing and Equal Opportunity
FTE	Full-time equivalents of jobs
GoZone	Gulf Opportunity zone (hurricane recovery)
HCDA (or the Act)	Housing & Community Development Act of 1974, as amended
HoZo	Homeownership Opportunity Zone
IDIS	Integrated Disbursement & Information System



LBP	Lead-Based Paint
LDP	Limited Denial of Participation
LMI (or low/mod)	Low- and Moderate-Income person(s)
LMISD	Low and Moderate Income Summary Data (shows percent of low/mod persons by state, and by CT, BG)
MBE	Minority-owned Business Enterprise
MOD	Method of Distribution (part of the annual Action Plan for States)
NRSA	Neighborhood Revitalization Strategy Area
OGC	HUD Office of General Counsel
PDR	HUD Office of Policy Development & Research
PI	Program Income
PJ	Participating Jurisdiction (in the HOME program)
RLF	Revolving Loan Fund
Title VIII	Title VIII of the Civil Rights Act of 1968 (also known as the Fair Housing Act)
UGLG	Unit of General Local Government (“ug-lug”)
URA	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
WBE	Woman-owned Business Enterprise
105	Section of the HCDA which contains the list of eligible activities in the CDBG program
109	Section of the HCDA prohibiting discrimination

Attachment 1-2: Comparison of Entitlement and State Programs

✓ Similarities:

- HUD contractual relationship is with grantee, whether a state or a locality.
- Local governments decide what their needs are and select activities to address those needs, and carry out those activities (or subgrant/contract out).
- HUD oversight responsibilities (monitoring, ConPlan/CAPER review, TA, etc.).
- Consolidated Plan (certifications, housing conditions & needs, priority & goal setting).
- Same statutory basis for eligibility requirements.
- National objective requirements nearly identical (except no upper quartile, no urban renewal slum and blight).
- Most other applicable laws apply (Davis Bacon, URA, NEPA, Civil Rights Act, etc.).
- Many requirements flow down units of local governments.
- Sanctions process is essentially the same.

✓ Differences:

- States don't carry out activities themselves—they must distribute about 97% of the funds as grants to UGLGs. The assistance must be in the form of grants to non-entitlement units of general local governments, not loans (except 3% for technical assistance and administration).
- HUD does not have a contractual relationship with units of general local government (UGLG).
- What they spend their money on – states often have different priorities than entitlements when using CDBG funds.
- Section 108: Recent changes now allow the state or the locality to be the borrower but the state pledges its CDBG allocation regardless of the applicant.

✓ Statutory/regulatory implementation differences:

- States and entitlements use the statute and regulations differently. For the most part, states use the statute to govern eligible activities rather than the regulations.
- In the state's ConPlan, there is a method of distribution (MOD) that is described instead of list of activities; the ConPlan is completed at the state level rather than local level (entitlements); and certifies that they have consulted with localities in developing MOD but don't certify that they are following their Con Plan (because they don't do the activities themselves).

- Only subpart I and 570.606 (displacement/URA) and 570.200(j) (pursuant to 570.480 (e)) of Part 570 applies to State CDBG program.
- Timely distribution (states) vs. timely expenditure (entitlements).
- Colonias. Section 916 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (the Act) requires the states of Arizona, California, New Mexico, and Texas to set aside up to 10 percent (10%) of their CDBG annual allocations to be used for eligible activities that meet the needs of the Colonias. Pursuant to the Act, a colonia is an area within 150 miles of the United States-Mexico border regions of Arizona, California, New Mexico, and Texas that was in existence before November 28, 1990. Metropolitan statistical areas with populations exceeding one million are excluded.
- 1% TA setaside for states, so there is not much reason to use §105(a)(19) provision provided in the Statute.

✓ **Differences in definitions or lack thereof:**

- Concept/contents of subrecipient agreements.
- The CBDO definition at 570.204 is not applicable to states.
- Income limits.
- Definition of income.
- Float loans - different concept for states.
- Pre-award costs.
- Community revitalization strategies concept for states rather than neighborhood revitalization strategy areas under the entitlement program.
- Lump sum drawdowns.
- “Persons developing a micro-enterprise”.

✓ **How various caps & requirements are applied:**

- Under the state program each grant is treated discretely – caps and reporting are by each year’s allocation of funds plus program income rather than to all activity within a 12 months period.
- Caps apply to state as a whole rather than a local government or their individual activities.
- The same is true for public benefit standards – the caps apply to everything funded out of a given year’s allocation.
- Caps determined based on “use” (expenditures) rather than obligations.
- States have a 3% Administrative/technical assistance costs and matching requirements within 20% planning & admin cap.

- There is a matching requirement on state administration; is essentially “no year” money.
- States can make grants which are 100% public services to UGLGs; more than 20% admin to UGLGs; and can make planning-only grants to UGLGs provided a national objective is met.

✓ **Financial /administrative requirements & differences:**

- One of the areas of greatest divergence between entitlements and states.
- Lack of recordkeeping and reporting requirements in state regulation – required by OMB to negotiate with states collectively; however, makes it tougher to enforce compliance.
- Many parts of subpart J (grant administration) have no comparable, substantive state regulations.
- There is a statutory requirement keeping program income at the local level; program income returned to the state “belongs” to the year in which it is redistributed; not to year received; no requirement that excess program income must be returned to the line of credit.
- Cash Management Improvement Act requirements on drawdowns instead of Part 85 – negotiated by Treasury for state as a whole; state to ensure prompt disbursement at/to local level.
- Part 85 inapplicability as states have the option to allow state law requirements on financial management to prevail.
- States to have an established system for reviewing their grantees, audits, closing out grants, rather than HUD establishing requirements, HUD requires states to set their own.

Attachment 1-3: Comparison of Entitlement and State Program Regulations and Requirements

Requirement	Entitlement Regulation	State Regulation
SUBMISSION REQUIREMENTS		
Waiver authority	24 CFR 570.5 & 24 CFR 5.110	24 CFR 570.480(b) & 24 CFR 5.110
Submission requirements & certifications	24 CFR 570.302, 570.303 & 24 CFR Part 91	24 CFR 570.485(a) & 24 CFR Part 91; state buy-in certifications at HCDA 106(d)(2)(C) & (D)
Making of grants	24 CFR 570.304 & 24 CFR Part 91	24 CFR 570.485(b) & 24 CFR Part 91
state election to administer program	N/A	524 CFR 570.497
ELIGIBILITY & NATIONAL OBJECTIVES		
Eligible activities	24 CFR 570.201-.206	HCDA §105(a); states may use Entitlement regs. as guidance
Ineligible activities	24 CFR 570.207	Whatever is not listed in HCDA §105(a); but states may use Entitlement regs. as guidance
Maximum feasible deference	N/A	24 CFR 570.480(c), 570.481(a), 570.482(a)
Public Benefit Standards	24 CFR 570.209(b), (c) & (d)	24 CFR 570.482(f) & (g)
Underwriting Guidelines	24 CFR 570.209(a), (c) & (d)	24 CFR 570.482(e) & (g)
National Objectives	24 CFR 570.209	24 CFR 570.483
1% TA set-aside	N/A	HCDA 106(d)(5)
Assistance to religious entities	24 CFR 570.200(j), as revised by 09/30/03 "Faith Based Rule"	07/09/04 "Faith Based Rule" subjects states to 24 CFR 570.200(j) as revised on 09/30/03
Special Assessment definition	24 CFR 24 CFR 570.200(c)	None - guidance in preamble to 1992 state regs.
Pre-award costs	24 CFR 570.200(h)	For states, no prohibition or limitation in regs. or statute; for UGLGs, state may allow

		under 24 CFR 570.489(b)
Definition of Low- and Moderate Income	24 CFR 570.3	HCDA §102(a)(20)
Definition of income	24 CFR 570.3	None.
Fees for use of facilities	24 CFR 570.200(b)(2)	None. States may use Entitlement regs. as guidance
Facilities containing eligible & ineligible uses	24 CFR 570.200(b)(1)	None. States may use Entitlement regs. as guidance
20% limit on planning & administrative costs	24 CFR 570.200(g)	24 CFR 570.489(a)(3); state admin. costs, 570.489(a)(1)
Activities outside jurisdiction boundaries	24 CFR 570.309	24 CFR 570.486(b)
Charging fees of UGLGs	None.	24 CFR 570.489(a)
Float-funded activities	24 CFR 570.301	None.
Escrow Accounts	24 CFR 570.511	None
Lump sum drawdowns	24 CFR 570.513	None. § 104(h) effectively requires states to follow 24 CFR 570.513 as they are the only standards set by HUD
Compliance with Primary Objective (Overall benefit)	24 CFR 570.200(a)(3)	24 CFR 570.484
ADMINISTRATIVE REQUIREMENTS		
Program Income	24 CFR 570.500(a); 570.504	24 CFR 570.489(e)
Closeout requirements	24 CFR 570.509	CPD Notice 98-03
Subrecipients	Definition: 24 CFR 570.500(c) Agreements: 24 CFR 570.503	None; the term “subrecipient” is generally not used in state CDBG
Use of real property	24 CFR 570.505	24 CFR 570.489(j)
Conflict of Interest	24 CFR 570.611	24 CFR 570.489(h) for state itself; states to establish requirements for UGLGs
Use of consultants	24 CFR 570.200(d)	None. Procurement & conflict of interest covered by 24 CFR 570.489(g) & (h)
Debarred & Suspended Contractors	24 CFR 570.609 & 24 CFR Part 5	24 CFR Part 5
Recordkeeping requirements	24 CFR 570.506	24 CFR 570.490(a) - HUD to negotiate Recordkeeping Rqmts for states; 24 CFR 570.490(b) - states establish rqmts for UGLGs

Reporting requirements	24 CFR 570.507; 24 CFR 91.520	24 CFR 570.491; 24 CFR 91.520
Access to records	24 CFR 570.508	24 CFR 570.490(c)
Uniform Administrative Requirements	24 CFR Part 85 as modified by 570.502	24 CFR 570.489(d) – States may establish their own systems
Cost principles	24 CFR 570.200(a)(5); OMB A-87, A-122, A-21	OMB Circulars A-87, A-122, A-21
Uniform Administrative Requirements & Cost Principles	24 CFR 570.610, 24 CFR Parts 84 & 85; OMB A-87, A-110, A-122, A-128, A-133	OMB A-87, A-110, A-122, A-133
OTHER APPLICABLE REQUIREMENTS		
Civil Rights Act of 1964, Fair Housing Act, EO 11063, AFFH	570.601, EO 11063, EO 12259	None. States to comply with the laws & EOs 11063 & 12259
HCDA Section 109 nondiscrimination	24 CFR 570.602	24 CFR 570.495(b) re: noncompliance by state or UGLG; otherwise, states to comply with law
Labor Standards	24 CFR 570.603	None. States to comply with HCDA §110 & Labor Stds. Laws
Lead Based Paint	24 CFR 570.608 & 24 CFR Part 35	24 CFR 570.487(c) & 24 CFR Part 35
Environmental Standards	24 CFR 570.200(a)(4); 570.604; 24 CFR Part 58	HCDA §104(g); 24 CFR Part 58
Flood Insurance Program	24 CFR 570.605; 44 CFR 59-79	None. States not required to participate in Program
Floodplain Management	EO 11988 & 24 CFR Part 55	EO 11988 & 24 CFR Part 55
Displacement, relocation, acquisition & replacement of housing	24 CFR 570.606; 24 CFR Part 42; 49 CFR Part 24	24 CFR 570.488; 570.606; 24 CFR Part 42; 49 CFR Part 24
Intergovernmental Review	24 CFR 570.612 & 24 CFR Part 52; EO 12372	States may choose to/not to apply EO 12372 to state CDBG, per 24 CFR 52.6
Minority Business Enterprise	24 CFR 570.607(a) & EO 11246 et seq.	EO 11246 et seq., EO 12432
Section 3	24 CFR 570.607(b) & 24 CFR Part 135	24 CFR 570.487(d) & 24 CFR Part 135
ABA & ADA	24 CFR 570.614	24 CFR 570.487(e)

Section 504 Disability Non-discrimination	24 CFR Part 8	24 CFR Part 8
HUD Reform Act	N/A	24 CFR Part 4
Eligibility restrictions on resident aliens	24 CFR 570.613 & 24 CFR Part 49 are cited, but both are obsolete. HUD is awaiting further guidance from DOJ	24 CFR Part 49; note that 24 CFR 570.613 specifically addresses coverage of states; both are obsolete. HUD is awaiting further guidance from DOJ
MONITORING & SANCTIONS		
Meeting Consolidated Plan responsibilities	24 CFR 570.903	None; HUD determines state compliance with certifications & MOD, per 24 CFR 570.493(a)
Equal Opportunity & Fair Housing review criteria	24 CFR 570.904	None.
HUD determination of continuing capacity & timeliness	24 CFR 570.902 = timely expenditure; 24 CFR 570.905	24 CFR 570.494 = timely distribution; HCDA 104(e)(1) & (2); states are to make determinations of UGLGs' performance & capacity per 24 CFR 570.492 & HCDA 104(e)(2)
Corrective & remedial actions for noncompliance	24 CFR 570.910	24 CFR 570.495(a)
Sanctions for noncompliance	24 CFR 570.900, 570.911 & 570.913	24 CFR 570.496
Nondiscrimination noncompliance	24 CFR 570.912	24 CFR 570.495(b)

Attachment 1-4: Activities Explicitly Listed as Eligible in HCDA Statute

Eligible Activity	State Program: HCDA 105
Acquisition of Real Property	105(a)(1)
Public Facilities and Improvements	105(a)(2)
Code Enforcement	105(a)(3)
Clearance	105(a)(4)
Rehabilitation	105(a)(4)
Reconstruction	105(a)(4)
Construction of Buildings (Housing included)	05(a)(4)
Architectural Barrier Removal	105(a)(5)
Loss of Rental Income	105(a)(6)
Disposition of Real Property	105(a)(7)
Public Services	105(a)(8)
Payment of Non-Federal Share	105(a)(9)
Relocation	105(a)(11)
Planning and Capacity Building	105(a)(12)
Program Administration Costs	105(a)(13)
Activities Carried Out through Private or Public nonprofits	105(a)(14)
Assistance to nonprofits serving development needs of nonentitled portions of the state	105(a)(15)
Energy	105(a)(16)
Economic Development Assistance to For-Profit Business	105(a)(17)
Additional Applicable Requirements Activities Funded Under Section 105(e)	105(a)(14), 105(a)(15), (17)
Technical Assistance	105(a)(19)
Housing Services	105(a)(20)
Assistance to Institutions of Higher Education	105(a)(21)
Microenterprise Assistance	105(a)(22)
In Rem Housing	105(a)(23)
Homeownership Assistance	105(a)(25)
New Housing Construction	105(a)(15)
Last Resort Housing	24 CFR Part 42
Brownfields Redevelopment Activities	FY99 HUD Appropriations Act
Interim Assistance	None
Housing Under Housing Act of 1937	105(a)(18)**

Generally, states can use entitlement regulations (24 CFR 570.201 – 206) for guidance

** This is obsolete, as Section 17 of the Housing Act of 1937 has since been repealed

CHAPTER 2: ACTIVITY SELECTION AND IMPLEMENTATION



CHAPTER PURPOSE & CONTENTS

This chapter provides an overview of the framework within which states must make decisions concerning activities and units of general local government to fund under their CDBG programs.

SECTION	TOPIC
2.1	The Planning Framework & Consolidated Plan
2.2	Project and Grantee Selection
2.3	Methods of Administering UGLG Programs

2.1. The Planning Framework & Consolidated Plan

- ✓ Within the framework established by the CDBG rules, states need to make strategic choices about how they administer their programs. This chapter highlights the planning framework under which the state will make these choices.

Key Topics in This Section	✓ The Consolidated Plan
Statutory Citations	Section 104, §91
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ Consolidated Plan Guidelines for States (also at end of this chapter) http://www.hud.gov/offices/cpd/about/conplan/toolsandguidance/guidance/✓ HUD User CHAS Data http://socds.huduser.org/scripts/odbic.exe/chas/index.htm

- ✓ To begin the process of implementing CDBG activities, states must understand unit of general local (UGLG) government community needs, interests, and objectives in order to make effective choices about how to administer their CDBG programs.
- ✓ Based on this analysis, states can then make decisions about:
 - What types of activities will be funded?
 - Who will implement these activities?
 - How will UGLG be selected?
- ✓ The remainder of this chapter highlights these key program administration questions and the framework within which these key decisions are made. The first step in this process is the creation of a Consolidated Plan.



2.1.1. Consolidated Plan Components

- ✓ Completing the Consolidated Plan (and annual Action Plans) will help states determine what activities and organizations to fund in the coming year.
 - The Consolidated Plan is a plan of three to five years in length, which describes community needs, resources, priorities, and proposed activities to be undertaken under certain CPD four formula programs: CDBG, HOME, ESG, and HOPWA.
 - Each year, states must submit an updated Action Plan to HUD. The Action Plan describes the specific planned uses of funds for the four CPD formula programs. For the State CDBG program, the annual Action Plan must contain the Method of Distribution (MOD).
- ✓ To meet the minimum requirements set forth by HUD, the Consolidated Plan must include the following main components:
 - A description of the lead agency or entity responsible for overseeing the development of the Consolidated Plan and a description of the process undertaken to develop the plan;
 - Citizen participation;
 - Housing, homeless and community development needs;
 - A strategic plan (three to five years in length); and
 - A one-year Action Plan.
- ✓ States should use existing data that is available through HUD as well as other state resources. Specifically, states may use comprehensive housing affordability strategy (CHAS) data through HUDuser. (See website included above in this section for further information.)
- ✓ See Exhibit 2-1 for specific information on what each of these components must include and in the guidelines attached to this chapter.

Exhibit 2-1: Contents of a Consolidated Plan

A **description of the lead agency** or entity responsible for overseeing the development of the Consolidated Plan and a description of the process undertaken to develop the plan. This includes the consultation and coordination process, the institutional structure, collaboration and partnerships, and development of the state's economic strategy.

A summary of the **citizen participation plan**, including a description of how the state will encourage citizen participation by LMI residents, information on state programs, a summary of comments, ways that citizens can comment on performance reports, and procedures for handling complaints.

A **housing, homeless and community development needs assessment**:

- ✓ Number and type of families in need of housing assistance;
- ✓ Nature and extent of homelessness;
- ✓ Existing facilities for homeless persons;
- ✓ Number of persons requiring supportive services;
- ✓ Number of housing units occupied with LMI families with lead-based paint hazards;
- ✓ Characteristics of the housing market;
- ✓ Barriers to affordable housing;
- ✓ Analysis of impediments to fair housing.



A **strategic plan** which includes the following:

- ✓ Priority housing needs;
- ✓ Priority homeless needs;
- ✓ Other special needs;
- ✓ Priority non-housing community development needs;
- ✓ Housing objectives;
- ✓ Community development objectives;
- ✓ Homeless strategy;
- ✓ Anti-poverty strategy;
- ✓ Public housing initiatives;
- ✓ Lead based paint;
- ✓ Reduction of barriers;
- ✓ Low income housing tax credits;
- ✓ A description of activities to enhance coordination between public and private housing providers.

An **action plan** which contains:

- ✓ An Executive Summary which includes objectives and outcomes for the upcoming year;
- ✓ A description of Federal and other resources expected to be available;
- ✓ Annual objectives expected to be achieved;
- ✓ Outcome measures;
- ✓ Method of distribution;
- ✓ Outcome measures for proposed activities;
- ✓ Allocation priorities and description of the geographic distribution of investment;
- ✓ Annual affordable housing goals;
- ✓ A description of planned homeless and other special needs activities;
- ✓ A description of other actions proposed to:
 - Address obstacles to address underserved needs;
 - Foster and maintain affordable housing;
 - Remove barriers to affordable housing;
 - Evaluate and reduce lead-based paint hazards;
 - Reduce the number of families in poverty;
 - Develop the community's institutional structure;
 - Enhance coordination between public and private housing providers, social service agencies; and
 - Foster public housing improvements and resident initiatives.
- ✓ Citizen participation;
- ✓ General certifications;
- ✓ Actions to monitor housing and community development activities;
- ✓ Program-specific certifications.

2.1.2. Method of Distribution (MOD)

- ✓ The Method of Distribution (MOD) describes how the state will allocate its CDBG funds to UGLG. States have many options for allocation and may use a combination of approaches. The following are a few examples:
 - Mini-entitlement designated by the state;
 - Competitive with specific criteria; and/or
 - Regional “fair share” approach.
- ✓ See below under section 2.2 for a more detailed description of a range of options for distributing funds and selecting projects.



- ✓ The MOD is a part of the Action Plan, which flows from the Consolidated Plan.
- ✓ The MOD is described in the Consolidated Plan regulations at 24 CFR 91.320(k)(1). It is required to include:
 - All criteria and scoring used to select applications, including the relative importance of the criteria if developed;
 - How all CDBG resources will be allocated among all funding categories;
 - Threshold factors and grant size limits;
 - Available Section 108 loan guarantee amounts and how applicants will be selected, if the state will allow 108;
 - The state's process and criteria for approving local Community Revitalization Strategy Areas (CRSA), if the state will allow these; and
 - Sufficient information so that UGLG will be able to understand and comment on the MOD and be able to prepare responsive applications.
- ✓ In designing its program, a state faces a multitude of decisions and options for its MOD. How a state designs its MOD will affect numerous implementation procedures, and vice versa. The MOD will depend on what kind of environment and governmental structures the state operates in. For example:
 - What kinds of activities a state wants to fund will affect what requirements a state establishes for localities' reporting of program income?
 - What process a state already has in place for environmental review & approval of projects may affect the application deadlines or application submission requirements the state puts into its MOD?
 - Does the state have a "single application" process by which localities apply for CDBG as well as other state programs using one process & one set of forms? Application timetable, process & forms may be driven by those state programs.
 - Will the funding process be completely objective (i.e. formula-based) or scored?
- ✓ States certify that they will not refuse to distribute funds under MOD to a UGLG on the basis of an eligible activity selected by the UGLG for funding.
 - However, states may consider that the eligible activity selected by the UGLG to be of low priority and provide fewer points under its application criteria for these activities.
- ✓ States should clearly document the criteria and scoring processes used for making awards, including recommendations and denials for funding.

2.1.3. New Consolidated Planning Tools

- ✓ In May 2012, HUD CPD introduced the eCon Planning Suite, including the Consolidated Plan template in IDIS Online and the CPD Maps website. The eCon Planning Suite supports grantees and the public to assess their needs and make strategic investment decisions.



- ✓ The Consolidated Plan template in IDIS facilitates the planning process by making data on housing and community development needs readily accessible to grantees in the format required by HUD.
- ✓ CPD Maps is an online data mapping tool for place-based planning. Grantees and the public can use CPD Maps to analyze and compare housing and economic conditions across their jurisdictions. The Consolidated Plan template allows grantees to insert maps and data tables from CPD Maps throughout their plan. The maps can be found at:
<http://egis.hud.gov/cpdmaps/>

2.1.4. Citizen Participation

- ✓ The Consolidated Plan regulations stipulate that grantees meet certain minimal citizen participation requirements. In fact, each state is required to prepare a Citizen Participation Plan that details the state's procedures for involving the public in its program planning and implementation.
- ✓ At a minimum, the Citizen Participation Plan must ensure that the following requirements are met:
 - The Plan must indicate how the state will provide for and encourage citizen participation in the development of the Consolidated Plan;
 - Information must be provided on the funds expected to be received and the range of activities to be undertaken;
 - The state must hold a public hearing to obtain citizens' views and to respond to questions before the Consolidated Plan is published;
 - The state should also consider alternative public involvement techniques, such as focus groups or the use of the internet;
 - The proposed Consolidated Plan must be published. At a minimum, the state may publish a summary of the proposed plan in one or more newspapers of general circulation, and make copies available in libraries, government offices, and public places;
 - There must be a 30-day period for citizen review and comment prior to submitting the plan to HUD;
 - Public comments must be given consideration. The plan should include a summary of comments received and reasons the comments/suggestions were not incorporated;
 - The criteria for a substantial Plan amendment and citizen opportunity to comment on such amendments;
 - Citizen information regarding performance reports, including a period of at least 15 days to comment on the state's reports to HUD;
 - The availability of the plan to the public;
 - Reasonable and timely access to records; and
 - Procedures to handle complaints.
- ✓ States must include a summary of all public hearing comments and other citizen written comments as an attachment to the final Consolidated Plan, amendment to the plan or performance report.



- ✓ Meeting or exceeding the minimum citizen participation requirements may help states to:
 - Better inform the public about community needs and the resources available to address needs;
 - Learn about “hidden” community needs and issues;
 - Allow citizens and organizations to bring forward ideas on how to address community needs; and
 - Generate involvement in and commitment to proposed solutions.
- ✓ In developing the Consolidated Plan and deciding the types of projects to be undertaken, states need to think about the range of possible CDBG activities and about how these activities compare to the needs of the community.

2.1.5. Plan Review and Approval

- ✓ A state's Consolidated Plan must be submitted to its respective CPD Field Office for review and approval at least 45 days before the start of the state's program year. A submission will not be accepted earlier than November 15 or later than August 16 of the Federal fiscal year for which the grant funds are appropriated.
- ✓ The CPD Field Office will review the consolidated plan upon receipt. The state should consider the Plan approved after 45 days unless the CPD Field Office notifies the state before that date that it is disapproved.
 - Within 15 days of a disapproval notice, the CPD Field Office must provide the state with written reasons for disapproval and corrective actions.
 - The state then has 45 days to resubmit its corrected Consolidated Plan.
- ✓ The CPD Field Office will disapprove a plan related to CDBG programs if:
 - Any portion of the Plan is inconsistent with the Housing and Community Development Act, as amended; or
 - It is "substantially incomplete," meaning:
 - The Plan was developed without the required citizen participation or the required consultation;
 - The Plan does not include all of the elements listed in 24 CFR 91.300 through 91.330; or
 - The Plan contains an inaccurate certification.
- ✓ There are times when states must amend their Consolidated Plans after they have been approved. A state must amend its Plan:
 - To make a change in its allocation priorities or a change in its method of distributing funds;
 - To carry out a new activity using funds covered under the consolidated plan; or
 - To change the purpose, scope, location or beneficiary of an activity.
- ✓ The citizen participation plan must specify what program changes constitute a substantial amendment to the Consolidated Plan, and what procedure will be followed to amend the plan. While all amendments must be made public, it is substantial amendments that are subject to a citizen participation process, in accordance with the state grantee's citizen



participation plan. Such plan must provide a period of not less than 30 days to receive public comments on substantial amendments before they are implemented.

- ✓ States may submit a copy of each amendment to HUD as it occurs, or at the end of its program year.

2.1.6. Reporting on the Consolidated Plan

- ✓ Grantees are required to submit an annual Performance and Evaluation Report (PER) 90 days after the end of the state grantee's program year. The PER must include the following:
 - Financial, detailed accomplishments by activity and civil rights data;
 - A description of the resources made available and programmatic accomplishments;
 - Status of actions taken during the year to implement the Consolidated Plan; and
 - A self evaluation of progress made in the past year in addressing priority needs and objectives.
- ✓ Refer to Chapter 13 of this manual for further details on the PER.

2.2. Project and Grantee Selection

- ✓ There are several common ways that states may choose their UGLGs. The section below highlights some possible processes for selecting UGLG partners.

Key Topics in This Section	✓ Application processes
Statutory Citations	Not applicable
Other Reference Materials on This Topic	Not applicable

- ✓ There are a variety of approaches that states use to select UGLGs and activities for funding under CDBG program within the framework of the Consolidated Plan. States describe this process in their Consolidated Plan under the Method of Distribution.
- ✓ There are five basic models upon which the UGLG selection process can be based; however, different variations of these approaches may be necessary or appropriate to meet state needs. These models are discussed below.

2.2.1. Formal, Competitive Application Process

- ✓ Requires the submission of a formal application or proposal from the UGLG and is typically undertaken once a year in conjunction with the state grantee's planning and budgeting process. Some states may do multiple competitions per year.
- ✓ Under the formal application process, UGLG applications are evaluated based on explicit selection criteria.
- ✓ This process works best in states with:
 - Numerous or complex activities;
 - Numerous potential applicants with varying degrees of experience; or



- Politics or other issues require standardized, consistent treatment of all requests for funding.
- ✓ Advantages to a formal application process are that:
 - It requires the UGLG to provide all the information needed (e.g., details on the proposed activity and on the organization's experience and capacity); and
 - It helps to ensure consistency throughout the evaluation process.
- ✓ Disadvantages to a formal proposal approach are that:

This type of process tends to favor more experienced UGLG (i.e., those familiar with the application process);

 - Staff time to ensure consistency, from the preparation of application packages to the review and evaluation of submissions, may be substantial; and
 - This approach may limit new activities or new UGLG recipients to only one chance per year.

2.2.2. Two Stage Process With Technical Assistance

- ✓ This approach is similar to the formal application process, but it usually involves a pre-application and then a second, follow-up submission to the state. The pre-application is not usually as detailed as a standard formal application. States review UGLG pre-applications and narrow the number of applications under consideration before requesting additional detailed project information from the UGLG.
- ✓ In addition, states may provide technical assistance to UGLGs as a part of this process.
- ✓ This two stage approach may be useful for states interested in encouraging the participation of potential UGLG not familiar with the program or the application process.
- ✓ Some of the advantages of the limited application approach include the fact that it is more open and flexible and may attract new UGLG applications or new ideas to the program.
- ✓ On the other hand, this approach shifts the responsibility for determining capacity and experience to the state grantee. This, in turn, may require more state staff time. In addition, this process may not ensure the consistency and fairness that is more evident in the formal application process.

2.2.3. “Open Door” Or Unsolicited Application Process

- ✓ This process for selecting activities involves a first-come, first-served approach. It either encourages or allows consideration of requests for funding at any time during the program year, and may or may not include an actual application.
- ✓ In reality, unsolicited applications may occur regardless of the type of approach in place in the state. However, if there is another process in place (e.g., formal application), the unsolicited application should be required to meet the requirements of the process already in place. This may mean that the application is held until the next application process is conducted, or the application is evaluated based on the criteria used during the regular application process.



- ✓ If the state uses the open door process as its only means for accepting applications, it must ensure that all applications are treated consistently and that the same types of information are received and reviewed by the state grantee.
- ✓ One of the advantages of this type of process is that it is open and may allow opportunities for states and UGLG to more quickly respond to community needs.
- ✓ The primary disadvantage of this approach is that it is unplanned. Applications may come in at any time and require crucial staff time and effort to respond.
- ✓ Another disadvantage to this approach is timing. By not conducting the process at a specific time of year, grantees may commit funds to projects before other, more qualified applications are received. This process may result in budget changes and program amendments throughout the year.

2.2.4. Mini Entitlement Approach

- ✓ Mini-entitlements are localities which automatically receive CDBG funding based on some special criteria determined by States and described in the MOD.
- ✓ The advantage of this approach is that UGLG are given flexibility to select activities that meet their local needs. In addition, it may ease the administrative burden on the state because they do not need to do an annual UGLG application process.
- ✓ The disadvantage of this process is that each UGLG may only get a very small amount of money and this may then make it very difficult for them to undertake larger projects. In addition, it places greater administrative burden on the UGLG, which may not have sufficient depth and capacity to manage complex activities.

2.2.5. Regional Fair Share Approach

- ✓ Some states allocate their funding by region, with each region getting its fair share of the total available.
- ✓ Under this approach, the funds must ultimately be provided to UGLG, who undertake the projects. However, regional planning districts have input into the funding choices for their region. The state may have varying degrees of oversight or decision making power regarding the funding suggestions by the regional organizations.
- ✓ The advantage of this approach is that regional organizations may have a better idea of the needs in their area and can help to target resources toward those needs. In addition, this approach helps ensure a fair distribution of funds statewide.
- ✓ The disadvantage of this process is that unless the regional fare share is based on depth and type of need, equally distributing funds by region may not enable the state to fully address its most difficult target areas, issues and concerns. In addition local politics may play a greater role in this type of process than might be evident if the state solely made the funding decisions.

2.2.6. Mixed Approach

- ✓ As mentioned previously, the reality in many states may be that one application process only is not feasible or does not work given selected activity types and community needs. In these



cases, a variation of any of the above approaches or a mix of the four approaches may be more appropriate.

- ✓ States should use caution however when mixing very different types of application processes and strive to maintain accountability to applicants and consistent treatment of requests for funds regardless of the process used.

2.2.7. The Application Package

- ✓ The specific elements of a state grantee's application package will vary based on the type of application process used as well as the state grantee's preferred level of information requested on the UGLG applicant organization and project/activity.
- ✓ In order for an application package to be effective, it should:
 - Provide a clear explanation of the state grantee's CDBG program in order for prospective UGLG to understand what they are applying for, how their proposed project fits into the overall program and what their responsibilities will be;
 - Provide detailed information regarding eligible activities and national objectives to eliminate the possibility of applications for ineligible activities;
 - Not be so complicated that UGLG organizations are discouraged from applying; and
 - Require enough information about the organization to permit the state to make informed reasonable decisions about the UGLG's ability to carry out the proposed activity.

2.2.8. General Contents of an Application Package

- ✓ The general contents of an application package fall into two categories:
 1. Information provided to applicants; and
 2. Information required from the applicants when their applications are submitted.

Information Provided to Applicants

- ✓ In order to provide a clear picture to prospective UGLG of the state CDBG program as a whole and the state grantee's program in particular, the application package may contain the following elements:
 - Summary of funding available (total and, if applicable, by activity type);
 - Summary of the state grantee's funding priorities (if applicable);
 - Current income limits for the program;
 - Summary of eligible activities;
 - Summary of national objectives;
 - Description of the policies and criteria used to determine funding allocations;
 - Schedule for determining funding allocations;
 - Summary of rules and requirements applicable to UGLG;
 - Name and telephone number of a contact person for questions; and



- Application deadline and location where applications are to be submitted.

Information Required from Applicants

- ✓ Types of information required from UGLG applicants often includes:
 - Project summary:
 - Need/problem to be addressed;
 - Project location;
 - Population/area to be served;
 - Description of work;
 - Proposed budget (including staff and other sources of funding);
 - Proposed schedule of work; and
 - Agency capacity information.
- ✓ The amount of information required from applicants under a state grantee's CDBG program will vary depending upon the type of application process used.
 - For example, if a state uses the formal application process, this process typically requires applicants to provide all the information needed (e.g., details on the proposed activity and on the organization's experience and capacity).
 - On the other hand, if using a two stage technical assistance application or open door process, the amount of information required from UGLG applicants is typically less. In this case, the state either makes decisions based on a lesser amount of information, or it requests the detailed information later in the process.

2.2.9. Evaluating Applications

- ✓ States should establish criteria for selecting UGLG and assessing risk. The criteria should be used to determine whether a prospective UGLG has the necessary systems in place to carry out the proposed project/activity **and** to comply with applicable rules and regulations.
- ✓ At a minimum, the criteria should include:
 - Eligibility of the activity under CDBG;
 - Compliance with a CDBG national objective;
 - Consistency with the priorities and specific objectives established in the Consolidated Plan;
 - Prior experience with CDBG and/or other grant programs;
 - Prior experience in the community;
 - Prior experience in the type of project/activity being proposed;
 - Organization's administrative and financial capacity to carry out the proposed activity; and
 - Appropriateness of the design of the proposed project or program delivery approach.
- ✓ In addition to general selection criteria, some states perform a risk analysis. This process provides for a way to assess potential risks associated with proposed projects. The analysis



can also be used to guide the allocation of training, technical assistance and monitoring resources once activities are funded.

Exhibit 2-2:

Six Key Questions for States to Address Prior to Funding an Activity

1. **How is the activity eligible?** Determine if the activity falls within a category of explicitly authorized activities in the HCDA. Generally, if an activity does not fall within a category of explicitly authorized activities in the statute, the activity is considered ineligible.
2. **Is the activity expressly ineligible?** If the activity is not specifically statutorily ineligible, determine if a proposed activity that appears not to be included in the statute's list of eligible activities has actually been interpreted as eligible under the statute by the CDBG Entitlement regulations, or if it falls into the area where the state has Maximum Feasible Deference (MFD) to interpret the statutory list of eligible activities.
3. **How will the activity meet a national objective?** Determine if the proposed activity meets one of the three national objectives and describe in detail how it does.
4. **If the activity is not a low/mod activity, what impact will it have on the 70% overall low/mod benefit requirement?** Ensure that assisting the activity with CDBG funds will not result in the state violating its certification that at least 70 percent of CDBG expenditures will be for activities that benefit low- and moderate-income (LMI) persons over one, two, or three consecutive program years specified by the grant recipient.
5. **Are the costs reasonable and necessary?** Ensure that costs of the activity appear to be necessary and reasonable and will otherwise conform with the requirements of OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments), A-122 (Cost Principles for Nonprofit Organizations), A-21 (Cost Principles for Educational Institutions) and 24 CFR parts 84 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations) and 24 CFR Part 85, (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), as applicable. Parts 84 and 85 are only applicable to the State CDBG program if the state chooses to follow these requirements.
6. **Have the environmental reviews and clearance procedures been completed?** Ensure that the procedures set forth in 24 CFR Part 58 have been followed.

2.3. Methods of Administering UGLG Programs

- ✓ States distributes funds to UGLGs, which then carry out activities or distribute the funds to their grant recipients.
- ✓ UGLG have many options for how they can administer their CDBG programs. This section highlights the range of possible options.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ UGLG responsibilities ✓ Subgrantees ✓ Nonprofit development organizations under 105(a)(15) ✓ Community Development Financial Institutions (CDFIs)
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	<ul style="list-style-type: none"> ✓ Faith Based Organizations ✓ Contractors
Statutory Citations	Section 105(a)(15)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Managing CDBG: A Guidebook for Grantees on Subrecipient Oversight http://www.hud.gov/offices/cpd/communitydevelopment/library/subrecipient/ ✓ Guidance to Faith-Based and Community Organizations on Partnering with the Federal Government: http://www.whitehouse.gov/government/fbci/guidance/; and ✓ CPD Notice 04-10: Notice of Guidelines for Ensuring Equal Treatment of Faith-based Organizations: http://www.hud.gov/offices/cpd/lawsregs/notices/2004/04-10.pdf.

2.3.1. Overview

- ✓ As part of the planning process, UGLGs decide who will administer and carry out CDBG activities. Options for carrying out eligible activities include use of:
 - UGLG staff;
 - Subgrantees and intermediary organizations such as planning districts or councils of government;
 - Nonprofit development organizations under 105(a)(15);
 - Community Development Financial Institutions (CDFIs);
 - Faith Based Organizations; and
 - Contractors.

2.3.2. UGLG Staff Administration of Programs

- ✓ Some communities' CDBG programs are run with few staff and a large number of subgrantees or contracted organizations while others are administered primarily by UGLG staff and a few subgrantee or contracted organizations. Factors which tend to affect the degree to which UGLG staff are relied upon more heavily for all CDBG functions include:
 - Size of the community and of the grant amount received from the state;
 - Types of programs undertaken;
 - Local politics;
 - Capacity of in-house staff; and
 - Capacity and availability of subgrantee organizations.
- ✓ Before undertaking any CDBG-funded activity, UGLGs should consider the following issues:
 - Is there political will to undertake the project through the development, approval, and implementation phases?
 - Does the required staffing experience currently exist?



- Is there sufficient time to take on new or expanded work?
- Are there adequate and appropriate administrative resources (e.g., legal, financial, etc.)?
- Are there subgrantees or contracted partners with the capability to assist with the program/project?
- Will consultants be needed?
- Are there sufficient funds to carry out the program/project and/or to invest the level of effort necessary for its implementation?
- ✓ Staffing for CDBG programs and activities generally requires:
 - Conducting a skills inventory of staff members;
 - Developing a list of required skills;
 - Assessing where gaps exist between existing staff skills and required skills; and
 - Undertaking the appropriate training, capacity building, and staff expansion necessary to administer the programs/activities.
- ✓ Based upon the UGLGs analysis of staffing capacities and upon programmatic needs, the UGLG must determine whether and/or to what extent it will work with subrecipients, other nonprofits, contractors, and CDFIs.

2.3.3. Subgrantees and Intermediary Organizations Such as Planning Districts or Councils of Government

- ✓ A subgrantee is a public or private non-profit agency or organization receiving CDBG funds from a UGLG or another subgrantee to undertake eligible activities. For example, the UGLG may elect to administer programs through public and quasi public agency partners such as councils of government and regional planning districts.
- ✓ The state and UGLG are responsible for ensuring that CDBG funds are used in accordance with all program requirements. The use of designated public agencies, subgrantees, or contractors does not relieve the state or UGLG of this responsibility. The state and UGLG are also responsible for determining the adequacy of performance and for taking appropriate action when performance problems arise.
- ✓ Before disbursing funds to any organization that is carrying out CDBG activities on behalf of the UGLG, a written agreement should be executed. Certain requirements should be included in all written agreements with subgrantees or other partners. These clauses are not required but suggested elements are listed in the section below.
- ✓ Written agreements should remain in effect for the length of time that the subgrantee or other partner has control over any CDBG funds, including program income. However, it is good practice to update agreements annually to ensure the agreements are current with regulations and requirements. This process also allows an opportunity to revisit and clarify problem areas or issues.

2.3.4. Subgrantee Agreements

- ✓ Subgrantees compliance with applicable requirements is usually covered through a written agreement. The following general requirements are applicable:



- All CDBG requirements are applicable to subgrantees.
- Procurement by the subgrantee must follow the open and competitive requirements of the state's procurement code.
- Uniform administrative requirements in OMB Circular A-87 and A-133 must be met.
- The state and UGLG may allow the subgrantee to retain program income for use for specified eligible activities. The written agreement should specify the activities that will be undertaken. Program income is subject to all CDBG requirements.
- ✓ At a minimum, it is suggested (but not required) that the UGLG's written agreement with the subgrantee or other partners include provisions concerning the following items:
 - Statement of work - The agreement shall include a description of the work to be performed, a schedule for completing the work, and a budget. These items shall be in sufficient detail to provide a sound basis for the state to effectively monitor performance under the agreement.
 - Records and reports – The UGLG should specify in the agreement the particular records the subgrantee or partner must maintain and the particular reports the subrecipient/partner must submit in order to assist the state in meeting its recordkeeping and reporting requirements.
 - Program income - The agreement should cover the disposition of any program income received as a result of the CDBG project in compliance with all CDBG requirements.
 - Uniform administrative requirements - The agreement should require subgrantees to comply with applicable uniform administrative requirements, (OMB Circular A-110, A-122, and A-133).
 - Other program requirements - The agreement should also require the subgrantee or partner to carry out each activity in compliance with all applicable Federal and state laws and regulations.
 - Conditions for religious organizations - Where applicable, the conditions prescribed by HUD for the use of CDBG funds by religious organizations should be included in the agreement.
 - Suspension and termination - The agreement should specify that suspension or termination may occur if the subgrantee or partner materially fails to comply with any terms of the agreement, and that the agreement may be terminated for convenience.
 - Reversion of assets - The agreement should specify that upon its expiration, the subgrantee shall transfer to the UGLG any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds.

2.3.5. Nonprofit Development Organizations Under 105(a)(15)

- ✓ CDBG funds may also be provided to Nonprofit Development Organizations under 105(a)(15) of the statute to carry out certain activities in connection with community revitalization, community economic development or energy conservation projects.
 - A community revitalization project must include activities of sufficient size and scope to have an impact on the decline of a particular community.



- The neighborhood can be designated in a local comprehensive plan or other local planning document or ordinance.
- A community economic development project must include activities that will increase economic opportunity, principally for LMI persons, or that retain or create jobs.
 - Projects that address a lack of affordable housing accessible to existing or planned jobs may be considered eligible under a community economic development project.
- Energy conservation projects must include activities that address energy conservation, principally for LMI persons in the community.

2.3.6. Community Development Financial Institutions

- ✓ A community development financial institution (CDFI) is a community-based lending institution. The CDBG regulation changes that took effect in 1995 included certain flexibilities for activities carried out by CDFIs.
- ✓ As defined in the Community Development Banking and Financial Institutions Act of 1994, CDFIs have the following characteristics:
 - Primary mission of promoting community development;
 - Serve an investment area or targeted population;
 - Have as its predominant business the provision of loans or development investments and provides development services in conjunction with such loans and investments;
 - Maintains accountability to residents of its investment area or targeted population through representation on its governing board or some other means; and
 - Is not an agency or instrumentality of the government (Federal, state or local).
- ✓ CDFIs are not considered subgrantees or contractors. A CBDO may qualify as a CDFI.
- ✓ Types of organizations that may meet these criteria include community development banks; community development loan funds; microenterprise loan funds; and venture capital organizations.
- ✓ The Community Development Banking and Financial Institutions Act of 1994 also created a CDFI Fund to promote economic revitalization and community development through investment in and assistance to CDFIs.
 - The CDFI Fund is managed by the Department of Treasury and provides assistance to qualified organizations.
 - CDFIs then provide funds to other organizations in accordance with their missions.
- ✓ Activities carried out by CDFIs receive special consideration under the new CDBG regulations regardless of whether or not the CDFI is actually receiving assistance from the CDFI Fund.
 - For a CDFI whose charter limits its investment area to a primarily residential area with 51 percent LMI persons:
 - Job creation/retention activities may be qualified as meeting area benefit requirements;
 - Scattered site housing activities may be considered to be a single structure for the purposes of applying the LMI benefit national objective (housing) criteria; and



- Economic development activities may be exempt from the aggregate public benefit standards.
- ✓ For any CDFI, regardless of its investment area, job creation/retention national objective requirements may be met by aggregating the jobs created/retained by all businesses for which CDBG assistance was obligated during the program year.

2.3.7. Faith Based Organizations

- ✓ Effective October 30, 2003, HUD issued a new final rule to remove barriers to the participation of faith-based organizations in eight CPD programs, including the CDBG program.
- ✓ The amended CDBG regulations establish the following policies (see §570.480(e), which refers the state to 570.200j).
 - Faith-based organizations are eligible for CDBG funding on an equal footing with any other organization. There is no Federal requirement that an organization incorporate or operate as a nonprofit to obtain tax-exempt status under section 501(c)(3) in order to receive CDBG funds.
 - Organizations may not use direct CDBG funds to support inherently religious activities such as worship or religious instruction. If an organization does conduct such activities, the activities must be offered separately than activities funded by the CDBG program, in time or location.
 - Faith-based organizations retain their independence from Federal, state, and local governments, including their exemption from the federal prohibition on employment discrimination on the basis of religion for employees not involved in CDBG funded activities.
 - Faith-based organizations, like all organizations implementing HUD-funded programs, must serve all eligible beneficiaries without regard to religion. The CDBG statute and regulations prohibit any person from being denied the benefits of, or being subjected to discrimination, on the basis of religion under any activity funded in whole or in part with CDBG funds.
 - Faith-based organizations, like all organizations, may receive CDBG funds to acquire, construct, or rehabilitate buildings and other real property as long as the funds only pay the costs attributable to CDBG activities.
 - The final rule applies to state or local funds if a state or local government chooses to commingle its own funds with CDBG funds.
- ✓ For more information regarding the participation of faith-based organizations in the CDBG Program, see the following resources:
 - HUD Center for Faith-Based and Community Initiatives: <http://www.hud.gov/offices/fbci/>;
 - Guidance to Faith-Based and Community Organizations on Partnering with the Federal Government: <http://www.whitehouse.gov/government/fbci/guidance/>; and
 - CPD Notice 04-10: Notice of Guidelines for Ensuring Equal Treatment of Faith-based Organizations: <http://www.hud.gov/offices/cpd/lawsregs/notices/2004/04-10.pdf>.



2.3.8. Contracted Administrators

- ✓ A contractor can be either a for-profit or a nonprofit entity that is paid CDBG funds by the UGLG (or subgrantee) in return for specific services, where payment is made to the contractor as compensation for such services.
- ✓ A contractor is different than a 105(a)(15) nonprofit development organization and/or subgrantee in the following ways:
 - A contractor must be procured competitively according to the OMB rules; and
 - Most of the uniform administrative requirements do not apply to contractors (once the procurement process is complete).
- ✓ Typically, UGLG use a contractor when:
 - The project is a discrete activity and does not involve program management or administration;
 - There will be a specific activity under contract with a clearly defined beginning and end date; and
 - The specific activity undertaken by a contractor may be a physical project (like a multi-family rehabilitation) or a social service activity (like running a day care center.)

Attachment 2-1: State Guidelines for Preparing a Consolidated Plan

GUIDELINES FOR PREPARING A STATE CONSOLIDATED PLAN SUBMISSION FOR HOUSING & COMMUNITY DEVELOPMENT PROGRAMS

U. S. Department of Housing and Urban Development, Office of Community Planning and Development

INTRODUCTION

The Consolidated Plan is designed to be a collaborative process whereby a state or local jurisdiction establishes a unified vision for community development actions. It offers state and local jurisdictions the opportunity to shape the various housing and community development programs into effective, coordinated community development strategies. The vision outlines the state's overall policies and objectives for housing and community development throughout the state. It also creates the opportunity for strategic planning and citizen participation to take place in a comprehensive context, and to reduce duplication of effort at the state level, and serves as a management tool that helps the state, local governments, and citizens assess performance and track results.

The Consolidated Plan approach is also the means to meet the submission requirements for the Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), Emergency Shelter Grant (ESG), and Housing Opportunities for Persons with AIDS (HOPWA) formula programs. This process replaces prior CPD planning and submission requirements with a single document that satisfies the submission requirements of the four CPD formula programs for state and local jurisdictions.

The statutes for the formula grant programs set forth three basic goals and objectives against which the plan and the state's performance under the plan will be evaluated by HUD. Each state's plan must state how it will pursue these goals for all community development programs, as well as all housing programs. These goals are: First, the programs provide decent housing. Included within this broad goal are the following: assist homeless persons to obtain affordable housing; retain the affordable housing stock, increase the availability of permanent housing that is affordable to low-income Americans without discrimination; and increase supportive housing that includes structural features and services to enable persons with special needs to live in dignity. Second, the programs provide a suitable living environment. This includes improving the safety and livability of neighborhoods; elimination of blighting influences and deterioration of property and facilities, increasing access to quality facilities and services; reducing the isolation of income groups within areas by deconcentrating housing opportunities and revitalizing deteriorating neighborhoods; restoring, enhancing and preserving natural and physical features of special value for historic, architectural, or aesthetic reasons; and conserving energy resources. The third major statutory goal of the programs is to expand economic opportunities. Within this goal are job creation and retention: stabilization and expansion of small businesses (including micro businesses); the provision of public services concerned with employment; the provision of jobs involved in carrying out activities under programs and activities; providing access to credit for community development that promotes long-term economic and social viability; and empowering low- and moderate-income persons in federally-assisted and public housing to achieve self-sufficiency.

States develop a "strategy" toward meeting their policies and objectives that may express varying levels of detail on the direction that the state wishes to establish in housing and community development. States have the flexibility to determine the specificity of their plans depending on the extent to which they want to influence choices that localities make in housing and community development. States also have significant flexibility in determining the format of the plan and the method of collecting the data necessary for development of the plan, whether at the state, regional, or local levels. The geographic area that will be covered by the state's plan will be determined by the state, but must cover at least those areas that are eligible to receive funds directly from the state.

WHAT'S NEW

Requirements and Guidance:

The five steps for preparing a consolidated plan submission presented below clearly differentiate between what the state is required to submit and guidance in preparing the consolidated plan submission. The requirements are stated as "must do" statements, while guidance statements are not requirements but offered as "should" statements or presented as questions the state should take into consideration during plan development.

Plan Format:

HUD does not prescribe a specific, uniform presentation format for submitting the plan, but the plan must contain each of the required elements described below and the required tables. Tables 1 (Housing, Homeless and Special Needs) and Table 2A (Priority Housing Needs and Activities) are required. States are encouraged to use other new optional tables, such as Tables 3A (Summary of Annual Specific Objectives) and Table 3B (Annual Housing Goals) to provide information required by the consolidated plan final rule that was published on February 9, 2006. Tables 3A and 3B are similar to worksheets that are included in the latest version of the Consolidated Plan Management Process Tool. They are based on tables developed by grantees or in response to suggestions made by researchers and grantees. Tables 3A, 3B and 3C can help states illustrate the linkages between the performance measurement outcomes/objectives requirements of the Consolidated Plan and the Federal Register Notice on Performance Measurement that was published on March 7, 2006.

Use of Existing Documents:

HUD encourages states to draw from existing data, documents, materials, and processes in preparing their consolidated plan. CHAS data at: <http://socds.huduser.org/scripts/odbc.exe/chas/index.htm> is available to help identify housing needs. States also have the option to cross-reference pages of relevant documents like the TANF Plan and Continuum of Care Plan in order to streamline the consolidated plan process.

HUD's Strategic Plan Goals:

In developing Consolidated Plans, states should be aware of national goals that have been established in HUD's strategic plan – to end chronic homelessness and to increase minority homeownership. HUD requests the cooperation of all grantees in achieving these goals. Each state is encouraged to include ways in which it intends to address these goals as part of its Consolidated Plan. HUD's ability to report its progress in reaching these goals depends on information provided by states and local governments. These goals are not additional Consolidated Plan requirements; rather they provide a sharper focus to existing elements.

Consolidated Plan Final Rule:

The consolidated plan final rule published on February 9, 2006 contained several revisions and updates that are highlighted in *italics* in the following guidelines. Included among the revisions are new requirements regarding an Executive Summary, revised citizen participation and consultation requirements, an annual summary of specific objectives, annual housing goals, the manner in which the plan of the state will address the needs of public housing (including any "troubled" public housing agencies), estimates of the percentage of funds dedicated to target areas, annual goals for the use of HOPWA funds, and a discharge policy certification.

Performance Measurement Framework:

States are encouraged to identify specific objectives under general outcome and objective categories involving the availability/accessibility, affordability, and sustainability of decent housing, a suitable living environment, and economic opportunity. Each state must also provide outcome measures for activities included in its action plan in accordance with the Federal Register Notice dealing with Outcome Performance Measurement Systems, dated March 7, 2006.

STEPS FOR PREPARING A CONSOLIDATED PLAN AND SUBMISSION

These steps will guide the state through the process of preparing its housing and community development plan for submission to HUD.

I. Coordinating and Managing the Process

The consolidated plan submission process envisions that housing and community development planning and programming will be accomplished through a unified and comprehensive framework that encourages opportunities for collaboration and collective problem-solving. Partnerships among government agencies and between government and private groups enhance the use of government and private resources to achieve intended public purposes. These steps require states to take and/or describe specific actions and initiatives relevant to the preparation of their housing and community development plan.

Presubmission requirements

Required consultation -- States must consult and coordinate with local jurisdictions, various public and private agencies, that provide assisted housing, health services, social and fair housing service agencies, and among its own departments regarding the housing needs of children, elderly persons, persons with disabilities (including persons with HIV/AIDS and their families), homeless persons, and other persons served, to assure that its consolidated plan is a comprehensive document and addresses statutory purposes.

Lead-Based Paint -- The state must consult with state and local health and child welfare agencies, and examine existing data on hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.

Submission requirements:

Lead Agencies -- The state must identify the lead entity or entities for overseeing the development of the plan and the major public and private agencies responsible for administering programs covered by the consolidated plan.

Consultation/Coordination -- The state must identify the significant aspects of the process by which the plan was developed, and with statewide and regional institutions, agencies, groups, and organizations (including businesses, developers, community and faith-based organizations), that participated in the process. It must briefly describe the state's consultation with housing, health, social, and fair housing service agencies, including those focusing on services to children, elderly persons, persons with disabilities (including persons with HIV/AIDS and their families), homeless and chronically homeless persons, as well as activities it will undertake to enhance coordination between public and assisted housing providers, and among private and governmental health, mental health, and service agencies. The description should include the means of cooperation and coordination with local jurisdictions in developing, submitting and implementing its consolidated plan.

Institutional Structure -- The state must explain the institutional structure through which it will carry out its consolidated plan, including private industry, non-profit organizations, community and faith-based organizations, and public institutions. It must also assess the strengths and gaps in the delivery system, describing what it will do to overcome those gaps.

Guidance:

Collaboration and partnership -- In organizing to prepare the consolidated plan and submission, has the state considered establishing new relationships and organizational structures among various agencies and organizations in order to maximize the benefits that should arise from the collective problem-solving and coordinated activities? This will aid in data gathering and reporting, while increasing commitment to the plan.

Economic Development -- The consolidated plan should describe efforts made to enhance coordination

with private industry, businesses, developers, and social service agencies, particularly with regard to the development of the state's economic development strategy.

II. Citizen Participation:

The consolidated plan must result from an effective citizen participation process. Existing, ongoing citizen participation activities may be used, and states will have the flexibility to choose the most effective participation process.

States must adopt and follow a citizen participation plan that describes the state's policies and procedures for citizen participation. The citizen participation plan must also describe the citizen participation requirements (outlined in 24 CFR 570.486) for units of general local government receiving CDBG funds from the state and explain how the requirements will be met.

When preparing the consolidated plan, states must consult with local elected officials from among units of general local government in nonentitled areas in determining the state's method of distributing CDBG funds. In preparing the consolidated plan, states must consult with other public and private agencies that provide assisted housing, health, social, and fair housing services. As the section on lead-based paint hazards is prepared, the states must consult with state or local health and child welfare agencies.

The state's citizen participation plan must address the following, which mirrors the regulatory requirements and describe actions to be taken to encourage citizen participation. Citizens and units of general local governments must be provided a reasonable opportunity to comment on the citizen participation plan prior to implementation and on any substantial amendments thereto. The final citizen participation plan must be made public and be available in a format accessible to persons with disabilities, upon request.

Participation -- The state must indicate in the citizen participation plan how it will provide for and encourage citizen participation in the development of the state's consolidated plan, emphasizing the involvement of low- and moderate-income residents where housing and community development funds may be spent. States are expected, in all stages of the process, to take whatever actions are appropriate to encourage the participation of all its residents, including minorities and non-English speaking persons, as well as persons with mobility, visual or hearing impairments in all stages of the process.

Access to Information -- In developing the consolidated plan, the state will make available to units of general local government, citizens, public agencies, and other interested parties, including those most affected, information on the amount of funds the state expects to receive to be available for community development and housing activities, and the range of activities that may be undertaken, including the estimated amount proposed to benefit low-, moderate-income residents; and the plans to minimize displacement, and assist those displaced, as a result of these activities.

Publishing the Consolidated Plan -- The state must publish its proposed consolidated plan in a manner to afford affected citizens, units of general local government, public agencies and other interested parties a reasonable opportunity to examine its content, and to submit comments on the proposed consolidated plan. This requirement to publish the plan may be met by publishing a summary of the proposed consolidated plan in one or more newspapers of general circulation, and by making copies of the proposed consolidated plan available at libraries, government offices, and public places. The summary must describe the contents and purpose of the consolidated plan, and must include a list of the locations where copies of the entire proposed consolidated plan may be examined. In addition the state must provide a reasonable number of free copies of the plan to citizens and groups that request it.

Public Hearings -- The state must hold at least one public hearing to obtain the views of citizens on community development and housing needs before the proposed consolidated plan is published for comment. The citizen participation plan must: describe how and when adequate advance notice of the hearing will be provided to citizens (with sufficient information having been published about the subject of the hearing to afford citizens opportunity to provide informed comment); specify how the state will assure that the hearing be held at a time and location convenient to potential and actual beneficiaries with accommodation for persons with disabilities (describing in the citizen participation plan how these requirements will be met); and identify how the needs of non-English speaking residents will be met in the case of a by public hearing where a significant number of non-English speaking residents can be expected to participate.

Public Involvement -- explore alternative public involvement techniques and quantitative ways to measure efforts that encourage citizen participation in a shared vision for change in communities and neighborhoods, and the review of program performance, e.g., use of focus groups, and use of the Internet.

Comments -- The state must provide a period of not less than 30 days to receive comments from citizens and units of general local governments on the proposed consolidated plan. States must consider the views of citizens and units of general local government that are received in writing, or orally at public hearings, in preparing the final consolidated plan. A summary of these comments or views and a summary of any comments or views not accepted must be attached to the final consolidated plan and made public. The summary must include an explanation of the comments not accepted and the reasons why these were not accepted. These requirements also apply to any substantial amendments made to the consolidated plan.

Amendments to the Consolidated Plan -- The state must specify in the citizen participation plan the criteria it will use for determining what changes in the state's planned or actual activities constitute a substantial amendment to the consolidated plan. This criteria for a substantial amendment must include changes to the method of distributing the funds covered by the consolidated plan. Prior to the submission of an amendment, the state shall provide citizens and units of general local government with reasonable notice and an opportunity to comment on the substantial amendments (the citizen participation plan must describe how this will occur). A period of at least 30 days must be provided in which to receive comments on the substantial amendment before the amendment is implemented.

Performance Reports -- The state must describe in its citizen participation plan how citizens will be given reasonable notice and an opportunity to comment on performance reports. A period of not less than 15 days must be given to receive comments on the performance report that is to be submitted to HUD prior to such submission. States must consider the views of citizens that are received in writing, or orally at public hearings, in preparing the performance report. A summary of these comments or views must be attached to the performance report.

Availability to the Public -- The state must make the consolidated plan as adopted, any substantial amendments, and the performance reports available to the public, including the availability of materials in a form accessible to persons with disabilities upon request. The citizen participation plan must explain how these documents will be available to the public.

Access to records -- The state must provide citizens, public agencies and other interested parties with reasonable and timely access to information and records relating to its consolidated plan and the state's use of assistance under programs covered by the consolidated plan for the preceding five years.

Complaints -- The state shall describe, in the citizen participation plan, its procedures to handle complaints from citizens related to the consolidated plan, amendments and performance report. States must provide for timely, substantive response to each written complaint within a specific time period (within 15 working days, where practicable, if the state receives a CDBG grant).

Submission Requirements:

Executive Summary -- a clear, concise executive summary that included the objectives and outcomes identified in the plan and an evaluation of past performance.

Citizen Participation -- a concise summary of the citizen participation process, a summary of citizen comments or views on the plan, and efforts made to broaden public participation in the development of the consolidated plan, including outreach to minorities and non-English speaking persons, as well as persons with disabilities. The summary of citizen comments must include a written explanation of comments not accepted and the reasons why these comments were not accepted.

Guidance:

Examination of existing participation -- The state should evaluate the success of existing methods to solicit public comment and participation at the state level and at the local level. Have all avenues for increasing citizen awareness of hearings, particularly at the local level and the importance of these programs been explored?

Citizen Committees -- The state should consider how various citizen advisory committees/ boards can work together at the state level to provide input as the consolidated plan is being developed.

Local Citizen Committees -- The state should encourage localities to consider how various citizen advisory committees could work together at the local government level.

Facilitation -- The state should encourage localities to use various forms and techniques for citizen participation, ranging from small, issue-oriented forums to town meetings. Has the state considered new and innovative means that both the state and its units of general local governments can use to encourage additional citizen participation and provide improved citizen access to the decision making process?

Plan Evaluation -- The state should share HUD's response to the submission with all who attended state public hearings and planning meetings.

III. Housing, Homeless, and Community Development Needs

In this step the state is required to submit statistical and analytical information that provides an overall picture of the housing, homeless, and community development needs of the state. The information will assist in establishing priorities and allocating Federal and State resources, principally for extremely low-, low-, and moderate-income families. It is also important for developing specific objectives in accordance with the statutory goals of providing decent housing, a suitable living environment, and expanding economic opportunities. The needs information must be sufficient to support the state's strategic plan described in Step IV, including its priorities for allocating resources, its specific objectives and its strategy for achieving desired results.

In describing its needs, the state is encouraged to draw relevant information from previous submissions and other reports and studies, as appropriate. It is expected to use citizen input, as well as the results of consultations with social service agencies regarding housing and other needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by such agencies. For a state seeking funding under the HOPWA program, the needs described for housing and supportive services must address the needs of persons with HIV/AIDS and their families in areas outside of eligible metropolitan statistical areas.

Submission Requirements:

Housing Needs -- The state must provide an estimate of housing needs projected for the next five years. This includes an overall assessment of the state's housing needs for households residing in and those expected to reside in the state; a statement of its needs for assistance among extremely low-, low-income, moderate-income, and middle-income families for renters and owners; specification of such needs for different categories of persons, including elderly persons, single persons, large families, persons with HIV/AIDS and their families, persons with disabilities; victims of domestic violence, and a description of housing needs in terms of the number of extremely low-income, low-income, moderate-income, and middle-income renters and owners experiencing specific housing problems, including cost-burden, severe cost-burden, substandard housing, and overcrowding (especially large families) compared to the jurisdiction as a whole.

Housing data included in this portion of the plan shall be based on data available from the U.S. Census, as provided by HUD and updated by any properly conducted study, or any other reliable source that the state clearly identifies. States may wish to use the CHAS data provided by HUD at the following website: <http://socds.huduser.org/scripts/odbic.exe/chas/index.htm> to satisfy the data requirements for the housing needs section when preparing their narrative. To the extent that any racial or ethnic group has disproportionately greater need for any income category in comparison to the needs of that category as a whole, the state must complete an assessment of that specific need. For this purpose, disproportionately greater need exists when the percentage of persons in a category of need who are members of a particular racial or ethnic group is at least 10 percentage points higher than the percentage of persons in the category as a whole.

Homeless Needs -- The state must describe the nature and extent of homelessness, (including rural homelessness and persons that are chronically homeless where applicable) addressing separately the need for facilities and services for homeless individuals and homeless families with children, both sheltered and unsheltered, and homeless subpopulations identified in Table 1. The plan must also include, to the extent information is available, a narrative description of the nature and extent of

homelessness by racial and ethnic group. In addition to presenting the data, you must describe the methodology you used to obtain the data. Annualized counts must not be duplicated.

Homeless Facilities -- The state shall also describe existing facilities and services, (including a brief inventory) that assist homeless persons and families with children and subpopulations identified in Table 1. These include facilities and services for outreach and assessment, emergency shelters and services, transitional housing, permanent supportive housing, access to permanent housing, and activities to prevent low-income individuals and families with children (especially those with incomes below 30 percent of the median) from becoming homeless. The homeless inventory of facilities should include (to the extent is available to the jurisdiction) an estimate of percentage or number of beds and supportive services programs that are serving people that are chronically homeless.

Other Special Needs -- The state must estimate, to the extent practicable, the number of persons who are not homeless but require supportive services, including the elderly, frail elderly, persons with disabilities (mental, physical, developmental, persons with HIV/AIDS and their families), persons with alcohol or other drug addiction, victims of domestic violence, and any other categories the state may specify and describe their supportive housing needs. The plan must also describe, to the extent information is available, facilities and services that assist persons who are not homeless but require housing or supportive housing, and programs for ensuring that persons returning from mental and physical health institutions receive appropriate supportive housing. If the state plans to use HOME for tenant based rental assistance to assist one or more of these populations, it must justify the need for such assistance in the plan.

Lead-based Paint Needs -- The state must estimate the number of housing units that are occupied by extremely low-, low-, and moderate-income residents that contain lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

Market Conditions -- The state must describe the significant characteristics of the housing market in terms of the supply, demand, condition, and the cost of housing. If a state intends to use HOME funds for tenant based assistance, it must specify local market conditions that led to the choice of that option.

Barriers to Affordable Housing -- This section requires the state to explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing are affected by public policies, particularly those of the state. Such policies include tax policy, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment.

Fair Housing -- The state must conduct an analysis to identify impediments to fair housing choice within the state. The analysis is not required to be submitted as part of the consolidated plan but the state must certify that it will affirmatively further fair housing; which means it will conduct the analysis, take appropriate actions to overcome the effects of any impediments and maintain records reflecting the analysis and actions in this regard.

Guidance:

Housing needs -- Has the state identified housing needs, including analysis of the needs based on income level, tenure (renters/owners), and housing problems? Has the state presented additional data or reorganized existing data to better support housing and community development findings? (The state should include persons with mental illness, persons with HIV/AIDS and/or their families, persons with disabilities, and other categories of people with needs as the state may determine). Has the state considered the housing credit needs of its residents?

Homeless Needs -- Has the state identified the need for facilities and services for homeless persons who are: severely mentally ill, alcohol/other drug addicted, severely mentally ill and alcohol/other drug addicted, fleeing domestic violence, homeless youth, living with HIV/AIDS; and such other categories as the state may determine? While homeless data in Table 1 must be point-in-time, the narrative may discuss both point-in-time and other reliable data, such as annualized counts. This information may be important in your planning process because it may reveal the volume and types of homelessness that must be dealt with over the course of a year or other time period longer than a day. These might include data from shelter or voucher programs, turnaway data from shelters, administrative records from health care for the homeless program, or drop in program for homeless people.

Chronic Homelessness -- The state should describe its strategy for eliminating chronic homelessness by 2012, and its planned action steps for addressing the needs of persons that are chronically homeless.

This can include barriers to achieving this and should include the jurisdiction's strategy for helping homeless persons make the transition to permanent housing and independent living.

A person that is considered chronically homeless is an unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more or has had at least four episodes of homelessness in the past three years. To be considered chronically homeless, persons must have been sleeping in a place not meant for human habitation (e.g., living on the streets) and/or in an emergency shelter during that time. For the purposes of chronic homelessness, a disabling condition is a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions. A disabling condition limits an individual's ability to work or perform one or more activities of daily living.

Availability of Data -- HUD encourages states to draw from existing data, documents, materials, and processes in preparing their consolidated plan. States have the option to cross-reference pages of relevant documents like the TANF Plan and Continuum of Care Plan in order to satisfy data requirements. With regard to special needs, states are encouraged to provide data to the extent available.

Discharge Coordination Policy -- Every jurisdiction receiving McKinney-Vento Homeless Assistance Act Emergency Shelter Grant (ESG), Supportive Housing, Shelter Plus Care, or Section 8 SRO Program funds should develop and implement a "Discharge Coordination Policy, to the maximum extent practicable. Such a policy should include "policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons." The jurisdiction should describe its planned activities to implement a cohesive, community-wide Discharge Coordination Policy and how the community will move toward such a policy.

Community Development Needs -- As part of the Housing and Community Development Strategy (Step IV), the state must identify its "priority non-housing community development needs" that affect more than one unit of general local government. These would be CDBG eligible activities typically funded by the state, such as public improvements, public facilities, public services and economic development activities. These priority needs must be described by CDBG eligibility category, reflecting the needs of persons or families for each type of activity. Although it is not required, the state should consider utilizing available and appropriate information derived from localities, and relevant reports and studies, to support the decisions made in selecting "priority non-housing community development needs" in Step IV. (The information might include crime and unemployment rates, incidence of AIDS or tuberculosis, inadequate public facilities, or other appropriate data.) One approach to estimating these needs is to assess the demand for CDBG funds for non-housing activities in the last 2 or 3 years from local government CDBG applications.

IV. Strategic Plan

The state must produce a strategic plan that brings the needs and resources together in a coordinated housing and community development strategy. The strategic plan should identify expected accomplishments and results the state hopes to achieve for the period of time designated in the strategic plan in terms of outputs and outcomes. The state plan must be developed to achieve the following goals and objectives, principally for low- very low-, and extremely low-income residents:

- provide decent housing,
- create suitable living environments, and
- expand economic opportunities

Submission Requirements:

Time Period --The state must describe the period of time covered by the plan.

Priority Needs and Allocation Priorities -- The state must identify its priority needs, describe the reasons for assigning the priority given to each category of priority needs (including the tables, where required), and identify any obstacles to meeting underserved needs. In addition, the state must describe the general priorities for allocating investment geographically within the state and among priority needs. The state must address the following concerns:

Priority Housing Needs -- The state must identify the priority housing needs and activities specified in Table 2A. The state must provide an analysis of how the characteristics of the housing market and the severity of housing problems and needs of each category of residents, previously described in section III (Housing Needs), provided the basis for determining the priority of each priority housing need category. Family and income types may be grouped where the analysis would apply to more than one family or income type. The Priority Housing Needs Table 2A is required to be completed and accompany this part. Part 3 of Table 2A, however, is optional for states.

A priority housing need may be any of the distinct categories of residents defined in the Table 2A matrix. Alternatively, the State may define its priorities by activity type (listed in Part 3 of Table 2A) in which case the needs of all categories of residents must be analyzed under each activity. The description may be for the State as a whole or broken down into the sub-State areas and regions considered to be most significant and meaningful.

Priority Homeless Needs -- Using the results of the Continuum of Care planning process, identify the state's homeless and homeless prevention priorities specified in Table 1. The description of the state's choice of priority needs and allocation priorities must be based on reliable data meeting HUD standards and should reflect the required consultation with homeless shelter and social service agencies regarding the needs of homeless families with children and individuals, persons with disabilities and other categories of homeless persons, and the citizen participation process.

Other Special Needs -- describe the priority housing and supportive service needs of persons who are not homeless but may require housing or supportive housing, i.e., elderly, frail elderly, persons with disabilities (mental, physical, developmental, persons with HIV/AIDS and their families), persons with alcohol or other drug addiction, victims of domestic violence, and public housing residents to the extent data is available.

Priority Non-housing Community Development Needs -- A state seeking Community Development Block Grant funding must identify its priority non-housing community development needs that affect more than one unit of general local government, and involve activities typically funded by the state under the CDBG program. These priority needs must be described by CDBG eligibility category, reflecting the needs of persons or families for each type of activity (i.e. public facilities, public improvements, public services and economic development).

Objectives and Strategies -- The state's strategic plan must summarize priorities and specific objectives, describing how funds that are reasonably expected to be made available will be used to address identified needs during the period covered by the strategic plan. Each specific objective must identify proposed accomplishments and outcomes the state hopes to achieve in quantitative terms over a specific time period (i.e. one, two, three or more years), or in other measurable terms as identified and defined by the state. States are encouraged to identify specific objectives under general outcome and objective categories involving the availability/accessibility, affordability, and sustainability of decent housing, a suitable living environment, and economic opportunity using optional Tables 2C and 3A. If these tables are not used, states must provide comparable information that is required by the consolidated plan regulation.

Housing Objectives -- these specific objectives must separately specify the number of extremely low-income, low-income, and moderate-income renters and owners previously described in section IV (Priority Housing Needs) for which it will provide affordable housing for a specific time period according to the standards in section 215 of Title II of the National Affordable Housing Act of 1990, as amended.

Community Development Objectives -- must identify specific long-term and short-term community development objectives (including economic development activities that create jobs), developed in accordance with the statutory goals of described in 24 CFR 91.1 and the primary objective of the CDBG program. These goals include the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for low- and moderate-income persons.

Homeless Strategy -- using the "Continuum of Care" approach, identify the state's specific objectives (if any) and describe its strategy for developing a system to addressing homelessness and the priority needs of homeless persons and families identified in a Table 1 (including the subpopulations). The state must consider the supportive services needed in each stage of the process. These include outreach/assessment, emergency shelters and services, transitional housing, and helping homeless persons (especially chronically homeless persons) make the transition to permanent housing, and

activities to prevent low-income individuals and families with children (especially those with incomes below 30 percent of the median) who are at imminent risk of becoming homeless.

Anti-Poverty Strategy -- summarize the state's goals, programs, and policies for reducing the number of poverty level families (as defined by the Office of Management and Budget and revised annually), and in consultation with other appropriate public and private agencies, (i.e. TANF agency) the state must summarize how the goals, programs, and policies for producing and preserving affordable housing set forth in the consolidated plan will be coordinated with other programs and services for which the state is responsible, and the extent to which they will reduce (or assist in reducing) the number of poverty level families, taking into consideration factors over which the jurisdiction has control.

Public Housing – all states must describe the manner in which the plan of the state will address the needs of public housing. If a public housing agency located within a state is designated as “troubled” by HUD, the strategy for the state or unit of local government in which the “troubled public housing agency” is located must describe the manner in which the state or unit of local government will provide financial or other assistance to improve the public housing agency’s operations and remove the “troubled” designation. (A state is not required to describe the manner in which financial or other assistance is provided if the troubled public housing agency is located entirely within the boundaries of a unit of general local government that must submit a consolidated plan to HUD.) For information dealing with public housing contact the PIH Information Resource Center at: 1-800-955-2232. If a state that has a state public housing agency administering public housing funds, then it must also describe the agency’s activities to encourage public housing residents to become more involved in management and participate in homeownership.

Lead Based Paint -- outline actions that are proposed or are being taken to evaluate and reduce lead-based paint hazards, how the plan for the reduction of lead-based hazards is related to the extent of lead poisoning and hazards, and describe how that reduction is being integrated into the state's housing policies and programs.

Reduction of Barriers -- describe actions to eliminate or reduce barriers to affordable housing specified in Section III and identify any obstacles to addressing under-served needs.

Low-income Tax Credits -- describe the strategy to coordinate the Low-Income Tax Credit with development of housing, including public housing that is affordable to very low-income and low-income families.

Coordination -- The consolidated plan must summarize how the state will enhance coordination between public and private and governmental health, mental health, and service agencies. With respect to the preparation of its homeless strategy, the state must describe efforts in addressing the needs of persons that are chronically homeless. With respect to the public entities involved, the plan must describe the means of cooperation and coordination among the State and any units of general local government in the implementation of its consolidated plan. (See page 3 for a description of other coordination requirements.)

Guidance:

Strategic Vision for Change -- If the state is developing a long-term program for significant change in its housing and community development throughout the state, has it engaged in a process that will develop a holistic vision of its desired future -- for example, how does the vision relate to making the localities within the state more livable, better functioning, and more attractive? Are there separate visions for different regions of the state that support the state's overall goals and objectives? Has the state developed the type of visual maps and graphic information to help it decide on the overall policies and objectives for housing and community development throughout the state? Does the state plan to improve the availability/accessibility, affordability, and sustainability of decent housing, a suitable living environment, and economic opportunity?

Specific Objectives – HUD recognizes that states as grantor agencies have less control over fulfillment of sections of the regulations dealing with annual goals and performance than do local jurisdictions. However, states are expected to provide this information to the extent they are able to do so. States have the option to cross-reference pages of relevant documents like the TANF Plan and Continuum of Care Plan in order to satisfy data requirements.

Building on Assets -- Has the state identified and evaluated the variety of assets and opportunities that exist within the state as a whole including items ranging from educational institutions, new job training efforts, or the supply of vacant buildings that may offer new housing and community development opportunities? Has the state targeted investment areas by considering where housing and community development needs and assets converge?

Community Revitalization Strategy Areas -- States are strongly encouraged to allow local governments to adopt and implement community revitalization strategies. If a state elects to implement the revitalization strategy approach, it must develop a process for approving local strategies. The state's process for implementing community revitalization strategies must be submitted to and approved by HUD before it is implemented. The process should include outcomes that measure the economic empowerment of low- and moderate-income persons, increases in homeownership and property values. See CPD Notice 97-01 for instructions on qualifying community revitalization strategy areas.

Housing and Community Development Partnerships -- Has the state identified those public, private, nonprofit organizations, and community development financial institutions through which it will implement its strategic plan? Does the plan describe how the objectives of the Strategic Plan will be coordinated? Is one public agency in charge of "Making the Connections?" The institutional structure through which a state's plan will be implemented should describe the broad partnership and coordinating mechanisms that are necessary to achieve maximum success.

Anti-poverty Strategy -- Has the state identified how its long term objectives or vision for community development will affect areas of concentrated poverty? Has the state identified other agencies, with which appropriate anti-poverty strategies will be coordinated to assure that new affordable housing for poverty households is developed so that residents can avail themselves of jobs, training, transportation, and a suitable quality of life?

Mapping -- Has the state mapped its strategies to illustrate the areas within the state where its objectives are targeted? Can it illustrate where positive connections are being made between affordable housing and community development activities such as social services and public facilities and amenities? Has the state mapped all environmental issues? The mapping of this environmental information will assist states identify both environmental resources and impediments to development. Mapping the information will also help states comply with Federal environmental and historic preservation laws.

Benchmarks and Time Frames -- Has the state identified a realistic time-frame for realizing its objectives and achieving benchmarks? How do timetables, deadlines, and requirements of other planning efforts in such areas as transportation and land use relate to the three to five year strategy?

V. Action Plan

In this section the state must provide a concise summary of the actions, activities, and programs that will take place during the next year to address the priority needs and specific objectives identified by the strategic plan. The action plan includes: (1) a summary of annual objectives, (2) the method of distribution of funds available under HOME, CDBG, ESG, and HOPWA programs, and (3) certifications required by 24 CFR 91.325. The summary of annual objectives should identify expected accomplishments the state hopes to achieve by the end of the program year in terms of outputs and outcomes. (The program funds providing these benefit(s) may be from any funding year or combined funding years.) The method of distribution describes how the state will distribute funds expected to be received during the program year under the formula allocations to units of general local government.

Submission Requirements:

Executive Summary -- a clear, concise executive summary that included the objectives and outcomes identified in the plan and an evaluation of past performance.

Sources of Funds -- Identify the resources from private and public sources, including those amounts allocated under HUD formula grant programs and program income, that are reasonably expected to be made available to address the needs identified in its plan, explaining how Federal funds made available will leverage resources from private and non-federal public sources, and a description of how matching requirements of HUD programs will be satisfied. Where deemed appropriate by the state, it may indicate publicly owned land or property that may be utilized to carry out the plan.

Statement of Specific Annual Objectives -- The state's action plan must contain a summary of the priorities and the specific annual objectives. From their 3 or 5 year consolidated plans, grantees will delineate which outcome goals and objectives the grantee plans to address in the coming year. States are encouraged to identify specific objectives under the general outcome and objective categories involving the availability/accessibility, affordability, and sustainability of decent housing, a suitable living environment, and economic opportunity using optional Table 3A (Summary of Annual Specific Objectives). If this table is not used, states must provide comparable information that is required by the consolidated plan regulation.

Each specific objective developed to address a priority need must be identified by number and contain the proposed accomplishments and outcomes the state hopes to achieve in quantitative terms during the specified time period, or in other measurable terms as identified and defined by the state.

Outcome Measures -- The action plan must provide outcome measures for activities included in its action plan in accordance with the Federal Register Notice, dated March 7, 2006 (i.e., general objective category (decent housing, suitable living environment, economic opportunity) and general outcome category (availability/accessibility, affordability, sustainability). The outcomes, outputs and indicators that the grantee plans to work on in the coming year should be included in optional Table 3C (Annual Action Plan). If this table is not used, states must provide comparable information that is required by the consolidated plan regulation and the Federal Register Notice.

Method of Distribution -- The state must include a description of its methods of distributing funds to local governments and nonprofit organizations to carry out activities or the activities the state will undertake, using funds expected to be received during the program year under the formula allocations (and related program income) and other HUD assistance. Also the state must explain how the proposed distribution of funds will address the priority needs and objectives described in the consolidated plan.

(a) With regard to HOME funds, the state will describe the general priorities for allocating investments geographically within the state and among different activities and housing needs.

(b) With regard to CDBG funds, the method of distribution of CDBG funds must contain a description of all criteria used to select applications for funding, including the relative importance of the criteria where applicable, a description of how all CDBG resources will be allocated among all funding categories, and any threshold factors and grant size limits that are to be applied. The method of distribution must provide sufficient information so that units of general local government will know the state's criteria for selecting application for funding and will be able to comment on the proposed method of distribution and to prepare responsive applications. The method of distribution may provide a summary of the selection criteria, provided that all criteria are summarized and the details are set forth in application manuals or other official state publications that are widely distributed to eligible applicants.

CDBG funds shall include the following: (1) the annual CDBG grant; (2) any funds recaptured by the state from units of general local government that will be distributed to other units of general local government from previous annual grants, if the method of redistribution is to be governed by a method of distribution other than that originally described in the final statement covering such funds; (3) any funds that are reallocated to the state by HUD at the time the annual grant is awarded; and (4) any program income that is distributed by the state pursuant to this year's method of distribution.

If the state intends to aid nonentitlement units of general local government in applying for guaranteed loan funds under 24 CFR part 570, subpart M (the Section 108 Loan Guarantee Program), it must describe available guarantee amounts and how applications will be selected for assistance. The method of distribution must also describe community revitalization strategies if the state allows them.

(c) With regard to ESG funds, the state must describe the process and criteria for awarding its grant funds to recipients along with a description of how the state intends to make its allocation available to units of local government and nonprofit organizations.

(d) With regard to HOPWA funds, the state must indicate its method of selecting sponsors, (including providing access to grassroots faith-based and other community organizations).

Allocation Priorities and Geographic Distribution -- The action plan must describe the reasons for the allocation priorities, identify the geographic areas of the state (including areas of low-income and minority concentration) in which it will direct assistance during the program year. For programs in which the state distributes funds through a competitive process and cannot predict the ultimate geographic distribution of the assistance, a statement must be included in the action plan indicating that fact. In instances where

the state knows which communities will be funded when the consolidated plan is submitted, the resulting geographic areas where assistance will be provided (including identification of areas of minority concentration) must be described in the action plan. Where the method of distribution includes an allocation of resources based on geographic areas, the rationale for the priorities for such allocation must be provided. The state must also identify any obstacles to addressing underserved needs. Where appropriate, state should also estimate the percentage of funds the state plans to dedicate to target areas.

Annual Affordable Housing Goals -- The action plan must specify one-year goals for the number of homeless, non-homeless, and special-needs households to be provided affordable housing using funds made available to the state, and one-year goals for the number of households to be provided affordable housing through activities that provide rental assistance, production of new units, rehabilitation of existing units, or acquisition of existing units using funds made available to the state. The term affordable housing shall be as defined in 24 CFR 92.252 for rental housing and 24 CFR 92.254 for homeownership. States may use optional Table 3B for this purpose. If this table is not used, states must provide comparable information that is required by the consolidated plan regulation.

Homeless and other Special Needs -- The state must describe its activities to address emergency shelter and transitional housing needs of homeless individuals and homeless families (especially extremely low income) to prevent them from becoming homeless, to help homeless persons make the transition to permanent housing and independent living, specific action steps to end chronic homelessness, and to address the special needs of persons who are not homeless that were identified in the strategic plan as needing housing or housing with supportive services.

Other Actions -- The state must also describe the actions it plans to take during the next year to: address obstacles to meeting underserved needs, foster and maintain affordable housing (including the coordination of Low-Income Housing Tax Credits with the development of affordable housing, remove barriers to affordable housing, evaluate and reduce lead based paint hazards, reduce the number of poverty level families, develop institutional structure, and enhance coordination between public and private housing and social service agencies, and foster public housing resident initiatives. These represent the actions to be taken in the program year to address these items as discussed in the strategic plan.

Citizen Participation -- The state must include a summary of the citizen participation and consultation process, (including efforts made to broaden public participation), a summary of comments or views, and a summary of any comments or views not accepted and the reasons why they were not accepted.

Certifications -- The state must include the applicable certifications required by 24 CFR 91.325 signed by the authorized official.

Monitoring -- The state must briefly describe actions that will take place during the next year to monitor its housing and community development activities and to ensure long-term compliance with program requirements and comprehensive planning requirements. Program requirements include appropriate regulations and statutes of the programs involved, including steps being taken to review affordable housing activities, ensure timeliness of expenditures, on-site inspections it plans to determine compliance with applicable housing codes, and actions to be taken to monitor its subrecipients.

Specific HOME Submission Requirements:

Resale Provisions -- For homeownership activities, the state must describe its resale or recapture guidelines that ensure the affordability of units acquired with HOME and/or American Dream Downpayment Initiative funds. See 24 CFR § 92.254(a)(4)

Tenant-Based Rental Assistance -- The state must describe how local market conditions led to the choice to the use of HOME funds for tenant based rental assistance program. If the tenant based rental assistance program provides a preference for a special needs group, that group must be identified in the consolidated plan as having an unmet need and show the preference is needed to narrow the gap in benefits and services received by that population.

Other Forms of Investment -- If a state intends to use other forms of investment other than those described in 24 CFR §92.205(b), the state must describe the other forms of investment.

Affirmative Marketing -- The state must describe the policy and procedures it will follow to meet the affirmative marketing and minority and women business outreach requirements as defined in 24 CFR § 92.350 and § 92.351, respectively.

Refinancing -- If a state intends to use HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds, it must state its financing guidelines required under 24 CFR 92.206(b)

American Dream Downpayment Initiative -- If a state intends to use American Dream Downpayment Initiative (ADDI) funds to increase access to homeownership, it must provide the following information:

- (1) a description of the planned use of the ADDI funds;
- (2) a plan for conducting targeted outreach to residents and tenants of public and manufactured housing and to other families assisted by public housing agencies, for the purposes of ensuring that the ADDI funds are used to provide downpayment assistance for such residents, tenants, and families; and
- (3) a description of the actions to be taken to ensure the suitability of families receiving ADDI funds to undertake and maintain homeownership, such as provision of housing counseling to homebuyers.

Specific HOPWA Submission Requirements:

HIV/AIDS Housing Goals -- States receiving HOPWA funds must identify method of selecting project sponsors (including providing full access to grassroots faith-based and other community organizations and annual goals for the number of households to be provided with housing through activities that provide short-term rent, mortgage and utility assistance payments to prevent homelessness of the individual or family, tenant-based rental assistance; and units provided in housing facilities that are being developed, leased or operated. For guidance that helps jurisdictions identify and track outputs and outcomes, see: <http://www.hud.gov/offices/cpd/aidshousing/programs/2006reportingreqs.cfm> .

Guidance

Impediments to Fair Housing Choice -- As part of the certification to affirmatively further fair housing, states were required to complete an analysis of impediments to fair housing choice and to take actions to overcome the effects of any impediments identified through that analysis. States are strongly encouraged to annually update their analysis of impediments and to include planned actions to overcome the effects of any impediments identified through that analysis in the annual action plan submission.

Annual Updates -- States have the option to provide a brief narrative to update progress toward implementing items identified in the 3-5 year strategic plan or indicating there is no change in policies from a previous year. The state may also cross reference other sections of the consolidated plan or pages of other relevant documents.

APPENDIX A
CONSOLIDATED PLAN TABLES

Instructions for Housing, Homeless and Special Needs Populations

Housing Needs

Information in this table shall be based on data provided by HUD from the U.S. Census, as updated by any properly conducted local study, or any other reliable source that the state must clearly identify, and should reflect the required consultation with social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by such agencies, and the citizen participation process. See <http://socds.huduser.org/scripts/odbic.exe/chas/index.htm>.

Homeless Population Instructions:

A state must provide a complete description of the source and methods used to generate the data, addressing where appropriate the following: (a) when the study was conducted; (b) who did the study; (c) the study's purposes; (d) geographical areas covered; (e) time period of data collection (e.g., one night, over a week's time); (f) locations included -- shelter-type facilities, service facilities, non-facility locations, such as streets, parks; and (g) corrections made for possible duplicate counting.

If the state is unsure about whether its counting methods meet HUD's standards, it may contact the local Office of Community Planning and Development.

Continuum of Care Housing Gap Analysis Chart:

This required chart represents the need for additional emergency, transitional housing and permanent supportive housing resources. The estimated unmet need is based upon the status of the inventory at a point-in-time (one-day) and takes into account both existing beds and funded new beds that are not yet ready for occupancy but are under development.

Current Inventory: Enter the number of existing beds currently serving the community. This includes only beds currently available for occupancy.

Under Development: Enter the number of funded beds not ready for occupancy but under development.

Unmet Need/Gap: Enter the number of beds determined to be the unmet need for each category.

2.4.

2.5. Continuum of Care Homeless Population and Subpopulation Chart:

Completing Part 1: Homeless Population. This required chart must be completed using statistically reliable, unduplicated counts or estimates of homeless persons in sheltered and unsheltered locations at a one-day point in time. The counts must be from: (A) administrative records, (N) enumerations, (S) statistically reliable samples, or (E) estimates. The quality of the data presented in each box must be identified as: (A), (N), (S) or (E).

Completing Part 2: Homeless Subpopulations. This must be completed using statistically reliable, unduplicated counts or estimates of homeless persons in sheltered and unsheltered locations at a one-day point in time. The numbers must be from: (A) administrative records, (N) enumerations, (S) statistically reliable samples, or (E) estimates. The quality of the data presented in each box must be identified as: (A), (N), (S) or (E).

2.5.1. Sheltered Homeless. Count adults, children and youth residing in shelters for the homeless. "Shelters" include all emergency shelters and transitional shelters for the homeless, including domestic violence shelters, residential programs for runaway/homeless youth, and any hotel/motel/apartment voucher arrangements paid by a public/private agency because the person or family is homeless. Do not count: (1) persons who are living doubled up in conventional housing; (2) formerly homeless persons who are residing in Section 8 SRO, Shelter Plus Care, SHP permanent housing or other permanent housing units; (3) children or youth, who because of their own or a parent's homelessness or abandonment, now reside temporarily and for a short anticipated duration in hospitals, residential treatment facilities,

emergency foster care, detention facilities and the like; and (4) adults living in mental health facilities, chemical dependency facilities, or criminal justice facilities.

Unsheltered Homeless. Count adults, children and youth sleeping in places not meant for human habitation. Places not meant for human habitation include streets, parks, alleys, parking ramps, parts of the highway system, transportation depots and other parts of transportation systems (e.g. subway tunnels, railroad car), all-night commercial establishments (e.g. movie theaters, laundromats, restaurants), abandoned buildings, building roofs or stairwells, chicken coops and other farm outbuildings, caves, campgrounds, vehicles, and other similar places.

Special Needs (Non-Homeless):

General Instructions. States should enter the number of persons in need of supportive housing only to the extent data are available. Data may be drawn from administrative record keeping, enumerations, statistically reliable samples, or other sources.

Line item instructions:

Elderly: Enter the estimated number of elderly persons in need of housing or housing and supportive services.

Frail Elderly: Enter the estimated number of frail elderly persons in need of housing or housing and supportive services.

Severe mental illness only: Enter the estimated number of severely mentally ill persons that are not homeless but need housing or housing and supportive services.

Developmentally disabled: Enter the estimated number of developmentally disabled persons that are not homeless but need housing or housing and supportive services.

Physically disabled: Enter the estimated number of physically disabled persons that are not homeless but need housing or housing and supportive services.

Alcohol/other drug addiction only: Enter the estimated number of persons with alcohol/other drug addiction that are not homeless but need housing or housing and supportive services.

HIV/AIDS: Enter the estimated number of persons with HIV/AIDS that are not homeless but need housing or housing and supportive services.

Victims of Domestic Violence: Enter the estimated number of persons that are victims of domestic violence for which the state identifies the number of persons that are not homeless but need housing or housing and supportive services.

Other: Enter for any other category of special needs for which the state identifies the number of persons that are not homeless but need housing or housing and supportive services.

Table 2A (Required)
Priority Housing Needs and Activities

General Instructions

This table is to be used to designate the priority to be given to each category of housing needs during the period of time designated in the strategic plan component of this document.

Part 1 -- Priority Housing Needs

The designation of a priority shall be based on data available from the U.S. Census, as updated by any properly conducted local study, or any other reliable source that the state must clearly identify, and should reflect the required consultation with social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by such agencies, and the citizen participation process.

States are not required to indicate the level of the priority need. If the state chooses to indicate a priority level, enter the letter H (for High), M (for Medium), L (for Low), or N (for No Such Need) to signify the priority (if any) to be given to each category of residents or activities during the period of time designated in the strategic plan component of this document. If the following definitions of "high", "medium", or "low" are not used, please describe the manner in which the priorities for allocating investment are identified. For example, you can indicate a priority for allocating investments with a check mark, a "Y" for "Yes", a "N" for "No".

High priority: The state plans to use funds made available for activities that address this need during the period.

Medium priority: The state may use funds made available for activities to address this need during the period. Also, the state will take other actions to help this group locate other sources of funds.

Low priority: The state does not plan to use funds made available for activities to address this need during the period. The state will consider certifications of consistency for other entities' applications for Federal assistance.

No such need: The state finds there is no need or the state shows that this need is already substantially addressed.

0-30%: Subgroup with incomes of 0 to 30% of MFI for the area.

31-50%: Subgroup with incomes of 31 to 50% of MFI for the area.

51-80%: Subgroup with incomes of 51 to 80% of MFI for the area.

Small Related: A household of less than 5 persons which includes at least 2 related persons.

Large Related: A household of 5 or more persons which includes at least 2 related persons.

Elderly: A family in which the head of the household or spouse is at least 62 years of age.

All Other: A household of one or more persons that does not meet the definition of a Small Related household or a Large Related household, or an Elderly household.

Estimated Units: Enter the estimated number of households in need of assistance that the community considers a priority for the period of time designated in the strategic plan component of this document.

Part 2 -- Priority Special Needs (Non-Homeless)

The priority non-homeless special needs assessment shall be based on reliable data meeting HUD standards and should reflect the required consultation with social service agencies regarding the needs of the elderly, persons with disabilities and other categories of persons in need of housing or housing and supportive housing.

Priority Need Level: States are not required to indicate the level of the priority need. If the state chooses to indicate a priority level, enter the letter H (for High), M (for Medium), L (for Low), or N (for No Such Need) to signify the relative priority to be given to each category of activity during the period of time designated in the strategic plan component of this document. (See previous explanations)

Part 3 -- Priority Housing Activities (Optional)

Although this part of Table 2A is optional for states, the accompanying narrative dealing with priority housing activities is required.

For each of the activities in Part 3, the state is not required to indicate the level of the priority need. If the state chooses to indicate a priority level, enter the letter H (for High), M (for Medium), L (for Low), or N (for No Such Need) to signify the priority (if any) to be given to each category of residents or activities during the period of time designated in the strategic plan component of this document.

Table 2C (Optional)

Summary of Specific Multi-Year Objectives

Specific Objective #: Identify each specific multi-year objective with a unique number. For example, DH-1.1, DH-1.2, DH-1.3 for specific objectives under the category that correspond with availability/accessibility of decent housing.

Specific Objectives: Identify the specific, measurable objective(s) under each general outcome/objective category. List specific objectives that are supported by the use of CPD formula grant funds separate from those that are not supported by the use of CPD formula grant funds. Each specific objective developed to address a priority need, must be identified by number and contain proposed accomplishments and outcomes the state hopes to achieve in quantitative terms over a specific timeframe, or in other measurable terms as identified and defined by the state.

Sources of Funds: Identify the sources of funds that will be used to achieve the stated specific objective during the period covered by the strategic plan.

Performance Indicator: Enter the performance indicator that most closely describes the type of accomplishment and the most appropriate measure of that accomplishment. The performance should be a reasonable projection of what will be accomplished during the period designated for the specific objective.

Expected Number: Enter the number of the item indicated under Performance Indicator that the state expected to be completed during the period designated for the objective. (The program funds providing the benefit(s) may be from any funding year or combined funding years.)

Actual Number: Enter the number of the item indicated under Performance Indicator that the state actually completed during the time period of time designated for the objective. (This is for performance reporting purposes.)

2.6. Percent Completed: Identify the percent of the goal completed.

Table 3A (Optional)

Summary of Specific Annual Objectives

Specific Objective #: Identify each specific annual objective with a unique number. For example, DH-1.1, DH-1.2, DH-1.3 for specific annual objectives under the category that corresponds with availability/accessibility of affordable housing.

Sources of Funding: Identify the sources of funding that will be used to achieve the stated specific objective during the program year.

Specific Annual Objectives: Identify the specific, measurable annual objective that corresponds with the specific objectives in the strategic plan under each outcome/objective category. List specific annual objectives that are supported by the use of CPD formula grant funds separate from those that are not supported by the use of CPD formula grant funds. Each specific annual objective developed to address a priority need, must be identified by number and contain proposed accomplishments and annual program year numeric goals the state hopes to achieve in quantitative terms, or in other measurable terms as identified and defined by the state.

Performance Indicator: Enter the performance indicator that most closely describes the type of accomplishment and the most appropriate measure of that accomplishment. The performance should be a reasonable projection of what will be accomplished during the program year.

Expected Number: Enter the annual number of the item indicated under Performance Indicator that the state expected to be completed during the twelve month period covered by the action plan. (The program funds providing the benefit(s) may be from any funding year or combined funding years.)

Actual Number: Enter the annual number of the item indicated under Performance Indicator that the state actually completed at the end of the annual program year. (This is for performance reporting purposes.)

2.7.

Percent Completed: Identify the percent of the goal completed.

Table 3B (Optional)

Annual Affordable Housing Goals

Resources used during the period: Enter a "X" in the cells that correspond with the source or sources of formula grant funds made available to the state that will be used for the various categories of households and the acquisition of existing units, production of new units, rehabilitation of existing units, construction of new, rental assistance, and homeownership assistance, and other activities as appropriate during the period of time designated in the action plan portion of this document.

Annual Affordable Housing Goals (Sec. 215)

Annual Affordable Rental Housing Goals (Sec. 215): Enter the expected number of households the state hopes to serve by the acquisition of existing units, production of new units, rehabilitation of existing units, and rental assistance during the period of time designated in the action plan portion of this document with funds made available by HUD to the state.

Total Section 215 Affordable Renter: Enter the total number of renter households to whom the state will provide affordable rental housing meeting the Section 215 criteria during the period designated in the action plan portion of this document using funds made available to the state.

Annual Affordable Owner Housing Goals (Sec. 215): Enter the expected number of households the state hopes to serve by the acquisition of existing units, production of new units, rehabilitation of existing units, and homebuyer assistance during the period of time designated in the action plan portion of this document with funds made available by HUD to the state.

Total Sec. 215 Affordable Owner: Enter the total number of owner households to whom the state will provide affordable homeownership housing meeting the Section 215 criteria during the period of time designated in the action plan portion of this document using funds made available to the state.

Annual Affordable Housing Goals (Sec. 215)

Enter the expected number of households the state hopes to serve by the acquisition of existing units, production of new units, rehabilitation of existing units, rental assistance and homebuyer assistance during the period of time designated in the action plan portion of this document with funds made available by HUD to the state.

Total Section 215 Affordable Housing: Enter the total number of households to whom the state will provide affordable housing meeting the Section 215 criteria during the period of time designated in the action portion of this document using funds made available to the state.

Homeless Households: Enter the total number of homeless households to whom the state will provide affordable housing meeting the Section 215 criteria during the period of time designated in the action plan portion of this document.

Non-Homeless Households: Enter the total number of non-homeless households to whom the state will provide affordable housing meeting the Section 215 criteria during the period of time designated in the action plan portion of this document.

Special Needs Households: Enter the total number of special needs households to whom the state will provide affordable housing meeting the Section 215 criteria during the period of time designated in the action plan portion of this document.

Annual Housing Goals

Total Annual Rental Housing Goal: Enter the total number of rental households to be assisted with completed housing units that are considered affordable (using local definitions of affordability) during the period of time designated in the action plan portion of this document.

Total Annual Owner Housing Goal: Enter the total number of owner households to be assisted with completed housing units that are considered affordable (using local definitions of affordability) during the period of time designated in the action plan portion of this document.

Total Annual Housing Goal: Enter the total number of households to be assisted with completed housing units that are considered affordable (using local definitions of affordability) during the period of time designated in the action plan portion of this document.

Table 3C (Optional)

Annual Action Plan -- Planned Project Results

Instructions: Identify the objective, outcomes, and measurable indicators of the activities that the state plans to work on in the coming year. States should also include progress made towards the 5-year goals in a narrative format. (The program funds providing the benefit(s) may be from any funding year or combined funding years.)

Objective and Outcome: Identify the outcome and objective category in accordance with the Federal Register Notice dated March 7, 2006, i.e., general objective category (decent housing, suitable living environment, economic opportunity) and general outcome category (availability/accessibility, affordability, sustainability).

Performance Indicators: Identify the applicable specific indicator from HUD's performance measurement system. See the Federal Register Notice dated March 7, 2006 on Outcome Performance Measurement Systems for Community Planning and Development Formula Grant Programs for examples of specific outcome indicators.

Expected Number: Identify or describe, in numerical terms, the direct products of a program's activities for the applicable performance indicator that are expected to be completed during the twelve month period covered by the action plan.

Activity Description: A general list of planned activities to be carried out in the coming year. For the CDBG Program, the "Activity Description" should include the categories to which states will apportion funds.

CHAPTER 3: NATIONAL OBJECTIVES



CHAPTER PURPOSE & CONTENTS

This chapter provides a summary of the three national objectives of the program, the categories for meeting the three national objectives as well as selecting and documenting the appropriate national objective for activities funded by state grantees.

SECTION	TOPIC
3.1	Introduction to National Objectives
3.2	Benefit to LMI Persons or Households
3.3	Elimination of Slums and Blight
3.4	Urgent Need (URG)
3.5	LMI Benefit Expenditures
3.6	Choosing the Right National Objective
3.7	Documenting National Objectives

3.1 Introduction to National Objectives

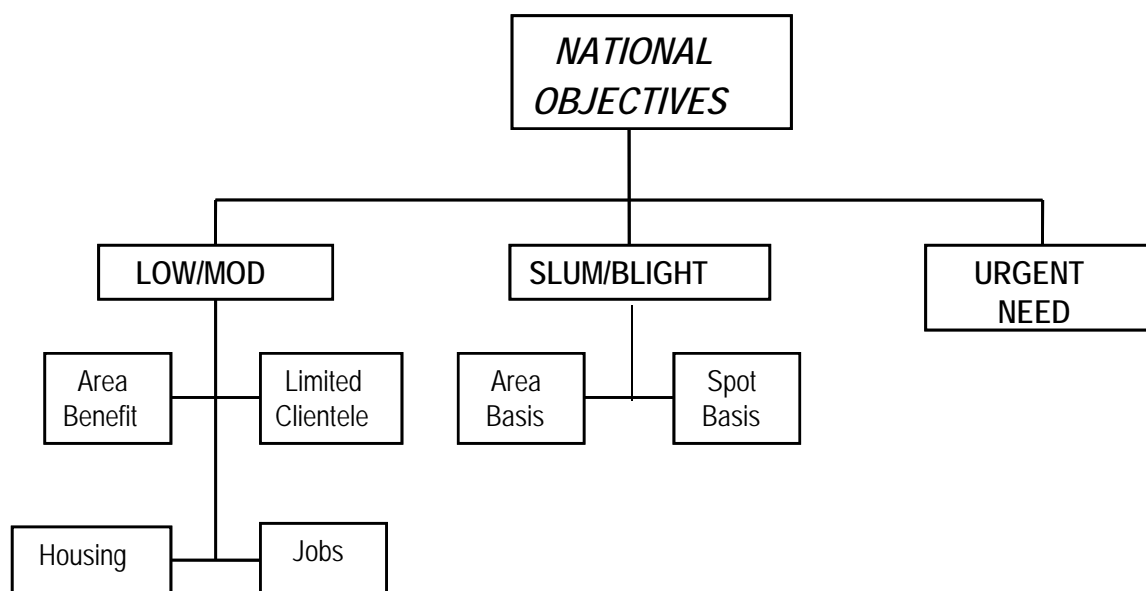
- ✓ This section provides general background on the three national objectives and an overview of the possible approaches.

Key Topics in This Section	✓ Overview of the three national objectives
Statutory Citations	Section 101(c), Section 104(b)(3), 105(c)
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States – Chapter 3: Meeting a National Objective

- ✓ The authorizing statute of the CDBG program requires that each activity funded except for program administration and planning activities must meet one of three national objectives. The three national objectives are:
 - Benefit to low- and moderate- income (LMI) persons;
 - Aid in the prevention or elimination of slums or blight; and
 - Meet a need having a particular urgency (referred to as urgent need).
- ✓ An activity that does not meet a national objective is not compliant with CDBG requirements and may be subject to remedial actions.



- ✓ The following exhibit depicts the different categories associated with each of the national objectives.



- ✓ Each national objective and the categories are discussed in further detail in subsequent sections of this chapter.
- ✓ This chapter will also explore the strategic decisions states can make when qualifying an eligible activity under a national objective. It is possible for an activity to qualify under more than one national objective, although only one national objective is required for an activity. Additionally, activities can qualify under more than one category. This chapter will discuss considerations for making a decision regarding which category works best for an eligible activity.
- ✓ HUD has developed a matrix of the national objectives, eligible activities and IDIS matrix codes. States may wish to refer to this matrix when selecting national objectives. A copy is attached to the IDIS chapter of this manual.

3.2 Benefit to Low and Moderate Income Persons or Households

- ✓ This section describes each of the possible LMI national objectives.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Overview of the primary objective and associated expenditure cap ✓ Area benefit activities (LMA) ✓ Limited Clientele Activities (LMC) ✓ Housing Activities (LMH)
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	✓ Job Creation and Retention Activities (LMJ)
Statutory Citations	Section 101(c), Section 104(b)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> – Chapter 3: Meeting a National Objective – Chapter 4: Overall Expenditure Level –Benefit to LMI Persons ✓ CPD Notice 05-06: US HUD Suggested Survey Methodology to Determine the Percentage of LMI Persons in the Service Area of a Community Development Block Grant-Funded Activity

- ✓ The LMI national objective is often referred to as the “primary” national objective because the statute requires that recipients expend 70 percent of their CDBG funds to meet the LMI national objective.
- ✓ Additional information on how to meet the 70 percent test and certification to HUD is located later in this chapter.
- ✓ In addition to meeting the 70 percent test, UGLG applicants must ensure that the activities proposed, when taken as a whole, will not benefit moderate-income persons to the exclusion of low-income persons. This does not mean that each activity has to include both low- and moderate income beneficiaries, but it further ensures that the CDBG program will primarily benefit low-income persons.
- ✓ This section covers the four categories that can be used to meet the LMI national objective:
 - Area benefit activities;
 - Limited clientele activities;
 - Housing activities; or
 - Job creation or retention activities.

3.2.1 Low Mod Area Benefit (LMA)

- ✓ The area benefit category is the most commonly used national objective for activities that benefit a residential neighborhood. An area benefit activity is one that benefits all residents in a particular area, where at least 51 percent of the residents are LMI persons.
- ✓ Examples of area benefit activities may include the following when they are located in a predominately LMI neighborhood:
 - Acquisition of land to be used as a neighborhood park;
 - Construction of a health clinic;
 - Improvements to public infrastructure like the installation of gutters and sidewalks; and
 - Development of a community center.
- ✓ The activities listed above benefit all LMI residents in a service area and thus are the type of activities that may qualify under the LMI area benefit category for the purposes of meeting a national objective.



- ✓ States and UGLGs are responsible for determining the service area of an activity. HUD will generally accept a state grantee's determination as long as it complies with CDBG regulations.
 - The factors that may be considered in making a determination regarding the service area include:
 - *The nature of the activity:*

In general the size and the equipment associated with the activity should be taken into consideration. A small park with a limited number of slides and benches would not be expected to serve the entire neighborhood. In the same way, a larger park that can accommodate a considerable number of people would not be expected to service just the immediately adjacent properties. The same applies to improvements or assistance to an alleyway versus a small two-lane street versus an arterial four-lane street within the same neighborhood. The service area for each of these infrastructure projects will be different in size and population.
 - *The location of the activity:*

In general, the immediate area surrounding a facility is expected to be included in the service area. Additionally, when a facility is located near the boundary of a particular neighborhood, its service area could likely include portions of the adjacent neighborhood as well as the one in which it is located.
 - *Accessibility issues:*

Geographic barriers can separate and preclude persons residing in a nearby area from taking advantage of a facility. Other limits to accessibility can include access fees, language barriers, time or duration that an activity is available, access to transportation and parking, etc.
 - *The availability of comparable activities:*

Comparable activities within the service area should be taken into account so that the service area does not overlap with the service area of another comparable activity.
 - *Boundaries for facilities and public services:*

The service area for some public facilities and services are determined based on specified and established boundaries or districts. Examples of such services and facilities are police precincts, fire stations, and schools.
 - If the service area has not already been identified for an activity, the state has to determine the service area before CDBG assistance can be provided under the LMI Area Benefit category.
- ✓ An area is considered to meet the test of being LMI if there is a sufficiently large percentage (51 percent) of LMI persons residing in the service area as determined by:
 - The most recently available decennial Census/Community American Survey information, together with the Section 8 income limits that would have applied at the time the income information was collected by the Census Bureau; or
 - A current survey of the residents of the service area.



- ✓ With respect to using Census/American Community Survey information to document that the service area qualifies, states can obtain the following data:
 - A listing of all census/American Community Survey tracts and block groups in the community's jurisdiction;
 - The number of persons that resided in each such tract/block group at the time of the last census/American Community Survey; and
 - The percentage of such persons who were LMI (based on the CDBG definition) at that time.
 - The above data is available directly from HUD online at:
<http://www.hud.gov/offices/cpd/systems/census/lowmod/>
 - IDIS calculates this information for state grantees.
- ✓ If the proposed activity's service area is generally the same as a census/American Community Survey tract or block group, then the Census/American Community Survey data may be used to justify the income characteristics of the area served.
- ✓ Additionally, states can compute the percentage of LMI persons in multiple census/American Community Survey tracts and block groups because the data includes both the total number of persons as well as the number of LMI persons within a tract and block group.
- ✓ Income surveys are often used to determine LMI area in one of two instances:
 - If HUD data does not indicate the service area contains at least 51 percent LMI persons, and if a state or unit of general government decides it would be more appropriate to use a survey that is methodologically sound. This could be based on a change in either population or income of the area since the census/American Community Survey. For example:
 - Economic changes such as plant openings or closings (i.e., causing massive income increases or massive job losses in an area);
 - Non-geographic changes such as natural disasters or terrorist attacks; and/or
 - Recent demographic changes not reflected in current data (e.g., population migration changes).
 - Also, when the service area is not generally the same as a census/American Community Survey tract or block group, then the state should conduct household surveys to determine the LMI percentage for the service area.
- ✓ The following are typical steps in the household survey process:
 1. Determine sample size (including the random sampling process for selecting participants and if necessary, replacements);
 2. Select a survey instrument;
 3. Develop the questionnaire;
 4. Conduct the survey;
 5. Analyze the results; and
 6. Document and save survey results.



✓ Step 1: Determining the sample size:

- Determine the sample size needed in order to achieve an acceptable level of accuracy.
- A sample is representative of the population from which it is selected if its aggregate characteristics closely approximate those same aggregate characteristics in the population.
- The larger the sample, the more likely it is that its aggregate characteristics truly reflect those of the population.
- However, sample size is not dependent on the size of the population, for large populations. This means that a random sample of 500 people is equally useful in examining the characteristics of a state of 6,000,000 as it would a city of 100,000 or 50,000. For this reason, the size of the population is irrelevant when it is large or unknown; however, it becomes relevant when dealing with sparsely populated areas.
- Sample Size Calculator (SSC) is a website (<http://surveysystem.com/sscalc.htm>) developed by Creative Research Systems to enable survey researchers to calculate sample sizes from various population sizes.

✓ Step 2: Selecting the survey instrument that is determined to be the best for the sample size chosen, geography and nature of the activity. The survey must be methodologically sound for the purpose of establishing the percentage of LMI persons in a service area. A survey must meet standards of statistical reliability that are comparable to that of the Decennial Census/American Community Survey data for areas of similar size. Types of surveys include:

- **Mail survey (or self-administered questionnaire):** This is a basic method for collecting data through the mail: a questionnaire is a set of questions sent by mail accompanied by a letter of explanation and self-addressed stamped envelope for returning the questionnaire. The respondent is expected to complete the questionnaire, put it in the envelope and return it. HUD does not recommend mail surveys unless at least one follow-up letter or telephone call is made to obtain an adequate response rate. Combining a mail survey with a follow-up letter or telephone call may improve the rate of response.
 - Advantages:
 - Covers large geographic area;
 - Provides an opportunity for honest answers to very personal questions;
 - No travel required;
 - Enables researcher to target a particular segment of the population; and
 - Allows respondents to complete the questionnaire at their convenience.
 - Disadvantages:
 - May have possible coverage errors; for example, address lists might be inaccurate or out of date (duplicate address, incomplete or wrong addresses);
 - Not appropriate for requesting detailed written responses;
 - May have a low return rate if too lengthy, poorly worded, or seems too personal;



- May not have anyone available to assist the respondent with questions, especially if the questions are in English but the respondent's primary language is not English. (Provisions must be made to provide non-English-speaking residents with a questionnaire in their own language, as appropriate);
 - Easiest for people to disregard, postpone, misplace or forget about it;
 - Needs to allow longer time to collect responses;
 - Costly—must pay for return postage to get a decent response rate; also you have paid for postage even for those that aren't returned;
 - It's all or nothing—people will either do it all or not at all; with phone or in-person surveys, one might at least get some answers; and
 - Lack of control over who fills out the questionnaire (for example, a child).
- **Face-to-face (or door-to-door) interviews:** This is a data collection technique in which one person (an interviewer) asks questions of another (the respondent) in a face-to-face encounter. It involves more work since the interviewer must go and knock on doors in order to obtain interviews.
- **Advantages:**
 - Is a very reliable method of data-collection ;
 - Researcher has full range and depth of information;
 - Interview may be scheduled to suit respondent's daily agenda;
 - Respondent has the option to ask for clarifications;
 - Target population may be easily located and defined; and
 - People may be willing to talk longer, face-to-face, particularly with in-home interviews that have been arranged in advance.
 - **Disadvantages:**
 - Responses may be less candid and less thoughtful;
 - Interviewer's presence and characteristics may bias responses;
 - Interviewer is required to go to the respondent's location;
 - Respondents who prefer anonymity may be influenced negatively;
 - May reach a smaller sample;
 - Lengthy responses must be sorted and coded;
 - Can take too much time;
 - Costs more per interview than other survey methods; particularly true of in-home interviews in rural areas where travel time is a major factor;
 - May not be able to gain access to the house (e.g., locked gates, guard dogs, "no trespassing signs," etc.); and
 - Translators may be needed when dealing with non-English speakers.



- **Telephone interviews:** A telephone interview is a data collection technique in which one person (an interviewer) asks questions of another (the respondent) via telephone. Telephone numbers of potential participants must be selected randomly. The interviewer must ensure that the respondent is someone competent and knowledgeable enough to answer questions about the family income status. In a telephone survey, you must devise a method for contacting those families without telephones or those with unlisted numbers. Hence it may be preferable to conduct door-to-door interviews in small service areas, especially in rural areas.

- Advantages:

- Relatively easy to conduct;
- Saves money and time;
- Appearance and demeanor of interviewer do not influence the respondent;
- Respondents may be more honest in giving socially disapproved or sensitive answers due to greater anonymity for respondent;
- Interviewer may use an alias rather than his/her real name for privacy or to conceal ethnicity if relevant to the study;
- Allows interviewer to ask follow up questions; and
- No fear for personal safety.

- Disadvantages:

- Respondents may be hostile to interviews because of experience with previous telemarketing sales calls disguised as surveys;
- Respondents may terminate the interview abruptly;
- The interviewer may have problems reaching potential respondents by telephone because of the prevalence of answering machines that screen telephone calls;
- May not be able to reach households with unlisted numbers, no telephone at all, or families that use only cell phones;
- Some people often do not like the intrusion of a telephone call to their homes;
- Difficulty of reaching people due to reasons such as conflicting schedules;
- It may be easier to be less candid to someone on the phone than in person; and
- Difficult to get accurate answers from non-English speakers.

✓ Step 3: Developing the questionnaire:

- Constructing a questionnaire is a skill, which requires decisions concerning the content, wording, format, and placement of questions—all of which have important consequences on the results to be measured.
- There are basically four areas involved in constructing a questionnaire:
 - Determine the question content, scope, and purpose;



- Choose the response format to be used in collecting information from the respondent;
 - Word the questions so as to get at the issue of interest; and
 - Determine how best (i.e., the order) to place the question(s) of interest among other questions in the questionnaire.
- ✓ Step 4: Conducting the survey:
- The interviewer should make contact with the head of the family or someone who is qualified to speak for the family and has knowledge about the family income.
 - It is important that all respondents be asked the same questions, in the same order, and their responses recorded exactly, without additions or deletions. To ensure this, the questions must be written properly and the exact response of each respondent recorded as it is presented. Finally, interviewers should be trained appropriately on the survey and how to ask the questions to ensure consistent information is collected.
- ✓ Step 5: Analyzing the results:
- For surveys where the respondents are selected through an acceptable random process, use the number of participants who responded to the survey is used to calculate the percentage of LMI persons for that area.
 - Add up the numbers to see what has been learned by tabulating the responses from the questionnaires and calculating an estimated proportion of low-and moderate-income persons; and determine how accurate that estimate is.
 - If the survey was undertaken correctly, including random selection of the required number of families, and the estimate shows that less than 51 percent of the residents of the service area have low- and moderate-incomes, LMI area benefit activities cannot be implemented in that area.
 - See CPD Notice 05-06 for sample calculation worksheets.
- ✓ Step 6: Documenting the results:
- It is important that the results of the survey be documented, since those who audit or evaluate your program may want to review the procedures and data used to determine that the service area qualifies under the CDBG program regulations. The contents of that documentation are as follows:
 - Keep the completed surveys.
 - Saving the cover sheets separately provides a record of who was contacted.
 - Keep a list of the actual families sampled. Replacement families should be noted too.
 - Survey data should be retained in accordance with record-keeping requirements of the State program at 24 CFR 570.490.



- There is no firm answer as to how long an income survey for the purpose of determining the percentage of LMI persons in the service area is good for.
 - Perhaps there might be instances in which an income survey could continue to be used until the next decennial census/American Community Survey (e.g., 2010), but the state would have to be sure that there have been no significant demographic, economic and non-economic changes in the area during that time.
- ✓ Additional guidance on developing and implementing surveys is also available in CPD Notice 05-06.
- ✓ Finally, the service area of the activity must be primarily residential and the activity must meet the identified needs of LMI persons.
 - An activity with a service area that is not primarily residential may not qualify under the LMI area benefit category even if the activity provides benefits to all residents in the service area and 51 percent of the residents are LMI persons.
 - This requirement does not apply to the location of the activity itself but rather the service area of the activity. As such it does not mean that activities located in commercial districts cannot be qualified under the LMI area benefit category on the virtue of their geography. The primarily residential test is applied to the service area of the activity.
 - For example, activities that support the infrastructure of a commercial district composed of institutions and firms that serve a national and international clientele will not qualify under LMI area benefit.
 - In contrast, if the commercial district is composed of stores and businesses that serve local customers such that the service area boundaries of the commercial district is around a primarily residential area with the requisite percentage of LMI residents, the activity qualifies under the LMI area benefit category.
- ✓ Activities under public facilities and improvements and some public service activities (e.g. police or fire services) tend to provide benefits to all residents in the service area. Additionally, public schools can be qualified under LMI area benefit because of the affect a school may have on the value of the residential property in the area. Public Schools are considered to benefit all the residents of the service area and may qualify under this category.
- ✓ There are activities and facilities that are located in a service area but are designed to meet special needs. These activities cannot be qualified under this category. For example, a senior center would qualify under the LMI limited clientele category and not the LMI area benefit category.
- ✓ With respect to exceptions and special situations, the statute allows two kinds of area benefit activities to meet the national objective of benefit to LMI persons even when the general requirements of the area benefit category cannot be met. The two kinds of area benefit activities are described below:

911 Systems



With prior HUD approval, a state may develop, establish and operate for up to two years after the establishment of a uniform emergency telephone number system serving an area having less than the percentage of LMI persons otherwise required.

Special Assessments

The use of CDBG funds to pay special assessments levied against residential properties that are owned and occupied by LMI persons will qualify under the LMI area benefit category provided that this is the only use of CDBG funds in the financing of a public improvement. The activity will qualify even if the public improvement provides a benefit to all the residents of an area.

- ✓ Finally, there are two special situations that can meet the national objective of benefiting LMI persons under either the area benefit category or the job creation or retention category, at the option of the state grantee.
 1. Activities undertaken pursuant to a state approved Community Revitalization Strategy Area (CRSA) for the purpose of creating or retaining jobs, and
 2. Activities carried out for the purpose of creating or retaining jobs by a Community Development Financial Institution (CDFI) whose charter limits its investment area to a primarily residential area consisting of at least 51 percent LMI persons.

3.2.2 Low Mod Limited Clientele (LMC)

- ✓ The limited clientele category is a second way to qualify specific activities under the LMI benefit national objective. Under this category, 51 percent of the beneficiaries of an activity have to be LMI persons.
- ✓ In contrast to the area benefit category, it is not the LMI concentration of the service area of the activity that determines whether the activity will qualify or not, but rather the actual number of LMI persons that benefit from the activity.
- ✓ Activities in this category provide benefits to a specific group of persons rather than everyone in an area. It may benefit particular persons without regard to their residence, or it may be an activity that provides a benefit to only particular persons within a specific area.
- ✓ Examples of activities that qualify under the limited clientele category include:
 - Acquisition of a building to be converted into a shelter for the homeless;
 - Rehabilitation of a center for training severely disabled persons to enable them to live independently;
 - Clearance of a structure from the future site of a neighborhood center that will exclusively serve the elderly; and
 - Public services activities like the provision of health services.
- ✓ The listed examples qualify under the limited clientele category because the beneficiaries can be identified as LMI residents.
- ✓ With respect to determining the beneficiaries of activities as LMI and qualifying under the limited clientele category, activities must meet one of the following tests:
 - Benefit a clientele that is generally presumed to be principally LMI. This presumption covers abused children, battered spouses, elderly persons, severely disabled adults (see



the box below), homeless persons, illiterate adults, persons living with AIDS and migrant farm workers; or

- Require documentation on family size and income in order to show that at least 51 percent of the clientele are LMI; or
 - Have income eligibility requirements limiting the activity to LMI persons only; or
 - Be of such a nature and in such a location that it can be concluded that clients are primarily LMI. An example is a day care center that is designed to serve residents of a public housing complex.
- ✓ In addition, the following activities may qualify under the limited clientele national objective:
- Removal of architectural barriers to mobility for elderly persons or the severely disabled will be presumed to qualify under this category if it is restricted, to the extent practicable, to the removal of such barriers by assisting
 - The reconstruction of a public facility or improvement, or portion thereof that does not qualify under the area benefit category;
 - The rehabilitation of a privately owned nonresidential building or improvement that goes not qualify under area benefit or job creation or retention category: or
 - The rehabilitation of common areas in a residential structure that contains more than one dwelling unit and that does not qualify under housing activities category for meeting national objectives.
 - Microenterprise activities carried out in accordance with the HUD regulations when the person owning or developing the microenterprise is LMI; or
 - Activities that provide training and other employment support services when the percentage of persons assisted is less than 51 percent LMI may qualify if: the proportion of total cost borne by CDBG is no greater than the proportion of LMI persons assisted; and when the service assists businesses, CDBG is only used in the project to pay for the job training and/or supportive services.
- ✓ There are two sets of activities that are precluded from qualifying under this category based on statutory limitations:
- Acquisition, construction, or rehabilitation of property for housing, including homeownership assistance must qualify under the housing national objective which will be discussed below in further detail.
 - Creation or retention of jobs generally qualify under the jobs or the area benefit category of the LMI benefit national objective.



Exhibit 3-1: Definition of Severely Disabled

Persons are considered severely disabled if they:

- Use a wheelchair or another special aid for 6 months or longer;
- Are unable to perform one or more functional activities (seeing, hearing, having one's speech understood, lifting and carrying, walking up a flight of stairs and walking);
- Need assistance with activities of daily living (getting around inside the home, getting in or out of bed or a chair, bathing, dressing, eating and toileting) or instrumental activities of daily living (going outside the home, keeping track of money or bills, preparing meals, doing light housework and using the telephone);
- Are prevented from working at a job or doing housework;
- Have a selected condition including autism, cerebral palsy, Alzheimer's disease, senility or dementia or mental retardation; or
- Are under 65 years of age and are covered by Medicare or receive Supplemental Security Income (SSI).

3.2.3 Low Mod Housing Activities (LMH)

- ✓ The housing category of LMI benefit national objective qualifies activities that are undertaken for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by LMI households.
- ✓ Examples of eligible activities include, but are not limited to:
 - Acquisition of an apartment house to provide dwelling units to LMI households at affordable rents, where at least 51 percent of the units will be occupied by LMI households;
 - Site improvements on publicly-owned land to serve a new apartment structure to be rented to LMI households at affordable rents;
 - Housing rehabilitation for single family units;
 - Conversion of an abandoned warehouse to be reconfigured into new apartments, where at least 51 percent of the units will be occupied by LMI households at affordable rents.
- ✓ In order to meet the housing LMI national objective, structures with one unit must be occupied by a LMI household. If the structure contains two units, at least one unit must be LMI occupied. Structures with three or more units must have at least 51 percent occupied by LMI households.
 - Rental buildings under common ownership and management that are located on the same or contiguous properties may be considered as a single structure.
 - For rental housing, occupancy by LMI households must be at affordable rents, consistent with standards adopted and publicized by the state grantee.
- ✓ Under the following limited circumstances, structures with less than 51 percent LMI occupants may be assisted:
 - Assistance is for an eligible activity that reduces the development cost of new construction of non-elderly, multi-family rental housing; and
 - At least 20 percent of the units will be occupied by LMI households at an affordable rent; and



- The proportion of cost borne by CDBG funds is no greater than the proportion to be occupied by LMI households.
- ✓ When housing activities are conducted by a community development financial institution (CDFI) or as part of an approved CRSA, multiple units (e.g. scattered site housing) may be aggregated for the purposes of meeting the LMI housing national objective.
 - NOTE: This flexibility does not apply to activities under the Direct Homeownership Assistance eligibility category.
 - Please refer to the chapter on Revitalization Areas more information.
- ✓ There are a number of activities that generally do not qualify under the LMI Housing national objective. These include code enforcement, interim assistance, microenterprise assistance, public services, and special economic development activities.

3.2.4 Low Mod Job Creation or Retention Activities (LMJ)

- ✓ The job creation and retention LMI benefit national objective addresses activities designed to create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to or held by LMI persons.
- ✓ Some examples of activities that qualify when at least 51 percent of jobs created/retained will be for LMI persons include:
 - Clearance activities on a site slated for a new business;
 - Rehabilitation activity that will correct code violations and enable a business to survive and retain jobs;
 - Financial assistance to a manufacturer for the expansion of its facilities that is expected to create permanent jobs; and
 - Assistance to expand a small house cleaning service with four employees that agrees to hire three additional LMI employees.
- ✓ The following requirements must be met for jobs to be considered created or retained.
 - If states fund activities that *create* jobs, there must be documentation indicating that at least 51 percent of the jobs will be held by, or made available to, LMI persons.
 - For funded activities that *retain* jobs, there must be sufficient information documenting that the jobs would have been lost without the CDBG assistance and that one or both of the following applies to at least 51 percent of the jobs:
 - The job is held by a LMI person; or
 - The job can reasonably be expected to turn over within the following two years and steps will be taken to ensure that the job will be filled by, or made available to, a LMI person.
- ✓ The following requirements apply for jobs to be considered available to or held by LMI persons.
 - Created or retained jobs are only considered to be *available* to LMI persons when:



- Special skills that can only be acquired with substantial training or work experience or education beyond high school are **not** a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and
 - The state and the assisted business take actions to ensure that LMI persons receive first consideration for filling such jobs.
- Created or retained jobs are only considered to be *held by* LMI persons when the job is actually held by a LMI person.
- ✓ For the purpose of determining if the preceding requirements are met, a person may be presumed to be LMI if:
 - He/she resides in a Census/American Community Survey tract/block numbering area that has a 20 percent poverty rate (30 percent poverty rate if the area includes the central business district); and the area evidences pervasive poverty and general distress; or
 - He/she lives in an area that is part of a Federally-designated Empowerment Zone (EZ) or Enterprise Community (EC); or
 - He/she resides in a Census/American Community Survey tract/block numbering area where at least 70 percent of the residents are LMI.
- ✓ Jobs created or retained by assisted businesses may also be presumed to be LMI if the job and business are located in an area that:
 - Has a 20 percent poverty rate (30 percent poverty rate if the area includes the central business district) **and** the area evidences pervasive poverty and general distress; or
 - Is part of a Federally-designated EZ or EC.
- ✓ To determine if an area evidences pervasive poverty and general distress, the following standards are applicable
 - All block groups in the census/American Community Survey tract have poverty rates of at least 20 percent;
 - The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or
 - Upon the written request of the state grantee, HUD determines that the census/American Community Survey tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.
- ✓ As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under the job creation and retention category for meeting a national objective.
- ✓ However, in certain cases, such as where CDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park), the requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property, provided such businesses are not otherwise assisted by CDBG funds.
- ✓ Additionally, where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during any program year.



- ✓ As mentioned under the area benefit category, certain job creation or retention activities carried out by a CDFI or under a Community Revitalization Strategy can meet the national objective of benefiting LMI persons under either category. In these instances, the state will decide which category it will use to qualify the activity and record the decision in program files so that HUD will know which category is being applied.

3.3 Elimination of Slums and Blight

- ✓ This section highlights the national objectives related to the elimination of slums and blight.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Overview of elimination of slum and blight <ul style="list-style-type: none"> – Area basis (SBA) – Spot basis (SBS)
Statutory Citations	Section 101(c), Section 104(b)(3), Section 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> - Chapter 3: Meeting a National Objective

- ✓ Activities under this national objective are carried out to address one or more of the conditions which have contributed to the deterioration of an area designated as a slum or blighted area.
- ✓ The focus of activities under this national objective is a change in the physical environment of a deteriorating area. This contrasts with the LMI benefit national objective where the goal is to ensure that funded activities benefit LMI persons.
- ✓ This difference in focus has an impact on the information that is required to assess the qualifications of an activity. Under the LMI benefit national objective, determining the number of LMI persons that actually or could potentially benefit from an activity is central to qualifying the activity. Under the elimination of slum and blight national objective, determining the extent of and physical conditions that contribute to blight is central to qualifying an activity.

There are two categories that can be used to qualify activities under this national objective:

- Prevent or eliminate slums and blight on an area basis; or
- Prevent or eliminate slum and blight on a spot basis.

3.3.1 Slum Blight Area Basis (SBA)

- ✓ This category covers activities that aid in the prevention or elimination of slums or blight in a designated area. Examples of activities that qualify when they are located within the slum or blighted area include
 - Rehabilitation of substandard housing located in a designated blighted area and where the housing is expected to be brought to standard condition;
 - Infrastructure improvements in a deteriorated area; and
 - Economic development assistance in the form of a low-interest loan to a business as an inducement to locate a branch store in a redeveloping blighted area.



- ✓ To qualify under this category, the area in which the activity occurs must be designated as slum or blighted. The following tests apply:
 - The designated area in which the activity occurs must meet the definition of a slum, blighted, deteriorated or deteriorating area under state or local law;
 - Additionally, the area must meet either one of the two conditions specified below:
 - Public improvements (must be at least 2) throughout the area are in a general state of deterioration; or
 - At least 25 percent of the properties throughout the area exhibit one or more of the following:
 - Physical deterioration of buildings/improvements;
 - Abandonment of properties;
 - Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;
 - Significant declines in property values or abnormally low property values relative to other areas in the community; or
 - Known or suspected environmental contamination.
 - Documentation must be maintained by the state on the boundaries of the area and the conditions that qualified the area at the time of its designation. The designation of an area as slum or blighted must be re-determined every 10 years for continued qualifications.
- ✓ As stated above, qualified activities must address the identified conditions that contributed to the slum and blight.
- ✓ NOTE: When undertaking residential rehab in a slum/blight area, the building must be considered substandard under local definition and all deficiencies making the building substandard must be eliminated before less critical work is undertaken.

3.3.2 Slum Blight Spot Basis (SBS)

- ✓ These are activities that eliminate specific conditions of blight or physical decay on a spot basis and are not located in a slum or blighted area. Examples include:
 - Acquisition and demolition of a dilapidated property;
 - Rehabilitation of a decayed community center that eliminates code violations that are detrimental to the health and safety of potential occupants like faulty wiring, falling plaster, or other similar conditions;
 - Preservation of a deteriorated building of historic significance; and
 - Financial assistance to a business to demolish a decayed structure and construct a new building on the site.
- ✓ Activities under this category are limited to acquisition, clearance, relocation, historic preservation, remediation of environmentally contaminated properties, and building rehabilitation activities.



- ✓ Rehabilitation is limited to the extent necessary to eliminate a specific condition detrimental to public health and safety.
- ✓ Finally, if acquisition or relocation is undertaken, it must be a precursor to another eligible activity (funded with CDBG or other resources) that directly eliminates the specific conditions of blight or physical decay, or environmental contamination.

3.4 Urgent Need (URG)

- ✓ This section describes the urgent need national objective.

Key Topics in This Section	✓ Overview of urgent need
Statutory Citations	Section 101(c), 104(b)(3), 105(c)
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States - Chapter 3: Meeting a National Objective

- ✓ Use of the urgent need national objective category is rare. It is designed only for activities that alleviate emergency conditions. Examples include:
 - Acquisition of property located in a flood plain that was severely damaged by a recent flood;
 - Public facility improvements like the reconstruction of a publicly-owned hospital that was severely damaged by a tornado;
 - Demolition structures that are severely damaged by a major earthquake;
 - Public services like additional police protection to prevent looting in an area damaged by a recent hurricane;
 - Interim assistance such as emergency treatment of health problems cause by a flood; and
 - Special economic development assistance to a grocery store that was damaged by an earthquake.
- ✓ Urgent need qualified activities must meet the following criteria:
 - The existing conditions must pose a serious and immediate threat to the health or welfare of the community;
 - The existing conditions are of recent origin or recently became urgent. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the state grant recipient's certification – 24 CFR 570.483(d).
 - The UGLG certifies and the state determines that:
 - The UGLG is unable to finance the activity on its own; and
 - Other sources of funding are **not** available.



3.5 LMI Benefit Expenditures

- ✓ States are required to expend a substantial portion of their funds in order to benefit LMI persons. This section describes the calculation of LMI benefit.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Expenditure requirement ✓ Meeting the requirement <ul style="list-style-type: none"> – Excluded expenditures – Activities that meet the requirement ✓ Examples: <ul style="list-style-type: none"> – Excluded housing activity expenditures – LMI calculation
Statutory Citations	Section 101(c), Section 104(b), 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> – Chapter 4: Overall Expenditures Level – Benefit to L/M Income Persons

- ✓ The primary national objective of the CDBG Program is the development of viable urban communities principally for LMI persons.
- ✓ To meet the primary national objective, the CDBG regulations require that states expend not less than 70 percent of CDBG funds for activities that benefit LMI persons.
 - Planning and administrative costs are excluded from the LMI benefit calculation.
 - Activities meeting this requirement are those which qualify under one of the four LMI benefit national objective category:
 - Area basis;
 - Limited clientele;
 - Housing activities; or
 - Job creation or retention.
 - The percentage calculation is based on aggregate CDBG expenditures over a period specified by the state (up to three years) in a certification to HUD. The certification must be included in state grantee's annual Consolidated Plan action plan submission.



LMI Calculation Example	
Total state grant amount	\$1,000,000
Less actual planning and admin (up to 20 percent)	<u>(200,000)</u>
Equals amount subject to LMI calculation	\$800,000
Multiplied by 70 percent	<u>x 0.70</u>
Equals minimum to benefit LMI	\$560,000
Amount subject to LMI calculation	\$800,000
Less LMI minimum	<u>(560,000)</u>
Equals maximum slum/blight and urgent needs allowable activities	\$240,000
* NOTE: This example is for illustrative purposes only. It does not demonstrate the calculation for states on a multi-year certification cycle, and does not take into account program income.	

- ✓ Due to the 70 percent LMI benefit standard, states **must** limit expenditures under the Slum/Blight and Urgent Need national objectives in order to meet the LMI expenditure requirement.
- ✓ States are required to meet the LMI targeting requirement over their entire program. Thus, the state could allow some UGLG to undertake projects that exclusively meet a Slum/Blight or Urgent Need national objective as long as other UGLGs are focusing on LMI activities. On average, across the state's program over the specified reporting period, a minimum of 70% of all of the state's CDBG expenditures must meet the LMI requirements.
- ✓ Under housing activities, the expended funds that count towards the 70 percent requirement may be limited depending on number of LMI units in the housing structure and the amount of the CDBG funds expended on the structure.
 - To determine the amount expended under housing activities that counts towards the 70 percent requirement, states should take the following steps:
 - Divide the number of units in an assisted structure that is occupied by LMI households by the total number of units to determine the percentage of units that are occupied by LMI households;
 - Multiply the total costs of the assisted activity (including those paid for with CDBG and non-CDBG funds) by the percentage of units that are occupied by LMI households; and
 - Exclude the amount of CDBG funds expended for the assisted structure that is in excess of the amount calculated in the above step.



Excluded Housing Activity Expenditures Example	
Number of units occupied by LMI households	4
Total number of units in assisted structure	6
<i>Divide</i> number of units occupied by LMI households by total number of units in assisted structure and multiple by 100	$(4/6) * 100$
<i>Equals percent of LMI units in structure</i>	67%
Total cost of the housing activity (all sources of funds)	\$300,000
Multiplied by percent of LMI units in structure (i.e. proportion of housing costs attributed to LMI units)	\$200,000
CDBG assistance to the structure	\$250,000
<i>Excess CDBG funds that have to be excluded from LM expenditures</i>	\$50,000
* NOTE: This example is for illustrative purposes only.	

3.6 Choosing the Right National Objective

- ✓ States may have options regarding which national objective is used for a particular activity. This section provides tips on selecting the right national objective.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Activities that meet more than one national objective ✓ Selecting the most appropriate national objective
Statutory Citations	
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> – Chapter 3: National Objectives

- ✓ Activities may qualify for more than one national objective category. If an activity meets the LMI benefit national objective, then the best decision for most states will be to use the LMI Benefit national objective because of the 70 percent requirement associated with that national objective.
- ✓ For the activities that meet more than one national objective, states may find it useful to document compliance with all the applicable national objectives, especially if there is some uncertainty regarding the ability of an activity to meet the chosen national objective upon completion.
- ✓ For example, states may have concern that an activity qualifying on the basis of creating jobs may not meet the test that at least 51 percent of the jobs created will benefit LMI persons. If the activity could also qualify under the slum/blight area category, the state may be best served by documenting compliance with both national objectives. This way, if the activity does not meet the LMI job creation criteria the state can switch the activity to the slum/blight area national objective rather than have the activity in non-compliance with CDBG rules. Note that switching the activity from LMI benefit to slum/blight area may affect the states



certification that 70 percent of expenditures are associated with the LMI benefit national objective, so states should proceed with precaution.

3.7 Documenting National Objectives

- ✓ It is critical that states document the results of their activity and the related national objective. This section highlights that required national objective documentation.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Timing of documentation activities ✓ Documenting LMI Benefit national objective ✓ Documenting Prevention/Elimination of Slums or Blight ✓ Documenting Urgent Need
Statutory Citations	
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States - Chapter 3: National Objectives

- ✓ States and UGLG must maintain records that funded activities meet one of the national objectives. The records depend on the national objective category. This section walks states through the documentation requirements under the associated national objective categories.
- ✓ The Performance Measurement, Reporting, Recording Keeping and Monitoring chapter in this manual, Chapter 13, has more details regarding records that must be maintained to document compliance with CDBG regulations, including records on meeting national objectives.
- ✓ The timing of documentation for activities is an important consideration. Compliance with national objectives can be documented upfront for a number of the categories. For example, compliance documentation for the following national objectives can be established upfront:
 - Under the national objective of benefit to LMI persons, the LMI area benefit;
 - Under the national objective of elimination of slums or blight, both categories (area basis, spot basis); and
 - The urgent need national objective.
- ✓ Some national objectives have to be documented over time. For example, it is likely that the future occupants of a rental rehabilitation activity cannot be identified up-front. Compliance with the LMI Housing requirement that 51 percent of the occupants have to be LMI households, will require collecting documentation demonstrating compliance during the lease-up period.
- ✓ In the same way, future hires of created jobs cannot be identified and documentation of compliance cannot be obtained upfront. Rather, hires by the assisted business have to be monitored over a period of time.



- ✓ HUD is charged with negotiating recordkeeping requirements with states. What follows is a list of the types of records that generally may be kept to document national objective compliance.

3.7.1 Benefit to LMI Persons

LMI Area Benefit

- ✓ The following records will demonstrate compliance under this national objective category:
 - Boundaries of service area;
 - Percentage of LMI persons that reside in the service area; and
 - The data used for determining percentage of LMI persons.

LMI Limited Clientele

- ✓ One of the following five types of records should be kept:
 1. Documentation showing that the activity is designed for exclusive use by a segment of the population presumed by HUD to be LMI persons; or
 2. Documentation describing how the nature and the location of the activity establishes that it will be used predominantly by LMI persons; or
 3. Data showing the family size and annual income of each person receiving the benefit; or
 4. Data showing that barriers to mobility or accessibility have been removed and how the barrier removal was restricted to the extent feasible to one of the particular cases authorized under this category; or
 5. Documentation showing that the activity qualifies under the special conditions regarding job services where less than 51 percent of the persons benefiting are LMI persons.

LMI Housing

- ✓ The following records should be maintained:
 - A written agreement with each landlord or developer receiving CDBG assistance. The agreement must specify
 - The total number of dwelling units in each multi-unit structure, and
 - The number of those units which will be occupied by LMI households after assistance.
 - Total cost of the activity, including both CDBG and non CDBG funds
 - The household size and income eligibility for each of the LMI households occupying assisted units
 - For rental housing
 - The rent charged (or to be charged) after assistance for each dwelling unit in each assisted structure; and
 - Documentation of compliance with the locally established standards for housing that is “affordable to LMI households”.



- When assisting structures with less than 51 percent LMI occupants, documentation of qualification under the special conditions:
 - Number of units to be occupied by LMI households at an affordable rent;
 - Total development cost of new construction; and
 - Amount of CDBG funds expended for activity.
- When aggregating scattered sites, documentation of the basis for aggregating scattered sites and considering them as a single structure.
- When assisting with the delivery costs of HOME assisted projects and assistance, evidence that housing projects and/or tenant based rental assistance achieves HOME income targeting requirements.
- ✓ While compliance with the housing national objective is based on the initial occupancy of the housing following completion of the CDBG-assisted activity, states are urged to establish their own requirements for replacing such households with other LMI households whenever the assisted unit becomes vacant within a period of time following completion that is commensurate with the amount of CDBG financial assistance that was provided to the developer.
- ✓ Another consideration when document compliance is that occupancy of the unit may not be for some time after the completion of the activity. For example, there may be a time lag between the acquisition or land clearing activity subsidized by CDBG funds and the development of the housing units. It is not sufficient to document the intention to comply. The state is responsible for documenting that the housing units are constructed and that the appropriate number of units are initially occupied by LMI households.

LMI Job Creation and Retention

- ✓ Record keeping requirements in this category relate to both the status of the business, the jobs created or retained, and the LMI persons benefiting from the activity. The following is an outline of the documents that have to maintained by states and/or UGLG:
 - Written agreement with the business in which the following is specified:
 - A commitment from the assisted business to hire or retain LMI persons;
 - The type of job and whether the job will be full- or part- time, and
 - The actions that the business will take to ensure that at least 51 percent of the hires or retainees will be LMI persons.
 - Compliance with the written agreement must be documented as follows:
 - The jobs that were actually created and/or retained;
 - Whether each such job was held by or made available to a LMI person; and
 - The full-time equivalency status of the jobs.
 - For created jobs that will be held by LMI persons, the records must demonstrate:
 - Listing by job title of the jobs created;
 - Listing by job title of the jobs filled;



- The name and income status of the person who filled each position; and
- The full-time equivalency status of the jobs.
- For created jobs that will be made available to LMI persons but are not taken by LMI persons:
 - The title and description of the jobs made available;
 - The full-time equivalency status of the job;
 - The prerequisites for the job; special skills or education required for the job, if any; and the business commitment to provide needed training for such jobs; and
 - How first consideration was given to LMI persons for the job can be recorded as follows:
 - The name(s) of person(s) interviewed for the job and the date of the interview(s); and
 - The income status of the person(s) interviewed.
- For retained jobs that would otherwise be lost:
 - Specific evidence that the jobs would be lost without the CDBG assistance.
 - If the retained job is held by a LMI person:
 - A listing by job title of permanent jobs retained;
 - The jobs that are known to be held by LMI persons at the time of assistance;
 - The full time equivalency status of each job; and
 - Family size and annual income of each LMI person.
- For retained jobs that are projected to turnover to LMI persons:
 - A listing of the retained jobs that are projected to become available within two years of assistance;
 - The basis of the determination that the job is likely to turnover within two years of assistance;
 - The actual turnover date;
 - The name and income status of the person who filled the vacancy;
 - If the person who took the job was not a LMI person, records to demonstrate that the job was made available to LMI persons:
 - The name(s) of person(s) interviewed for the job and the date of the interview(s) and
 - The income status of the person(s) interviewed; and
 - Information on the family size and annual income of each LMI person hired.
- ✓ There are five options for documenting the LMI status of an applicant or employee:
 1. Referrals from an agency that has agreed to refer individuals who are determined to be LMI based on HUD's category. These agencies must maintain records, which must be



available to the state or federal inspection, showing the basis upon which they determined that the person was LMI; or

2. A written self certification by the employee or applicant of his/her family size and total income that is signed and dated. Certification can either include actual size and income of family or can contain a statement that the annual family income is below the Section 8 low-income limit for the applicable family size; or
 3. Qualification of employee or application for assistance under another program with income qualification that are as restrictive as those used by the CDBG program. Examples include referrals from Public Housing, Welfare Agency, or the JTPA Program, with the exception of the JTPA Title III program for dislocated workers; or
 4. Evidence that the individual is homeless; or
 5. Evidence that the individual may be presumed to be LMI by way of residence address and poverty rates of applicable census/American Community Survey tract or documentation of area designation as EZ or EC.
- ✓ The state can use any combination of documenting income status for the persons benefiting from a job creation or retention activity.
 - ✓ When documenting income, the income status of an individual is made at the time the CDBG assistance is provided. This may have an affect on the retention of high-paying unskilled jobs counting as eligible except for turnover purposes. This is because a person who occupies a high-paying but low-skilled job may not qualify as a LMI person. Whereas a LMI person may fill the job at a lower pay rate if it were created or if it became available through turnover.

3.7.2 Prevention/Elimination of Slums or Blight

- ✓ Evidence of blight on a spot or areas basis must be documented and be part of record keeping. In documenting the presence of blight, the use of pictures is encouraged.

Area Basis

- ✓ Records to be maintained include:
 - Area designation (e.g., boundaries) and date of designation,
 - Documentation and description of blighted conditions (e.g., photographs, structural surveys, or development plans),
 - For residential rehabilitation:
 - Building qualification as substandard,
 - Pre-rehabilitation inspection report and work plan describing deficiencies,
 - Scope of work performed with documentation that substandard elements were addressed first; and
 - Evidence that the activities undertaken address the conditions that contributed to the deterioration.



Spot Blight

- ✓ State files should include the following:
 - Description of condition addressed by activity,
 - Documentation of eligibility of activity under this category, and
 - Records required for residential rehabilitation as listed above under Area Basis.

3.7.3 Urgent Need

- ✓ Files should include:
 - Documentation of urgency of need and timing,
 - Certification by the UGLG and determination by the State that other financing resources were unavailable and CDBG had to be used, and
 - Condition has been in existence during the past 18 months.

CHAPTER 4: HOUSING ACTIVITIES



CHAPTER PURPOSE & CONTENTS

This chapter provides detailed information on CDBG eligible homeownership and rental activities and guidance for states on documenting national objectives.

SECTION	TOPIC
4.1	Homeowner Rehabilitation
4.2	Home Purchase Activities
4.3	Rental Housing Activities
4.4	New Construction
4.5	Services in Connection with Housing
4.6	Ineligible Activities
4.7	National Objectives for Housing Activities
4.8	Drawing Down Funds

4.1 Homeowner Rehabilitation

Homeowner rehabilitation is one of the most common community development programs administered nationwide. CDBG funds provide a wide range of flexibility with rehabilitation of projects and design considerations. States can choose to do emergency repair programs, spot rehabilitation or full house rehabilitation. This section reviews the eligible and ineligible activities under the CDBG program for homeowner rehabilitation.

Key Topics in This Section	✓ Eligible homeowner rehabilitation activities
Statutory Citations	Section 105(a)(4)
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States - Chapter 2 : Categories of Eligible Activities ✓ HOME and CDBG Model Guide

- ✓ CDBG funds may be used to assist existing homeowners with the repair, rehabilitation, or reconstruction of owner-occupied units.
- ✓ States and UGLG have the flexibility under the CDBG Program to design repair and rehabilitation programs that meet the needs of their residents. Examples of the types of local programs that may be funded include:
 - General programs aimed at rehabilitation of existing structures, including substantial rehabilitation programs, which typically bring the property up to local codes and standards.
 - Special purpose programs, including:
 - Energy efficiency programs aimed at improving the energy efficiency of homes through additional insulation, new windows and doors and other similar improvements;



- Handicapped accessibility programs through which improvements, such as installation of ramps and grab bars, are made to homes of persons with disabilities to make the home more accessible;
 - Emergency repair programs that provide for the repair of certain elements of a housing unit in emergency situations, such as repairs to a roof that is leaking, but the whole house is not rehabilitated; and
 - Weatherization programs aimed at improving a home's ability to withstand the elements, including insulation and weather-stripping.
- ✓ Rehabilitation to a single-family residential property that is also used as a place of business and is required to operate the business may be considered homeowner rehabilitation (as opposed to commercial rehabilitation) if the improvements provide general benefit to the residential occupants of the building.
- NOTE: Assistance to microenterprises for the establishment, stabilization, and expansion of microenterprises, which might include rehabilitation of a home that contains a microenterprise, may be eligible under the separate microenterprise activity category.
- ✓ Reconstruction is an eligible activity. While the CDBG regulations have not yet been amended to reflect this change, it is generally defined as follows:
- Reconstruction means demolishing and re-building a housing unit on the same lot in substantially the same manner.
 - The number of housing units on the lot may not be increased as part of a reconstruction, however, the number of rooms in a unit may be increased or decreased.
 - The number of housing units on the lot may be decreased to reduce density.
 - Decreasing units may trigger the one-for one replacement of L/M income dwelling units at 24 CFR part 42, subpart C (see the Relocation Chapter for additional guidance).
 - Reconstruction also includes replacing an existing substandard manufactured housing unit with a new or standard manufactured housing unit.
- ✓ Homeowner counseling programs for LMI persons may be funded by CDBG. A state may use CDBG to pay for homeowner counseling related to a HOME or CDBG homeowner rehabilitation program.
- ✓ CDBG can be used for grants, loans, loan guarantees, interest subsidies, or other forms of assistance to homeowners for the purpose of repairs, rehabilitation, or reconstruction.
- ✓ CDBG-eligible costs include:
- Labor and materials,
 - Replacement of principal fixtures and components of existing structures;
 - Water and sewer connections;
 - Installation of security devices, including smoke detectors; and
 - Initial homeowner warranty premium;
 - Hazard insurance premium (except when a grant is provided);
 - Flood insurance premium;



- Conservation costs for water and energy efficiency;
 - Landscaping, sidewalks, garages, and driveways when accompanied with other rehabilitation needed on the property; and
 - Evaluating and treating lead-based paint.
- ✓ Loans for refinancing existing debt are eligible under CDBG if the state determines that this type of assistance is necessary to achieve local community development objectives. This refinance must be part of a rehabilitation project -- CDBG does not permit refinance only projects.

4.2 Home Purchase Activities

Owning a home is part of the American dream. CDBG funds can help support this dream by providing funds to income eligible households to purchase an existing or newly constructed home. This section reviews the eligible activities under the CDBG program for home purchase activities.

Key Topics in This Section	✓ Eligible homebuyer activities
Statutory Citations	Section 105(a)(24)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> - Chapter 2: Categories of Eligible Activities ✓ HOME and CDBG Model Guide ✓ CPD Notice 02-06

- ✓ CDBG funds may be used to provide direct homeownership assistance to LMI households in two ways. Both options are described below.
- As direct homeownership assistance under 105(a)(24), a separate and permanent eligibility category that allows CDBG funding to:
 - Provide up to 50 percent of required down payment;
 - Pay reasonable closing costs;
 - Provide principal write-down assistance;
 - Subsidize interest rates;
 - Finance acquisition; and
 - Acquire guarantees for mortgage financing from private lenders (i.e., assist homebuyers with private mortgage insurance).
 - As a public service activity; however, this eligibility category is limited to down payment assistance only and would count towards the 15 percent public services cap.
 - For downpayment assistance to be provided as a public service to non-LMI households, it must be located in a state-approved community revitalization strategy area (CRSA). This is because in a CRSA, the units for which assistance is obligated during a state grantee's program year may be aggregated and treated as a single structure for purposes of determining compliance with the housing national objective. Therefore, only 51% of the units in a CRSA need to be occupied by LMI households to meet a national objective if the



home purchase activity is funded as a public service. Homeowner assistance located in an CRSA and carried out as a public service by a 105(a)(15) organization can also be excluded from the 15 percent public services cap.

- ✓ Activities that support development of housing for LMI persons such as acquisition, clearance, and site improvements (when the land is in public ownership) are eligible for CDBG assistance.
- ✓ Acquisition costs, providing assistance to private individuals and entities to acquire for the purpose of rehabilitation and to rehabilitate properties for use or resale for residential purposes is also eligible.
- ✓ Individual Development Accounts (IDAs), dedicated savings accounts providing start up funds to assist low-income persons purchase a home can be supported with CDBG funds.
 - CDBG funds may be deposited in an IDA to capitalize the account or as matching deposits over the course of the household's participation in the program.
 - If the individual does not complete the requirements of the IDA program, the CDBG funds must be returned to the state and any interest earned returned to the U.S. Treasury.
- ✓ Homebuyer counseling programs for LMI income persons may be funded by CDBG. A state may use CDBG to pay for housing counseling related to a HOME or CDBG homebuyer program.
- ✓ Nonprofit development organization working under 105(a)(15) of the statute may use CDBG funds to construct housing for sale to LMI homebuyers in conjunction with a neighborhood revitalization or community economic development project.

4.3 Rental Housing Activities

Many communities struggle with providing decent safe and sanitary affordable rental housing to their residents. CDBG funds can be used to acquire, rehabilitate or construct rental housing. There are tenant income requirements and rent restrictions for projects. This section reviews the eligible activities under the CDBG program for rental housing activities.

Key Topics in This Section	✓ Eligible rental activities
Statutory Citations	Section 105(a)(4)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> - Chapter 2: Categories of Eligible Activities ✓ HOME and CDBG Model Guide ✓ CPD Notice 03-14

- ✓ CDBG funds may be used for acquisition of property for an eligible rental housing project. CDBG may also be used to rehabilitate rental housing.
- ✓ In Rem housing--CDBG funds may also be used to make essential repairs and payment of operating expenses needed to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily LMI neighborhoods.
 - Note the LMI benefit national objective is met through the Area Benefit subcategory.



- ✓ Conversion of a closed building from one use to residential use (such as a closed school building to residential use) is also eligible.
- ✓ States may provide assistance in the form of loans, grants, loan guarantees, interest subsidies and other forms of assistance for rental housing rehabilitation and acquisition/rehabilitation projects.
 - Eligible properties may be:
 - Publicly- or privately-owned; and
 - Residential or mixed use.
 - Eligible expenditures include:
 - Labor, materials and other rehabilitation costs;
 - Refinancing, if necessary and appropriate;
 - Energy efficiency improvements;
 - Utility connections;
 - Evaluating and treating lead-based paint; (NOTE: This is also eligible as a separate activity);
 - Conservation costs for water and energy efficiency;
 - Landscaping, sidewalks, and driveways when accompanied with other rehabilitation needed on the property;
 - Rehabilitation services (loan processing, work write-ups, inspections, etc.); and
 - Handicap accessibility improvements.
- ✓ States may also develop facilities for persons with special needs and homeless shelters. However, in general, these facilities are categorized under CDBG as public facilities and not housing.
- ✓ New construction of rental housing by a 105(a)(15) nonprofit is eligible provided the construction activity is carried out as part of a community revitalization, community economic development, or energy conservation project.
- ✓ States may provide support for the development of new rental housing as an eligible activity. See the new construction section below for more information.
- ✓ CDBG funds can be used to compensate property owners for the loss of rental income incurred while holding, for temporary periods, housing units for the relocation of households displaced by CDBG activities.

4.4 New Construction

CDBG funds can be used for new construction but only in very limited circumstances. This section reviews the eligible activities under the CDBG program for new construction housing activities.

Key Topics in This Section	✓ Eligible new construction activities
Statutory Citations	Section 105(a)(15)



Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> - Chapter 2: Categories of Eligible Activities ✓ HOME and CDBG Model Guide
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- ✓ Generally, new construction of housing is not eligible under the CDBG program. However, the regulations allow for certain eligible entities to carry out this activity on behalf of the state grantee.
 - This entity is known as a Nonprofit Development Organization.
 - The eligible groups include nonprofits serving the development needs of non-entitled areas, which might include but are not limited to section 301(d) Small Business Investment Companies (SBICs), local development corporations (LDCs), and Community Housing Development Organizations (CHDOs).
 - These development organizations must meet the definition outlined in Section 105(a)(15) of the Housing and Community Development Act to be considered to undertake such activities.
 - These organizations must be undertaking a neighborhood revitalization, community economic development or energy conservation project in order to use CDBG for new construction. Note that new housing construction carried out by an eligible 105(a)(15) organization must be part of a larger effort to revitalize the neighborhood (i.e., a plan for the community's revitalization efforts based on a comprehensive plan, not just for the sake of the CDBG project).
 - See chapter 2 for more information about the types of organizations that qualify as 105(a)(15) organizations.
- ✓ States may also provide support for the development of new housing as an eligible activity. "Support" refers to:
 - Acquisition by public or nonprofit entities;
 - Site clearance and assemblage; and
 - Site improvements (if in public ownership).
- ✓ Finally, states may use CDBG funds to construct new housing under the last resort provisions of the URA (24 CFR Part 42, subpart I). This is housing that the state has determined must be constructed in order to provide suitable replacement housing for persons to be displaced by a contemplated CDBG project, subject to the Uniform Act, and where the project is prevented from proceeding because the required replacement housing is not available otherwise.

4.5 Services in Connection with Housing

CDBG is flexible in allowing services to be provided to persons and households. CDBG funds may be used to pay costs in support of activities eligible for funding under the HOME program. This section details the services that provided in connection with housing activities.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible housing services activities
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Statutory Citations	Section 105(a)(20)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> - Chapter 2: Categories of Eligible Activities ✓ HOME and CDBG Model Guide

- ✓ Services that are related to housing activities may qualify under several eligibility categories of the CDBG regulations, including:
 - As a public service activity (e.g., a housing counseling program) if the activity meets the public service eligibility criteria. (Note, however, the amount of CDBG funds used for public service activities may not exceed the 15 percent cap.);
 - As part of a CDBG-funded housing activity (e.g., preparing work specifications for CDBG-funded rehabilitation projects), generally referred to as a program delivery cost; and
 - CDBG funds may be used to pay for program administration of the HOME program, subject to the state grantee's administrative cap.
 - As a separate eligible category when the housing activities are linked to providing services to owners, tenants, contractors or other entities participating in or seeking to participate in the state grantee's HOME Program. Eligible services under this category include:
 - Housing counseling;
 - Energy auditing;
 - Preparation of work specifications;
 - Loan processing;
 - Inspections;
 - Tenant selection; and
 - Management of tenant-based rental assistance (TBRA) programs.

4.6 Ineligible Activities

Although CDBG is very flexible in its approach to housing activities, some activities cannot be funded. This section highlights ineligible activities related to housing.

Key Topics in This Section	✓ Ineligible activities
Statutory Citations	
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> - Chapter 2: Categories of Eligible Activities ✓ HOME and CDBG Model Guide

- ✓ In general, any activity not described in the HCDA statute is ineligible.
- ✓ The state CDBG regulations do not specifically list ineligible activities but states may refer to the entitlement regulations for guidance.



- ✓ CDBG funds cannot be used to subsidize or assist the new construction of housing, *unless* carried out by a 105(a)(15) nonprofit, as part of certain kinds of projects. Note that activities, which support the development of housing for LMI persons (e.g., clearance, site improvements, and public facilities), are eligible for CDBG assistance under other eligibility categories.
- ✓ CDBG may not be used to guarantee mortgage financing directly, and states may not provide such guarantees directly.
- ✓ CDBG funds may not be used to provide on-going income payments such as paying for a tenant's rent or a household's mortgage. The only exceptions to this are:
 - Income payments that are provided as a loan; or
 - Income payments that are emergency in nature and do not exceed three consecutive months.
- ✓ The purchase of construction equipment is generally ineligible. However, the purchase of tools to be part of a "tool-lending" rehabilitation program is eligible. Compensation for the use of construction equipment through leasing, depreciation or other use allowances (described in the OMB circulars) is allowable provided the activity is otherwise eligible.

4.7 National Objectives for Housing Activities

All CDBG activities must meet a national objective in order to be eligible to use CDBG funds. This requires that all housing activities must qualify as meeting one of the three national objectives of the program and meet specific tests for benefiting LMI persons, preventing or eliminating slums or blight and meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs. This section is set up by national objective and then lists the different housing activities that are applicable to that particular national objective.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ LMI Area Benefit ✓ LMI Limited Clientele ✓ Slum/Blight Area and Spot Basis ✓ Urgent Needs
Statutory Citations	Section 101(c)(2), 104(b), 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States - Chapter 3: Meeting a National Objective

4.7.1 National Objective Summary Chart

- ✓ The following chart summarizes the national objective options related to housing activities. The text below provides additional details. For a complete copy of the matrix codes and national objectives chart, please see the IDIS chapter of this manual.



<u>HUD Matrix Code</u>	<u>Activity</u>	<u>LMA</u>	<u>LMC</u>	<u>LMH</u>	<u>LMJ</u>	<u>SBA</u>	<u>SBS</u>	<u>URG</u>
05R	Homeownership Assistance (not direct)	N	N		N		N	
05S	Rental Housing Subsidies	N	N		N		N	
05T	Security Deposits	N	N		N		N	
05U	Housing Counseling	N	N		N	N	N	N
12	Construction of Housing	N	N		N		N	
13	Direct Homeownership Assistance	N	N		N	N	N	N
14A	Rehab; Single Unit Residential	N	N		N			
14B	Rehab; Multi-Unit Residential	N	N		N			
14C	Public Housing Modernization	N	N		N			
14F	Energy Efficiency Improvements	N	N		N			
14G	Acquisition for Rehabilitation	N	N		N			
14H	Rehabilitation Administration							
14I	Lead Based Paint/Hazards Test/Abatement	N	N		N			
16A	Residential Historic Preservation	N	N		N			N

4.7.2 LMI Benefit National Objective

- ✓ If a state wishes to qualify a housing rehabilitation, acquisition or construction activity under the LMI national objective, the housing national objective must be used. The state may not use LMI area, LMI limited clientele or LMI job creation for these activities.
- ✓ Homeowner rehabilitation and new construction single family housing activities conducted by 105(a)(15) nonprofits that provide or improve permanent residential structures to be occupied by low income persons qualify under the **Housing** criteria of the LMI benefit national objective.
 - A LMI household must occupy a structure with one unit. Two-unit structures must have at least one unit occupied by a LMI household. If the structure contains three or more units, at least 51 percent must be LMI occupied.



- When housing rehabilitation or new construction single family housing activities are conducted by a CDFI or as part of a state-approved Community Revitalization Strategy, multiple units (e.g. scattered site housing) may be aggregated for the purposes of meeting the LMI benefit national objective.
- ✓ Home Purchase assistance qualifies under the **Housing** criteria of the LMI benefit national objective.
 - LMI persons must occupy structures with one unit. If the structure contains more than one unit, at least 51 percent must be LMI occupied. (Two-unit structures must have at least one unit occupied by a LMI household.)
 - NOTE: Due to statutory requirements related to the eligibility category, when direct homeownership assistance is provided under 105(a)(24), the flexibility offered when the assistance is provided by a CDFI or as part of an approved Community Revitalization Strategy to aggregate units to meet the Housing National Objective is NOT allowed.
- ✓ Rental housing (both new construction and rehabilitation) activities that provide or improve permanent residential structures can only qualify as benefiting LMI households under the **Housing** criteria of the LMI benefit national objective, which deals with the occupancy of units by LMI persons.
 - The general rule is that 51 percent of the units in each assisted structure are to be occupied by LMI households. However, when rental housing activities are carried out by a CDFI or as part of an approved Community Revitalization Strategy, multiple units (e.g. scattered site housing) may be aggregated for the purposes of meeting the LMI Benefit National Objective.
 - When less than 51 percent of the units in a structure will be occupied by LMI households, CDBG assistance may be provided in the following limited circumstances:
 - The assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project;
 - Not less than 20 percent of the units will be occupied by LMI households at affordable rents; and
 - The proportion of the total cost of developing the project to be borne by CDBG funds is no greater than the proportion of units in the project that will be occupied by LMI households.
 - In order to meet the LMI housing national objective, rents in CDBG-assisted rental projects must be set at levels which are affordable to LMI persons.
 - States and UGLG are required to adopt and make public their standards for determining “affordable rents.”
 - The generally accepted affordability standard is that households pay no more than 30 percent of income for rent and utilities. However, use of this standard is not required by CDBG regulations.
 - States and UGLG may want to establish rent limits or ceilings based on local LMI limits and bedroom sizes, similar to those used for the HOME Program. However, *each project* must be undertaken in such a manner as to ensure that rents are truly affordable to LMI persons.



- ✓ Housing services provided in connection with a CDBG-funded housing activity (generally as a program delivery cost) or in connection with a HOME-funded program qualify under the **Housing** criteria of the LMI benefit national objective.
 - The general rule is that 51 percent of the units in each assisted structure are to be occupied by LMI households. Some housing activities, when carried out by a CDFI or as part of an approved Neighborhood Revitalization Strategy, may be aggregated for the purposes of meeting the LMI benefit national objective.

4.7.3 **LMI Limited Clientele National Objective**

- ✓ Housing counseling services provided as a public service activity must qualify under the LMI **limited clientele** national objective.
 - LMI **limited clientele** national objective activities benefit a limited number of people as long as at least 51 percent of those served are LMI persons. These activities must:
 - Benefit a clientele that is generally presumed to be principally LMI (abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS and migrant farm workers); or
 - Require documentation on family size and income in order to show that at least 51 percent of the clientele are LMI; or
 - Have income eligibility requirements limiting the activity to LMI persons only; or
 - Be of such a nature and in such a location that it can be concluded that clients are primarily LMI.

4.7.4 **Slum/Blight National Objective**

- ✓ If a housing rehabilitation or acquisition activity does not directly benefit LMI persons, it may qualify under the Slum/Blight National Objective. However, the use of this category should be limited due to the fact that states must ensure that 70 percent of CDBG funds benefit LMI persons.
 - The requirements for meeting the Slum/Blight National Objective under the **Area Basis** criteria include:
 - The area delineated by the state in which the activity occurs meets a definition of a slum, blighted, deteriorated or deteriorating area under state or local law:
 - Additionally, the area must meet either one of the two conditions specified below:
 - Public improvements throughout the area are in a general state of deterioration; or
 - At least 25 percent of the properties throughout the area exhibit one or more of the following:
 - (a) Physical deterioration of buildings/improvements;
 - (b) Abandonment of properties;
 - (c) Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;



- (d) Significant declines in property values or abnormally low property values relative to other areas in the community; or
 - (e) Known or suspected environmental contamination.
- Documentation must be maintained by the state on the boundaries of the area and the conditions that qualified the area at the time of its designation. The designation of an area as slum or blighted must be re-determined every 10 years for continued qualifications.
 - The activity addresses one or more of the conditions that contribute or contributed to the deterioration of the area. **CAUTION:** Residential rehabilitation meets this requirement only if the building to be rehabilitated is considered substandard under local definition (at least Section 8 Housing Quality Standards). In addition, if non-critical items will be addressed through the rehabilitation then all deficiencies making the building substandard must be eliminated.
- To meet the Slum/Blight National Objective under the **Spot Basis** criteria:
 - The rehabilitation activity must eliminate specific conditions of blight or physical decay on a spot basis (i.e., not in an area meeting the Area Basis criteria);
 - The rehabilitation must remove only those conditions that are detrimental to public health and safety; and
 - If acquisition or relocation is undertaken, it must be a precursor to another eligible activity (funded with CDBG or other resources) that directly eliminates the specific conditions of blight or physical decay, or environmental contamination.
- ✓ New construction housing may qualify under the Slum/Blight National Objective under the **Area Basis**. However, the new housing only qualifies if the following conditions are met:
 - The new housing is located with a designated slum or blighted area; and
 - Development of new housing addresses one of the conditions which contributed to the deterioration of the area.
- ✓ Some rental rehabilitation activities may qualify under the Slum/Blight National Objective.
 - Rehabilitation of residential buildings carried out in an area meeting the slum and blight area criteria will be considered to address the area's deterioration only if the following criteria are met:
 - Each building rehabilitated is substandard under local definition before rehabilitation; and
 - If less critical work on the building is undertaken, all deficiencies making a building substandard have been eliminated.
 - Some rental rehabilitation activities may qualify under the Slum/Blight National Objective under the **Spot Basis** criteria if they eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area. Rehabilitation under these criteria is limited to the extent necessary to eliminate specific conditions detrimental to public health and safety.



4.7.5 Urgent Needs National Objective

- New construction housing may qualify under the Urgent Needs National Objective. However, the new housing is needed to respond to a threat to the health or welfare of the community of recent origin and no other funding is available to meet the threat and the new construction is eligible (or the statutory waiver authority for Presidentially-declared disasters is exercised). A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the state grant recipient's certification – 24 CFR 570.483(d).

4.8 Drawing Down Funds

There are a number of different ways that states may draw down their CDBG funds for projects. This section discusses three ways, escrow accounts, lump sum drawdowns and revolving loans.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Escrow Accounts ✓ Lump Sum Drawdowns and Revolving Loan Funds
Regulatory/Statutory Citations	Section 104(h)
Other Reference Materials on This Topic	N/A

Escrow Accounts

- ✓ States and UGLG may draw down CDBG funds from HUD to set up escrow accounts for the housing activities. UGLG may use this type of account for paying contractors on behalf of homeowners under CDBG single-family rehabilitation programs.
- ✓ The state regulations do not address escrow accounts so states may refer to the entitlement rules. Under those rules, the escrow accounts are subject to the following limitations:
 - Escrow accounts must be used for loans and grants for the purpose of rehabilitating primarily residential properties with no more than four units.
 - Deposits to escrow accounts must not take place until a contract has been executed between the property owner and the contractor.
 - The contract between the property owner and the contractor must specify that an escrow account will be used for payment purposes and that the state or a subgrantee will maintain the escrow account.
 - All CDBG funds drawn down from HUD for escrow must be deposited into one interest bearing account.
 - The amount of funds deposited into an escrow account must be limited to the amount expected to be disbursed within 10 working days from the date of deposit (any excess funds must be transferred to the state grantee's program account).
 - Funds deposited in an escrow account must be used only to pay the actual rehabilitation costs incurred by the owner under contract with a private contractor. Other costs may not be paid from escrowed funds.
- ✓ Interest earned on escrow accounts must be **remitted to HUD at least quarterly**.



Lump Sum Drawdowns and Revolving Loan Funds

- ✓ Lump sum drawdowns and revolving loan funds may be used for housing programs.
 - Lump sum drawdowns refers to the process of drawing down CDBG funds in a lump sum in order to establish a housing fund in one or more private financial institutions for the purpose of financing eligible housing activities. The fund may be used in conjunction with various financing techniques, including loans, interest subsidies, loan guarantees, loan reserves, or other uses approved by HUD.
 - The state regulations do not cover lump sum draw downs so states defer to the entitlement rules on this topic.
 - A revolving fund is a separate fund (independent of other CDBG program accounts) set up for the purpose of carrying out specific activities. These activities generate payments to the revolving loan fund for use in carrying out the same types of activities. Revolving loan funds are often set up for housing rehabilitation loan programs.
- ✓ The rules governing lump sum drawdowns and revolving loan funds are found in Chapter 16: Financial Management.

CHAPTER 5: OTHER REAL PROPERTY IMPROVEMENTS



CHAPTER PURPOSE & CONTENTS

This chapter provides a brief overview of additional types of real property improvement activities that are CDBG-eligible. The chapter explains how these activities meet one of the national objectives and describes the forms that assistance may take.

SECTION	TOPIC
5.1	Acquisition
5.2	Disposition
5.3	Clearance
5.4	Tax Foreclosed Housing (In-Rem)
5.5	Code Enforcement
5.6	Lead-Based Paint Hazard Evaluation and Reduction
5.7	Historic Preservation
5.8	Renovation of Closed Buildings
5.9	Handicapped Accessibility
5.10	Energy Efficiency
5.11	Brownfields
5.12	Summary of National Objectives Options for Other Real Property Improvements

5.1 Acquisition

- ✓ Acquisition refers to the purchase of real property. An example of an acquisition activity is the purchase of a building to be converted into a shelter for the homeless, or the purchase of land in a LMI residential neighborhood to be used as a park.
- ✓ Acquisition can also occur under other eligibility categories, such as rehabilitation or economic development, depending on the type of real property as well as its use.
- ✓ The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.



Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible acquisition activities ✓ Ineligible acquisition activities ✓ Documenting national objective for acquisition activities
Statutory Citations	Section 101(c), Section 104(c), Section 105(a)(1), Section 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States - Chapter 2: Categories of Eligible Activities

5.1.1 Eligible Activities

- ✓ CDBG funds may be used to acquire real property either in whole, or in part by purchase, long-term lease, donation, or otherwise for any public purpose. CDBG funds may be used under this category by the state; a public agency; a public nonprofit entity, or a private nonprofit entity.
- ✓ Real property to be acquired may include, but is not limited to:
 - Land;
 - Air rights;
 - Easements;
 - Water rights;
 - Rights-of-way; and
 - Buildings and other real property improvements.
- ✓ CDBG funds may be used to pay for the cost of identifying the property to be acquired, appraisals, the preparation of legal documents, recordation fees, and other costs that are necessary to the acquisition process.

5.1.2 Ineligible Activities

- ✓ The following activities are **not** eligible to be funded under this category:
 - The costs of moveable equipment, furnishings, or machinery if this is the principal purpose of the activity because these items not real property;
 - Acquisition of property which is then expected to be donated or sold at less than the purchase price to the same entity that purchased the property because this is not considered a legitimate change of ownership;
 - Acquisition of newly-constructed housing or an interest in the construction of new housing.

5.1.3 Documenting the National Objective

- ✓ Acquisition may qualify under each of the three national objectives. Documenting an acquisition activity as one of the CDBG national objectives depends entirely on the actual use of the acquired real property. The planned use of the acquired property may be used to make a preliminary determination of compliance with a national objective, though the final determination must be made based on the actual use of the property.



- ✓ For example, when the acquisition is for the purpose of clearance that will eliminate specific conditions of blight or physical decay, the clearance activity may be considered the actual use of the property. Any subsequent use or disposition of the cleared property must be treated as a “change of use” under the regulations, when applicable. Though if, for example, the property is to be acquired for general purpose, such as a planned housing activity, but the specific project is not yet identified, the State and UGLG must document the intended use of the property; the national objective expected to be met; and make a written commitment to use the property only for a specific project under that general use that will meet the specific national objective.
- ✓ Acquisition may qualify under each of the national objectives as outlined below. For more detailed information about the national objectives, please refer to that chapter of this manual.

LMI National Objective

- ✓ Acquisition may qualify under the area benefit category if the property will be used for an activity that benefits the residents of a primarily residential area and at least 51% of those residents are LMI persons.
- ✓ Acquisition may qualify under the limited clientele category if the real property acquired will be used for an activity that benefits a specific group of people, at least 51% of whom are LMI persons.
- ✓ Acquisition may qualify under the Housing category if the property will be used for housing to be occupied by LMI persons.
- ✓ Lastly, if the property acquired is to be used for an economic development project that will create or retain permanent jobs and at least 51% of those jobs will benefit LMI persons, the acquisition qualifies under the jobs category.

Slum/Blight National Objective

- ✓ Acquisition may qualify under the Slum or Blighted Area category if the acquired real property is in an area designated by the State as a slum or blighted area, and the property will be used in a manner which addresses one or more of the conditions which contributed to the deterioration of the area. In order to qualify, public improvements throughout the area must be in a general state of deterioration OR at least 25 percent of properties throughout the area experience one or more conditions identified at § 570.483(b)(4)(D),
- ✓ Acquisition may qualify under the Spot Blight category if the acquired property is located outside a designated slum or blighted area and the acquisition is required for clearance which will eliminate specific conditions of blight or physical decay on a spot basis.
- ✓ See Chapter 3: National Objectives for more detailed information on documenting slum/blight.

Urgent Need National Objective

- ✓ Acquisition may qualify under the Urgent Need category if the acquisition is part of an activity designated to alleviate existing conditions and the UGLG certifies that those conditions are a serious and immediate threat to the health or welfare of the community, they are of recent origin or recently became urgent, the UGLG is unable to finance the activity on its own, and other sources of funds are not available.



- A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the state grant recipient's certification – 24 CFR 570.483(d).

5.2 Disposition

Disposition refers to the sale, lease, and donation of real property. When states choose to dispose of real property acquired with CDBG funds, costs associated with the disposition are CDBG-eligible. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible disposition activities ✓ Documenting national objective for disposition activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(7), Section 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States - Chapter 2, Chapter 3

5.2.1 Eligible Activities

- ✓ CDBG funds may be used to pay the costs associated with the disposition of real property acquired with CDBG funds through sale, lease, donation, or other means, including its disposition at less than fair market value if the property will be used to meet a national objective of the CDBG program.
- ✓ Disposition costs may include:
 - Preparation of legal documents;
 - Surveys;
 - Marketing;
 - Financial services;
 - The transfer of taxes;
 - Other costs involved in the transfer of ownership; and
 - Reasonable costs of temporarily managing property acquired under urban renewal until final disposition is made. Costs of long-term management of properties for which there are no plans for disposition in the near future are not CDBG-eligible.

5.2.2 Documenting the National Objective

- ✓ For disposition costs to be eligible, the use of the CDBG-acquired property after disposition must meet a national objective.
- ✓ When property is disposed of for the same purpose for which it was acquired, the costs of the disposition meet the same national objective under which the property was acquired.
- ✓ If the property is being disposed of for a different purpose than that for which it was acquired, the disposition activity falls under the national objective that will be met by the new use of the property.



5.3 Clearance

Clearance activities are usually related to demolishing structures or preparing a site for development. An example of this would be the demolition of a dilapidated structure in a LMI residential neighborhood from the site on which a neighborhood center will be built. As in this example, and in general, clearance activities often go hand-in-hand with other CDBG-eligible activities. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible clearance activities ✓ Documenting national objective for clearance activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(4), Section 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States - Chapter 2, Chapter 3

5.3.1 Eligible Activities

- ✓ The following clearance activities are eligible under the CDBG Program:
 - Demolition of buildings and improvements;
 - Removal of demolition products, rubble, and other debris;
 - Physical removal of environmental contaminants or treatment of such contaminants to render them harmless; and
 - Movement of structures to other sites.

5.3.2 Documenting the National Objective

LMI National Objective

- ✓ Clearance may qualify under the Area Benefit category if the cleared property will be used for a purpose that benefits the residents of a primarily residential area and at least 51% of those residents are LMI persons.
- ✓ Clearance may qualify under the Limited Clientele category if the cleared property will be used for an activity that benefits a specific group of people, at least 51% of whom are LMI persons.
- ✓ Clearance may qualify under the Housing category if the cleared property will be used for housing to be occupied by LMI persons.
- ✓ Lastly, if the cleared property is part of an activity that will create or retain permanent jobs and at least 51% of those jobs will benefit LMI, the acquisition may qualify under the Jobs category.

Slum/Blight National Objective

- ✓ Clearance may qualify under the Slum or Blighted Area category if the clearance activities are in an area designated by the State as a slum or blighted area and address one or more of the conditions which contributed to the deterioration of the area. In order to qualify, public



improvements throughout the area must be in a general state of deterioration OR at least 25 percent of properties throughout the area experience one or more conditions identified at § 570.483(b)(4)(D),

- ✓ Clearance may qualify under the Spot Blight category if the activity eliminates specific conditions of blight or physical decay on a spot basis not located in a designated slum/blight area.
- ✓ See Chapter 3: National Objectives for more detailed information on documenting slum/blight.

Urgent Need National Objective

- ✓ Clearance may qualify under this national objective if the clearance is part of an activity designated to alleviate existing conditions and the UGLG certifies that those conditions are a serious and immediate threat to the health or welfare of the community, they are of recent origin or recently became urgent, the UGLG is unable to finance the activity on its own, and other sources of funds are not available.
 - A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the state grant recipient's certification – 24 CFR 570.483(d).

5.4 Tax Foreclosed Housing (In Rem)

This section outlines activities that are eligible and ineligible in-rem housing activities under the CDBG program. The following is a summary of the topics in this section, applicable statutory and regulatory citations, and other reference materials available from HUD.

Key Topics in This Section	✓ Eligible In-Rem Housing Activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(23), Section 105(c)
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States - Chapter 2, Chapter 3

5.4.1 Eligible Activities

- ✓ CDBG funds may be used to assist housing units acquired through tax foreclosure proceedings.
- ✓ To prevent abandonment and deterioration of such housing in primarily LMI neighborhoods CDBG funds may be used in the following ways:
 - To make essential repairs; and
 - To cover operating expenses needed to maintain habitability.



5.4.2 National Objectives

LMI Benefit National Objective

- ✓ Since these expenses are limited to housing located in primarily LMI neighborhoods, the LMI Benefit national objective is to be met through the Area Benefit subcategory. Even though these are housing activities, the requirement that occupancy by LMI households must be demonstrated does not apply.

Slum/Blight National Objective

- ✓ Where the criteria could be demonstrated, the State may also qualify activities under the Slum/Blight national objective.
- ✓ See Chapter 3: National Objectives for more detailed information on documenting slum/blight.

5.5 Code Enforcement

Code enforcement refers to the payment of salaries and overhead costs that are directly related to state and/or local code enforcement. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible code enforcement activities ✓ Ineligible code enforcement activities ✓ Documenting national objective for code enforcement activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(3), Section 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> - Chapter 2, Chapter 3

5.5.1 Eligible and Ineligible Activities

Eligible Activities

- ✓ The costs incurred for code enforcement efforts are an eligible expense under CDBG provided that:
 - The enforcement takes place in deteriorated or deteriorating area(s); and
 - The enforcement effort is accompanied by public or private improvements or services (e.g., a homeowner rehab program) and can be expected to arrest the decline of the area(s).
- ✓ Eligible costs under code enforcement include:
 - Costs incurred for inspections for code violations (including salaries and overhead); and
 - The enforcement of code requirements (including salaries, overhead and legal proceedings).
- ✓ Both residential and commercial structures may be included in the code enforcement effort.



Ineligible Activities

- ✓ The costs associated with inspections for the purpose of processing applications for rehabilitation assistance and overseeing such rehabilitation are not eligible under Code Enforcement. Costs associated with these activities may be eligible under other CDBG eligibility categories.
- ✓ The costs associated with correcting the code violations identified during inspections are not eligible under this activity; however, these costs may be eligible under other CDBG eligible activity categories such as rehabilitation activities.

5.5.2 Documenting the National Objective

LMI National Objective

- ✓ Code enforcement activities may meet the LMI national objective under the area benefit category if they take place in a deteriorated or deteriorating area delineated by the State that is primarily residential containing at least 51 percent LMI persons and the code enforcement, along with other activities, may be expected to stop the decline of the area.

Slum/Blight National Objective

- ✓ Code enforcement may qualify under the Area Basis category of the Slum/Blight national objective.
- ✓ Code enforcement may qualify under the Slum or Blighted Area category if targeted at a designated slum or blighted area, is designed to address one or more of the conditions which contributed to the deterioration of the area, and the code enforcement, along with other activities, may be expected to stop the decline of the area. In order to qualify, public improvements throughout the area must be in a general state of deterioration OR at least 25 percent of properties throughout the area experience one or more conditions identified at § 570.483(b)(4)(D),
- ✓ See Chapter 3: National Objectives for more detailed information on documenting slum/blight.

Urgent Need National Objective

- ✓ Though infrequent, it is possible for code enforcement to qualify under the Urgent Need national objective if the following conditions are met:
 - The activity is targeted at a deteriorated or deteriorating area;
 - The code enforcement activity, together with public or private improvements, rehabilitation, and services to be provided, may be expected to stop the decline of the area; and
 - The UGLG can certify that the existing conditions which the code enforcement is designed to alleviate pose a serious and immediate threat to the community, they are of recent origin or recently became urgent, the UGLG is unable to finance the activity, and other sources of funds are not available.



- ✓ To meet this national objective, a condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the state grant recipient's certification – 24 CFR 570.483(d).

5.6 Lead-Based Paint Hazard Evaluation And Reduction

This category encompasses costs associated with the evaluation and abatement of lead-based paint hazards. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible lead-based paint activities ✓ Documenting national objective for lead-based paint activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(25), Section 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> - Chapter 2, Chapter 3

5.6.1 Eligible Activities

- ✓ The costs associated with the evaluation and reduction of lead-based paint hazards are eligible expenses under CDBG whether undertaken alone or in conjunction with other rehabilitation. Lead-based paint evaluation and abatement can either be completed as its own activity, or may be CDBG-eligible as part of a rehabilitation activity.
- ✓ Typically these expenses might include:
 - Inspecting buildings for possible lead-based paint hazards;
 - Testing surfaces to see if they contain-lead based paint;
 - The abatement of lead hazards; and
 - Payment of temporary relocation costs to protect residents from hazards while abatement work is taking place.

5.6.2 Documenting the National Objective

LMI National Objective

- ✓ Lead-based paint hazard evaluation and reduction activities may qualify under the Housing category of the LMI Benefit national objective.
 - In order to provide these activities for homeownership units, the residents of the units must be LMI.
 - For rental units the following conditions must be met:
 - Rents must be set at levels, which are affordable to LMI persons. States or UGLG must adopt standards for determining “affordable rents”.
 - The general rule is that 51 percent of the units in each assisted structure are to be occupied by LMI households. There are two exceptions: CRSA “aggregation” and CDFI “aggregation.”



- ✓ Single unit properties must be occupied by a LMI household. In structures with two units, at least one must be occupied by a LMI household. For properties with three or more units, at least 51 percent must be occupied by LMI households.

Slum/Blight National Objective

- ✓ If a lead-paint activity does not directly benefit LMI persons, it may qualify under the Slum/Blight national objective. However, the use of this category should be limited due to the fact that states must ensure that 70 percent of CDBG expenditures benefit LMI persons.
 - The requirements for meeting the Slum/Blight national objective under the Area Basis category include:
 - The area delineated by the State in which the activity occurs meets a definition of a slum, blighted, deteriorated or deteriorating area under state or local law;
 - Public improvements throughout the area must be in a general state of deterioration OR at least 25 percent of properties throughout the area experience one or more conditions identified at § 570.483(b)(4)(D); and
 - The activity addresses one or more of the conditions, which contribute or contributed to the deterioration of the area. Caution: lead-based paint activity meets this requirement only if the building to be rehabilitated is considered substandard under local definition (at least Section 8 Housing Quality Standards). In addition, if non-critical items will be addressed through the rehabilitation, then all deficiencies making the building substandard must be eliminated. Thus, a program that involved only the evaluation and not the reduction of lead hazards would not qualify under the Area Slum/Blight category.
 - Lead-paint activities must be undertaken as part of an eligible rehabilitation activity in order to qualify under the Spot Slum/Blight national objective (because only acquisition, clearance, rehabilitation, relocation, brownfields and historic preservation are eligible under Spot Slum/Blight).
- ✓ See Chapter 3: National Objectives for more detailed information on slum/blight.

5.7 Historic Preservation

The preservation and restoration of publicly and privately owned properties of historical significance are generally eligible under CDBG. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible historic preservation activities ✓ Ineligible historic preservation activities ✓ Documenting national objective for historic preservation activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(1), Section 105(a)(4), Section 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> - Chapter 2, Chapter 3



5.7.1 **Eligible and Ineligible Activities**

Eligible Activities

- ✓ CDBG funds may be used for the preservation, rehabilitation or restoration of historic properties.
- ✓ Both publicly and privately owned properties are eligible, as are both commercial and residential properties.
- ✓ Historic properties are those sites or structures which are:
 - Listed or eligible to be listed in the National Register of Historic Places;
 - Listed in a State or local inventory of historic places; or
 - Designated as a State or local landmark or historic district by appropriate law or ordinance.
- ✓ Typical eligible costs include:
 - Historic preservation studies and plans;
 - Acquisition assistance to private individuals and entities, if the acquired property is to be used for residential purposes after rehabilitation;
 - The actual costs of rehabilitating, restoring or preserving the property; and
 - The cost of temporarily relocating residents while preservation work is performed.
- ✓ Additional eligible costs may include costs required by a State Historic Preservation Officer to permit the use of a historic structure for the public or private purposes intended.
- ✓ The National Historic Preservation Act of 1996 established a detailed list of procedures for actions involving historic structures. Prior to conducting any type of historic preservation activities, UGLG should contact their State Historic Preservations Officer (SHPO) to ensure compliance with the 1996 Act and other relevant statutes.

Ineligible Activities

- ✓ Historic preservation of buildings used for the general conduct of government is not eligible under CDBG.

5.7.2 **Documenting the National Objective**

- ✓ Documenting that historic preservation meets a national objective can be accomplished in different ways depending on whether the property is a residential or non-residential structure.

LMI National Objective

- ✓ Residential properties can qualify under the Housing category of the LMI Benefit national objective, meaning that at least 51 percent of the housing is inhabited by and affordable to LMI persons.



- ✓ Non-residential properties can qualify under the Area Benefit, Limited Clientele, or Job Creation/ Retention category of the LMI national objective.
 - To qualify under the Area Benefit category, the historic structure (such as a building used as a neighborhood center) must benefit all residents of an area where at least 51 percent of the residents are LMI. The area does not have to be the same as Census/American Community Survey tract borders or other officially recognized boundaries, but must be primarily residential.
 - To qualify under the Limited Clientele category, the property must benefit a specific targeted group of persons of which at least 51 percent must be LMI. This can be achieved by meeting one of the following criteria:
 - Serving at least 51 percent LMI, as evidenced by documentation and data concerning beneficiary family size and income;
 - Having income-eligibility requirements which limit the service to persons meeting the LMI income requirement, as evidenced by the administering agency's procedures, intake/application forms and other sources of documentation;
 - Serving a group primarily presumed to be LMI such as abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS and migrant farm workers; or
 - Being of such a nature and in a location that it may be concluded that the activity's clientele are LMI.
 - Public facilities such as homeless shelters or group homes for persons with special needs are just two examples of public facilities that may qualify under the Limited Clientele category. The populations served by these facilities serve populations that are presumed to be LMI.
 - To qualify under the job creation/retention category, the historic preservation must create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to or held by LMI.
 - Qualifying a historic preservation project under this set of criteria is unlikely. One possible scenario involves the restoration of a historic structure (e.g., theatre), which will lead to increased economic activity and create jobs, which are available to LMI.

Slum/Blight National Objective

- ✓ Historic preservation activities may meet the Slum/Blight National objective under the Area Basis or Spot Basis.
 - The requirements for meeting the Area Basis category include:
 - The area delineated by the State in which the activity occurs meets a definition of a slum, blighted, deteriorated or deteriorating area under state or local law;
 - Public improvements throughout the area must be in a general state of deterioration OR at least 25 percent of properties throughout the area experience one or more conditions identified at § 570.483(b)(4)(D); and
 - The activity addresses one or more of the conditions, which contribute or contributed to the deterioration of the area. In addition, if non-critical items will be addressed through



the rehabilitation then all deficiencies making the building substandard must be eliminated.

- To meet the Slum/Blight national objective under the Spot Basis category the activity must eliminate *specific* conditions of blight or physical decay on a spot basis not in a slum or blighted area (i.e., not in an area meeting the Area Basis category).
- ✓ See Chapter 3: National Objectives for more detailed information on documenting slum/blight.

5.8 Renovation Of Closed Buildings

This eligibility category generally refers to the renovation of closed buildings for use as an eligible public facility as well as both residential and commercial facilities. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible activities ✓ Ineligible activities ✓ Documenting national objective for renovation of closed buildings activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(4), Section 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> - Chapter 2, Chapter 3

5.8.1 Eligible and Ineligible Activities

Eligible Activities

- ✓ CDBG funds may be used to fund the renovation of closed buildings, such as closed school buildings, for use as an eligible public facility. Funds may also be used to rehabilitate and convert closed buildings for residential and commercial uses.

Ineligible Activities

- ✓ The following activities are not eligible to be funded by CDBG:
 - The costs of equipment, furnishings, or other personal property that are not integral structural fixtures, such as a window air conditioner or a clothes washer;
 - The installation of luxury items; and
 - The creation of a secondary housing unit attached to a primary unit.

5.8.2 Documenting the National Objective

LMI National Objective

- ✓ The renovation may qualify under the Area Benefit category if, after the renovation is complete, the property will be used for an activity that benefits the residents of a primarily residential area and at least 51% of those residents are LMI persons.



- ✓ Renovation may qualify under the Housing category if, after the renovation and rehabilitation is complete, the property will be used for housing to be occupied by LMI persons.
- ✓ Lastly, if a renovated, non-residential property will help create or retain permanent jobs and at least 51% of those jobs will benefit LMI persons, the renovation qualifies under the Jobs category.

Slum/Blight National Objective

- ✓ Renovation of a residential property may qualify under the Slum or Blighted Area category if:
 - The area delineated by the State in which the activity occurs meets a definition of a slum, blighted, deteriorated or deteriorating area under state or local law;
 - Public improvements throughout the area must be in a general state of deterioration OR at least 25 percent of properties throughout the area experience one or more conditions identified at § 570.483(b)(4)(D); and
 - The activity addresses one or more of the conditions, which contribute or contributed to the deterioration of the area. In addition, if non-critical items will be addressed through the rehabilitation then all deficiencies making the building substandard must be eliminated.
- ✓ See Chapter 3: National Objectives for more detailed information on documenting slum/blight.

Urgent Need National Objective

- ✓ Renovation of a closed building may qualify under this national objective if it is part of an activity designated to alleviate existing conditions and the UGLG certifies that those conditions are a serious and immediate threat to the health or welfare of the community, they are of recent origin or recently became urgent, the UGLG is unable to finance the activity on its own, and other sources of funds are not available.
 - A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the state grant recipient's certification – 24 CFR 570.483(d).

5.9 Handicapped Accessibility

This section outlines activities that are eligible and ineligible handicapped access activities under the CDBG program. The following is a summary of the topics in this section, applicable statutory and regulatory citations, and other reference materials available from HUD.

Key Topics in This Section	✓ Eligible handicapped access activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(5), Section 105(c)
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States - Chapter 2: Categories of Eligible Activities



5.9.1 Eligible Activities

- ✓ CDBG funds may be used for the removal of material and architectural barriers that restrict the accessibility or mobility of elderly or handicapped persons.
 - When carried out on residential, commercial or industrial properties, this type of work is considered rehabilitation under that eligibility category (570.482).
 - When carried out on some other type of property, the accessibility improvements are part of whatever type of activity is being carried out (e.g., accessibility improvements to a public facility would be eligible as a public facility project).

5.9.2 National Objectives

LMI Benefit National Objective

- ✓ If costs are restricted to the removal of material and architectural barriers, to the extent practical, such activities qualify under the L/M Income Limited Clientele benefit when:
 - The reconstruction of a public facility or improvement, or portion thereof, does not meet the category for L/M Income Benefit under Area Benefit;
 - The rehabilitation of a privately owned nonresidential building or improvement does not meet the category for L/M Income Benefit under Area Benefit or Jobs; or
 - The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and does not meet the category for L/M Income Benefit under Housing.
- ✓ If the new construction of a public facility or improvement cannot meet a national objective, then the features that are required in such construction in order to provide for handicapped accessibility also cannot meet a national objective.

5.10 Energy Efficiency

This section outlines energy efficiency activities that are eligible under CDBG.

Key Topics in This Section	✓ Eligible energy efficiency activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(2), Section 105(a)(8), Section 105(a)(16), Section 105(c)
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States - Chapter 2: Categories of Eligible Activities

5.10.1 Eligible Activities

- ✓ CDBG funds can be used for a wide range of eligible energy activities. The list is long and flexible. For example, you can
 - Weatherize a home or apartment building;
 - Install solar and wind equipment;
 - Finance energy-efficient rehabilitation;



- Establish energy standards, including recognition of the use of energy star for appliances and buildings;
 - Provide free audits and home energy ratings, free materials for insulation and other services;
 - Pay the cost of getting an energy star rating;
 - Produce energy from many sources, including hydroelectric, geothermal, biomass for gasohol, burning municipal waste, tapping methane gas from landfills;
 - Distribute energy through district heating and cooling systems and cogeneration (combined heat and power);
 - Prepare comprehensive community energy use strategies. These strategies may describe energy use, project demand and analyze options for conserving scarce fuels. They may outline how neighborhood revitalization and economic development strategies will support energy conservation, and how energy conservation will be integrated into local government operations.-conduct other activities the community determines will help meet its energy goals.
- ✓ However, please note that that weatherization and/ or installation of Energy Star light bulbs or appliances does not make a unit Energy Star certified.

5.10.2 National Objectives

- ✓ The national objective for energy efficiency activities depends upon the type of activity undertaken. Please refer to the applicable eligible activity chapters for more information on the national objective options.

5.11 Brownfields

This section outlines brownfields remediation and revitalization activities that are eligible under CDBG.

Key Topics in This Section	✓ Eligible brownfields activities
Statutory Citations	Section 101(c), Section 104(b), Section 205 of the FY 1999 HUD Appropriations Act, Section 105(c)
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States - Chapter 2: Categories of Eligible Activities

5.11.1 Eligible Activities

- ✓ In the 1999 HUD Appropriations Act, Congress explicitly stated the eligibility of environmental clean-up and economic development activities for brownfields.
- ✓ HUD recently added project-specific assessment and remediation of known or suspected environmentally contaminated sites to the list of eligible activities, which addresses brownfields activities.



5.11.2 National Objectives

- ✓ The national objective for brownfields activities depends upon the type of activity undertaken. Please refer to the applicable eligible activity chapters for more information on the national objective options.
- ✓ Note that HUD expanded the “slums or blight” national objective criteria in 2006 to include known and suspected environmental contamination as blighting influences. As evidence of blighting influences, HUD will accept signs of economic disinvestment, such as property abandonment, chronic high turnover rates; or chronic high vacancy rates in occupancy of commercial or industrial buildings; and significant declines in property values.
- ✓ HUD also changed the definitions required to substantiate how the area met the “slums or blight” criteria. Specifically, UGLG would be required to define deteriorating or deteriorated buildings or improvements, abandonment of properties, chronic high turnover rates, chronic high vacancy rates, significant declines in property values, abnormally low property values, and environmental contamination. At least 33 percent of the properties in the designated area meet one or more of these conditions and the “slums or blight” designation for the area must be re-determined every 5 years.

5.12 Summary of National Objective Options for Other Real Property Improvements

- ✓ All CDBG activities must meet a national objective in order to be eligible to use CDBG funds.
- ✓ The following chart summarizes the national objective options related to other real property activities. The text in each section above provides additional details for each specific type of activity. For a complete copy of the matrix codes and national objectives chart, please see the IDIS chapter of this manual.

HUD Matrix Code	Activity	LMA	LMC	LMH	LMJ	SBA	SBS	URG
1	Acquisition of Real Property							
2	Disposition						N	
4	Clearance and Demolition							
04A	Cleanup of Contaminated Sites							
14F	Energy Efficiency Improvements	N	N		N			
14I	Lead Based Paint/Hazards Test/Abatement	N	N		N			
15	Code Enforcement		N	N	N		N	
16A	Residential Historic Preservation	N	N		N			N
16B	Non-Residential Historic Preservation			N				N



19E	CDBG Operation and Repair of Foreclosed Property		N		N	N	N	N
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CHAPTER 6: PUBLIC FACILITIES, SPECIAL ASSESSMENTS AND PRIVATELY-OWNED UTILITIES



CHAPTER PURPOSE & CONTENTS

This chapter provides states with information on CDBG-eligible public facilities and improvement activities, special assessments, and privately owned utilities. This chapter also discusses how to determine the appropriate national objective category for these types of activities.

SECTION	TOPIC
6.1	Public Facilities and Improvements
6.2	Special Assessments
6.3	Privately –Owned Utilities
6.4	Summary of National Objective Options for Public Facilities, Special Assessments and Privately Owned Utilities

6.1 Public Facilities and Improvements

Under the CDBG Program, states and UGLG may use funds to undertake a variety of public facilities and public improvement projects. In general, public facilities and public improvements are interpreted to include all facilities and improvements that are publicly owned, or that are owned by a nonprofit and open to the general public. The following is a summary of the topics in this section, applicable statutory and regulatory citations, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none">✓ Eligible public facilities activities✓ Ineligible activities✓ National objective for public facilities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(2), Section 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ Guide to National Objectives and Eligible Activities for States<ul style="list-style-type: none">- Chapter 2, Chapter 3✓ CPD Notice 04-07

6.1.1 Eligible and Ineligible Activities

Eligible Activities

- ✓ The acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements are eligible activities under CDBG and can be carried out by a UGLG, subgrantees, or other nonprofit. Public facilities may only be owned by these types of entities.



- ✓ Eligible types of facilities and improvements include:
 - Infrastructure improvements (construction or installation) including, but not limited to streets, curbs, and water and sewer lines;
 - Neighborhood facilities including, but not limited to public schools, libraries, recreational facilities, parks, playgrounds; and
 - Facilities for persons with special needs such as facilities for the homeless or domestic violence shelters, nursing homes, or group homes for the disabled.
- ✓ Eligible costs associated with eligible activities may include:
 - Energy efficiency improvements;
 - Handicapped accessibility improvements (including improvements to buildings used for general conduct of government); and
 - Architectural design features and other treatments aimed at improving aesthetic quality (e.g., sculptures, fountains).
- ✓ If the assisted facility is owned by a nonprofit, the CDBG regulations stipulate that the facility must be open to the public during normal working hours.

Ineligible Activities

- ✓ The maintenance and repair of public facilities and improvements is generally ineligible (e.g., filling potholes, repairing cracks in sidewalks, mowing grass at public recreational areas or replacing street light bulbs).
- ✓ Operating costs associated with public facilities or improvements are ineligible unless part of a CDBG-assisted public service activity or eligible as an interim assistance activity.
- ✓ A public facility otherwise eligible for assistance under the CDBG program may be assisted with CDBG funds even if it is part of a multiple use building containing ineligible uses, if:
 - The public portion of the facility that is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and
 - The state can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility. Allowable costs are limited to those attributable to the eligible portion of the building or facility.

6.1.2 National Objective

LMI Benefit National Objective

- ✓ CDBG-funded public facilities and improvements will typically be categorized under the LMI Benefit national objective as an Area Benefit activity.
 - Under the area benefit criteria, the public facility/improvement must benefit **all** residents of an area where at least 51 percent of the residents are LMI. The service area need not have coterminous boundaries with Census/American Community Survey tract borders or other officially recognized boundaries, but must be primarily residential in nature.
 - If qualifying an activity under the Area Benefit criteria, records to keep include:



- Boundaries of the service area;
 - Documentation that the area is primarily residential (e.g., zoning map); and
 - Income characteristics of households in the services area (Census data/American Community Survey data).
- ✓ Public facilities funded by CDBG may sometimes qualify under the Limited Clientele criteria of the LMI national objective. The regulation stipulates that the facility benefit a specific targeted group of persons, of which at least 51 percent must be low- and moderate-income. This can be achieved by meeting one of the following criteria:
- Serving at least 51 percent LMI, as evidenced by documentation and data concerning beneficiary family size and income;
 - Having income-eligibility requirements that limit the service to persons meeting the LMI income requirement, as evidenced by the administering agency's procedures, intake/application forms and other sources of documentation;
 - Serving a group primarily presumed to be LMI such as abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or
 - Being of such a nature and in a location that it may be concluded that the activity's clientele are LMI.
- ✓ Public facilities such as homeless shelters or group homes for persons with special needs are just two of the examples of public facilities that may qualify under the Limited Clientele criteria. The populations served by these facilities are populations that are presumed to be LMI persons or families.
- ✓ Public facilities or improvements can also qualify under the LMI housing national objective if the facility exclusively assists in the provision of housing to be occupied by LMI income individuals.
- ✓ If the UGLG is undertaking public facilities or improvements under the LMI job creation and retention national objective category and more than one business will be served, the 51 percent LMI job requirement may be met by aggregating the jobs created or retained by affected businesses under the following criteria:
- If the CDBG cost per job created or retained is less than \$10,000 per FTE, the state and UGLG must ensure that 51 percent of the jobs created or retained by the businesses for which the facility/improvement is principally undertaken are available to or held by LMI persons.
 - If the CDBG cost per job created or retained is \$10,000 or more per FTE, the state and UGLG must ensure that 51 percent of the jobs created or retained by all businesses in the service area of the facility/improvement are available to or held by LMI persons. This includes all businesses, which as a result of the public facility/improvement, locate or expand in the service area between the date the activity is identified in the action plan and one year after completion of the facility/improvement. In addition, the assisted activity must comply with the public benefit standards.



- ✓ The nature of job creation public facility activities means that states must carefully plan these projects and track the businesses and jobs that result. Specifically:
 - It is important to determine the amount of CDBG funds that will be spent per job created/retained. Some communities limit the amount to less than \$10,000 to keep things simple and minimize tracking to only the business(es) for which the improvement is undertaken (vs. any others that benefit within one year after completion).
- ✓ AND
 - The state and UGLG should ensure that it has appropriate and enforceable legal documents in place running with the land and/or with each business that benefits from the improvement. This is particularly important if the cost per job will be more than \$10,000 because national objective documentation must be obtained and maintained even if the businesses moved in after the facility/improvement was completed (up to one year).
- ✓ Under 570.483(e)(1) if the public facility serves a primarily residential area, it must meet the area benefit criteria even if it is also providing low-and moderate income jobs.

Slum/Blight National Objective

- ✓ Public facilities and improvements and historic preservation activities that aid in the prevention or elimination of slums or blight in a designated area may qualify under the Slum/Blight national objective Area Basis. The activity must meet the following criteria in order to qualify:
 - The area in which the activity occurs must be designated as slum or blighted. The following tests apply:
 - The delineated area in which the activity occurs must meet a definition of a slum, blighted, deteriorated or deteriorating area under state or local law;
 - Additionally, the area must also meet either one of the two conditions specified below:
 - At least 25 percent of the properties throughout the area exhibit the following:
 - (a) Physical deterioration of buildings/improvements;
 - (b) Abandonment of properties;
 - (c) Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;
 - (d) Significant declines in property values or abnormally low property values relative to other areas in the community; or
 - (e) Known or suspected environmental contamination.
 - Public improvements throughout the area are in a general state of deterioration.
 - Documentation must be maintained by the state on the boundaries of the area and the conditions that qualified the area at the time of its designation. The designation of an area as slum or blighted must be re-determined every 10 years for continued qualifications



Urgent Needs National Objective

- ✓ Public facilities or improvement activities may also qualify under the Urgent Needs national objective if the following qualifications are met:
 - The existing conditions must pose a serious and immediate threat to the health or welfare of the community;
 - The existing conditions are of recent origin or recently became urgent. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the state grant recipient's certification and the State's determination – 24 CFR 570.483(d);
 - The UGLG is unable to finance the activity on its own; and
 - Other sources of funding are **not** available.

6.2 Special Assessments

Special assessments are used to recover the capital costs of a public improvement through a fee levied or a lien filed against a parcel of real estate, either as:

- ✓ A direct result of the benefit derived from the installation of a public improvement; or
- ✓ A one-time charge made as a condition of access to an improvement.

The following is a summary of the topics in this section, applicable statutory and regulatory citations, and other reference materials available from HUD.

Key Topics in This Section	✓ Eligible Special Assessment Activities ✓ Ineligible Activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(c)
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States - Chapter 2, Chapter 3

6.2.1 Eligible and Ineligible Activities

Eligible Activities

- ✓ The state CDBG regulations do not discuss special assessments but states may refer to the entitlement regulations for guidance.
- ✓ Special assessment activities under CDBG can be used to:
 - Recover capital costs of a public improvement; and/or
 - Pay for special assessments for public improvements not initially assisted with CDBG funds.
- ✓ In order to recover CDBG funds used to pay for all or part of the cost of a public improvement, special assessments may be imposed:
 - To recover CDBG funds only against properties owned and occupied by non LMI persons (and such assessments are program income); or



- To recover non-CDBG monies, provided that CDBG funds are used to pay the special assessment on behalf of all properties owned and occupied by LMI persons. (CDBG funds do not have to be used to pay special assessments on behalf of properties owned/occupied by moderate-income residents if the state does not have sufficient CDBG funds to pay the assessments on behalf of all the LMI owner/occupants).
- ✓ CDBG funds may be used to pay for special assessments for public improvements not initially assisted with CDBG funds, provided:
 - The installation of the public improvements was carried out in compliance with all applicable requirements (e.g., environmental, citizen participation and Davis-Bacon); and
 - The CDBG funds are used to pay the special assessment on behalf of all LMI owner occupants (or for low-income owner/occupants only if there are not sufficient funds to pay for all low- and moderate-income owner occupants).

Ineligible Activities

- ✓ Special assessments are not taxes and the establishment of the value of real estate for the purpose of any type of taxes is ineligible.
- ✓ Periodic charges based on the use of a public improvement, such as water or sewer user charges, even if the charges include the recovery of all or some portion of the capital costs of the public improvement, are ineligible.

6.2.2 National Objective

LMI Benefit National Objective

- ✓ Special assessments will typically be categorized under the LMI Benefit national objective. The same criteria required for public facilities under the area benefit national objective category apply in the case of special assessments; therefore, refer to the section above for detailed guidance.

Slum/Blight National Objective

- ✓ Special assessments may also qualify under the Slum/Blight national objective. The same criteria required for public facilities under the slum/blight national objective apply in the case of special assessments; therefore, refer to the section above for detailed guidance.

Urgent Needs National Objective

- ✓ Special assessments may also qualify under the Urgent Needs national objective. The same criteria required for public facilities to be documented as an urgent need apply in the case of special assessments; therefore, refer to the section above for detailed guidance.

6.3 Privately-Owned Utilities

Privately owned utilities are those owned by a private company rather than a public agency. The rehabilitation or construction of these utilities may be undertaken with CDBG funds under certain conditions. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.



Key Topics in This Section	✓ Eligible Activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(c)
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States - Chapter 2, Chapter 3

6.3.1 Eligible Activities

Eligible Activities

- ✓ CDBG funds may be used by a UGLG, subgrantees, and other for-profit and public entities to acquire; construct; reconstruct; rehabilitate; and install the distribution lines and related facilities for privately-owned utilities.
- ✓ A privately-owned utility refers to service that is publicly regulated and is provided through the use of physical distribution lines to private properties.
- ✓ Utilities include, but are not limited to, electricity, telephone, water, sewer, natural gas, and cable television.

6.3.2 National Objectives

LMI Benefit National Objective

- ✓ Privately-owned utility activities may qualify under the LMI benefit national objective. The same requirements for documentation as for public facilities apply; therefore, refer to the national objective section on public facilities for detailed guidance.

Slum/Blight National Objective

- ✓ Additionally, privately-owned utilities activities that aid in the prevention or elimination of slums or blight in a designated area may qualify under the slum/blight national objective. The same criteria for a public facility to meet this national objective apply; therefore, refer to the section above for detailed guidance.

Urgent Needs National Objective

- ✓ Privately-owned utilities may also qualify under the Urgent Needs national objective. The same criteria required for public facilities to be documented as an urgent need apply in the case of privately-owned utilities; therefore, refer to the section above for detailed guidance.

6.4 **Summary of National Objective Options for Public Facilities, Special Assessments and Privately Owned Utilities**

- ✓ The following chart summarizes the national objective options related to public facility activities. The text in each section above provides additional details for each specific type of



activity. For a complete copy of the matrix codes and national objectives chart, please see the IDIS chapter of this manual.

HUD Matrix Code	Activity	LMA	LMC	LMH	LMJ	SBA	SBS	URG
3	Public Facilities and Improvements (General)							
03A	Senior Centers	N		N				
03B	Handicapped Centers	N		N				
03C	Homeless Facilities (not operating costs)	N		N				
03D	Youth Centers	N		N				
03E	Neighborhood Facilities			N				
03F	Parks, Recreational Facilities			N	N			
03G	Parking Facilities			N				
03H	Solid Waste Disposal Improvements							
03I	Flood Drainage Improvements							
03J	Water/Sewer Improvements							
03K	Street Improvements							
03L	Sidewalks							
03M	Child Care Centers	N		N				
03N	Tree Planting							
03O	Fire Station/Equipment		N	N	N			
03P	Health Facilities			N				
03Q	Abused and Neglected Children Facilities	N		N				
03R	Asbestos Removal			N				
03S	Facilities for AIDS Patients (not operating costs)	N		N				
11	Privately Owned Utilities							

CHAPTER 7: PUBLIC SERVICES



CHAPTER PURPOSE & CONTENTS

This chapter covers the CDBG-eligible and ineligible public service activities as well as guidance on how to determine the appropriate national objective category for public services, and how to document compliance with the national objective.

SECTION	TOPIC
7.1	Eligible and Ineligible Public Service Activities
7.2	Public Services Cap
7.3	Documenting National Objectives

7.1 Eligible and Ineligible Public Service Activities

This section outlines activities that are eligible and ineligible public services under the CDBG program. The following is a summary of the topics in this section, applicable statutory and regulatory citations, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none">✓ Eligible Public Services Activities✓ Ineligible Activities
Statutory Citations	Section 105(a)(8)
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ Guide to National Objectives and Eligible Activities for States<ul style="list-style-type: none">- Chapter 2: Categories of Eligible Activities

7.1.1 Eligible Public Service Activities

- ✓ The CDBG regulations allow the use of grant funds for a wide range of public service activities, including, but not limited to:
 - Employment services (e.g., job training);
 - Crime prevention and public safety;
 - Child care;
 - Health services;
 - Substance abuse services (e.g., counseling and treatment);
 - Fair housing counseling;
 - Education programs;
 - Energy conservation;
 - Services for senior citizens;



- Services for homeless persons;
 - Welfare services (excluding income payments);
 - Down payment assistance (also refer to Chapter 4); and
 - Recreational services.
- ✓ CDBG funds may be used to pay for labor, supplies, and material as well as to operate and/or maintain the portion of a facility in which the public service is located. This includes the lease of a facility, equipment, and other property needed for the public service.
 - ✓ To utilize CDBG funds for a public service, the service must be either:
 - A new service; or
 - A quantifiable increase in the level of an existing service which has been provided by the state or another entity on its behalf through state or local government funds in the 12 months preceding the submission of the state's Consolidated Plan Annual Action Plan to HUD.
 - An exception to this requirement may be made if HUD determines that any decrease in the level of a service was the result of events not within the control of the local government.
 - ✓ This provision was put into place to ensure that localities did not use CDBG funds to replace local or state monies to fund essential services typically offered by the local government entity.
 - ✓ Specifically, the public services provision applies in the following manner:
 - If a service is new, it may be funded.
 - If a service is existing, determine whether it was provided by or on behalf of the unit of local government with local or state funding.
 - If it was not provided by or on behalf of the local government with funding from the local government, it may be funded,
 - If it was provided by or on behalf of the local government with funding from the local government, states must determine whether the proposed service will be a quantifiable increase in the level of service. If it can be documented that the service is a quantifiable increase in the level of service, it may be funded.
 - The regulations do not prohibit a state and UGLG from continuing to provide funding to a CDBG-funded public service at the same or decreased level in subsequent program years.

7.1.2 Ineligible Public Service Activities

- ✓ The provision of “income payments” is an ineligible CDBG activity if these payments are provided as a grant.



- Income payments are payments to an individual or family, which are used to provide basic services such as food, shelter (including payment for rent, mortgage, and/or utilities) or clothing.
- However, the entitlement rules, which states may use as guidance, note that such expenditures are eligible under the following conditions:
 - The income payments do not exceed three consecutive months; and
 - The payments are made directly to the provider of such services on behalf of an individual or family.
- Income payments that are provided as a loan are permissible within the public services cap.
- ✓ Political activities are ineligible.

7.2 Public Services Cap


The following is a summary of the topics in this section, applicable statutory and regulatory citations, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ The public services cap ✓ Public services cap exceptions
Statutory Citations	
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> - Chapter 2: Categories of Eligible Activities

- ✓ The total amount of CDBG funds **expended** statewide for public services activities must not exceed 15 percent of the state's yearly allocation of funds **plus** 15 percent of program income received distributed by the state under its method of distribution.
 - Note that this cap applies to the entire state allocation not to the amount of funds allocated by the state to any one UGLG.
- ✓ Public services carried out by UGLG subgrantees **are subject to** the 15 percent public services cap.
- ✓ Because the public services category covers numerous important activities but is limited by the 15 percent cap, States and UGLG should make efforts to see if a service type activity meets another CDBG eligibility category. For example, removing graffiti from public buildings is a public service. However assisting private properties with graffiti removal may be better categorized as eligible property rehabilitation activities.
- ✓ In addition, the CDBG regulations offer flexibility in using CDBG for certain public services, particularly services designed to increase employment opportunities, **outside** of the 15 percent cap. The eligibility options include:
 - Provision of assistance to microenterprises as a separate eligible activity. This includes technical assistance, business support services, and other similar services to owners of microenterprises or persons developing microenterprises;



- Certain job training and job placement services are considered to be an activity delivery cost if provided in connection with eligible economic development projects;
 - Job training, job placement and other employment support services that are carried out by a qualified 105(a)(15) nonprofit development organization as part of certain types of projects, and which are specifically designed to increase economic opportunities including peer support programs, child care, counseling, transportation and other similar services; and
 - Any type of services carried out by a qualified 105(a)(15) nonprofit development organization as part of certain types of projects, pursuant to a strategy as part in a state-approved CRSA.
- ✓ Economic development services carried out ***in connection with*** special economic development activities also do ***not*** count against the 15 percent cap. These services include:
- Outreach efforts to market available assistance;
 - Screening of applicants;
 - Reviewing and underwriting applications for assistance;
 - Preparation of all necessary agreements;
 - Management of assisted activities; and
 - Screening/referral/placement of applicants for jobs generated by CDBG-eligible economic development activities, including training for those persons filling positions.

	Public Services Cap Calculation Example	
CDBG annual allocation amount		\$1,000,000
<i>Plus</i> distributed program income		<u>+ 100,000</u>
<i>Equals</i> amount subject to cap		\$1,100,000
<i>Multiplied by</i> 15%		<u>x 0.15</u>
<i>Equals</i> maximum funds that can be expended for public services		\$165,000



7.3 Documenting National Objectives

The following is a summary of the topics in this section, applicable statutory and regulatory citations, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ LMI Benefit National Objective ✓ Slum/Blight National Objective ✓ Urgent Needs National Objective
Statutory Citations	Section 101(c), Section 104(b), Section 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States - Chapter 3: Meeting a National Objective

7.3.1 National Objective Summary Chart

- ✓ The following chart summarizes the national objective options related to public services. The text below provides additional details. For a complete copy of the matrix codes and national objectives chart, please see the IDIS chapter of this manual.

HUD Matrix Code	Activity	LMA	LMC	LMH	LMJ	SBA	SBS	URG
5	Public Services (General)			N	N		N	
05A	Senior Services	N		N	N		N	
05B	Handicapped Services	N		N	N		N	
05C	Legal Services			N	N		N	
05D	Youth Services	N		N	N		N	
05E	Transportation Services			N	N		N	
05F	Substance Abuse Services			N	N		N	
05G	Battered and Abused Spouses	N		N	N		N	
05H	Employment Training			N	N		N	
05I	Crime Awareness			N	N		N	
05J	Fair Housing Activities (Subject to Pub. Services Cap)			N	N		N	
05K	Tenant/Landlord Counseling	N		N	N		N	
05L	Child Care Services	N		N	N		N	
05M	Health Services			N	N		N	
05N	Abused and Neglected Children	N		N	N		N	
05O	Mental Health Services			N	N		N	
05P	Screening for Lead Based Paint/Lead Hazards	N		N	N		N	
05Q	Subsistence Payments	N		N	N		N	



05R	Homeownership Assistance (not direct)	N	N		N		N	
05S	Rental Housing Subsidies	N	N		N		N	
05T	Security Deposits	N	N		N		N	
05U	Housing Counseling	N	N		N	N	N	N

7.3.2 LMI Benefit National Objective

- ✓ CDBG-funded public service activities are typically categorized under the LMI Benefit National Objective as either Area Benefit or Limited Clientele activities. As shown in exhibit 7-1 below, the distinguishing factor between the two categories is whether the service will be offered to **all** residents of a particular LMI income area **or** to a particular group of LMI residents in the entire community.
- ✓ Under the Area Benefit criteria, the public service must be offered to **all** residents of an area where at least 51 percent of the residents are LMI. The area must be clearly delineated by the State and must be primarily residential.
- ✓ To document qualification of public service activities under this objective:
 - Maintain records of the boundaries of the service area;
 - Document that the area is primarily residential (e.g., zoning map); and
 - Document the income characteristics of households in the service area (i.e., Census data/American Community Survey data).
- ✓ Limited Clientele activities benefit a specific targeted group of persons of which at least 51 percent must be LMI. In order to meet the LMI Limited Clientele criteria, the activity must:
 - Serve at least 51 percent LMI, as evidenced by documentation and data concerning beneficiary family size and income;
 - Have income-eligibility requirements which limit the service to persons meeting the LMI income requirement, as evidenced by the administering agency's procedures, intake/application forms, income limits, and other sources of documentation;
 - Serve a group primarily presumed to be LMI such as abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS and migrant farm workers; or
 - Be of such a nature and in a location that it may be concluded that the activity's clientele are LMI.



Exhibit 7-1
Determining if a Public Service Activity Qualifies
As an Area Benefit or Limited Clientele Activity

Issue for Consideration	If an Area Benefit Activity...	If a Limited Clientele Activity...
Who will the service be provided to?	All residents of a LMI area (i.e., area with at least 51 percent LMI residents)	A limited group of persons, either LMI or presumed to be LMI, regardless of where they live
Where will the service be provided?	In a particular neighborhood	Not specific; could be offered to more than one neighborhood or city- or county-wide
What are the income levels in the area where the service will be delivered?	At least 51 percent LMI residents in area	Not applicable; eligibility based on clients served (but generally at least 51% must be LMI)

7.3.3 Slum/Blight National Objective

- ✓ Public service activities that aid in the prevention or elimination of slums or blight in a designated area may qualify under the Slum/Blight National Objective (Area Basis). However, this category is rarely used for public service activities due to the fact that the activity must meet the following qualifying criteria:
 - The area in which the activity occurs must be designated as slum or blighted. The following tests apply:
 - The delineated area in which the activity occurs must meet a definition of a slum, blighted, deteriorated or deteriorating area under state or local law;
 - The area must also meet either one of the two conditions specified below:
 - At least 25 percent of the properties throughout the area exhibit the following:
 - (a) Physical deterioration of buildings/improvements;
 - (b) Abandonment of properties;
 - (c) Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;
 - (d) Significant declines in property values or abnormally low property values relative to other areas in the community; or
 - (e) Known or suspected environmental contamination.
 - Public improvements throughout the area are in a general state of deterioration.
 - Documentation must be maintained by the State on the boundaries of the area and the conditions that qualified the area at the time of its designation. The designation of an area as slum or blighted must be re-determined every 10 years for continued qualifications



7.3.4 Urgent Needs

- ✓ It is possible for public services activities to qualify under this National Objective if the public service is designed to alleviate existing conditions that pose a serious and immediate threat the health or welfare of the community and following conditions are met:
 - The conditions are of recent origin or recently became urgent. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the state grant recipient's certification – 24 CFR 570.483(d); and
 - The UGLG is unable to secure other funds to support the activity.

CHAPTER 8: ECONOMIC DEVELOPMENT & SECTION 108



CHAPTER PURPOSE & CONTENTS

This chapter covers economic development activities that are eligible for assistance under the CDBG Program. The chapter provides information on and the economic development underwriting guidelines and the public benefit standards requirements applicable to certain economic development projects. The Section 108 loan guarantee program is also reviewed.

SECTION	TOPIC
8.1	Eligible and Ineligible Activities
8.2	Meeting and Documenting a National Objective
8.3	Underwriting Guidelines and Public Benefit Standards
8.4	Section 108 Loan Guarantee Program

8.1 Eligible and Ineligible Activities

- ✓ Creating economic opportunities and jobs are among the key CDBG activities funded by many states. This section highlights the ways that economic development projects can be funded under CDBG.

Key Topics in This Section	<ul style="list-style-type: none">✓ Eligible Activities<ul style="list-style-type: none">– Key ways to undertake economic development activities✓ Ineligible Activities
Statutory Citations	Section 105(a)(2), Section 105(a)(4), Section 105(a)(14), Section 105(a)(15), Section 105(a)(17), Section 105(a)(19)
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ Guide to National Objectives and Eligible Activities for States<ul style="list-style-type: none">– Chapter 2

8.1.1 Eligible Activities

- ✓ The CDBG program recognizes several key ways that economic development may be undertaken.
- ✓ **Special economic development.** CDBG funds may be used to undertake certain economic development activities. These activities include:
 - Acquiring, constructing, reconstructing, rehabilitating, or installing commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. These are economic development projects undertaken by nonprofit entities and UGLG (public entities).



- Assisting a private, for-profit business. Assistance may include grants, loans, loan guarantees, and technical assistance; and
- Providing economic development services in connection with otherwise eligible CDBG economic development activities.
- ✓ **Economic development undertaken by nonprofit development organizations under 105(a)(15) of the statute.** These are activities designed to assist in neighborhood revitalization or community economic development and are carried out by an organization that qualifies as a nonprofit development organization under the HCDA statute at 105(a)(15). See chapter 2 for more information about these organizations.
 - In addition to meeting one of the organizational types listed above, the entity must be carrying out neighborhood revitalization, community economic development or energy conservation projects.
- ✓ **Technical assistance to businesses.** This activity involves providing technical assistance and training directly to businesses on topics such as business planning or accounting. This activity may be undertaken under several different eligibility categories, assuming that the activity will meet a national objective:
 - As a part of a special economic development project;
 - To the owner of a microenterprise;
 - As a public service; and
 - By a nonprofit development organization as a part of an eligible 105(a)(15) project.
- ✓ **Microenterprise development.** These are activities designed to foster the development, support, and expansion of microenterprise businesses.
 - A microenterprise is defined as a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise.
 - Under the entitlement regulations, which states may use as guidance, a “person developing a microenterprise” refers to a person who has expressed an interest and who is, or after an initial screening process is expected to be, actively working toward developing a business that will be a microenterprise at the time it is formed.
 - Eligible microenterprise activities include the provision of:
 - Grants, loans, loan guarantees and other forms of financial support, for the establishment, stabilization, and expansion of microenterprises;
 - Technical assistance, advice, and business services to owners of microenterprises and persons developing microenterprises;
 - General support to owners of microenterprises and persons developing microenterprises including child care, transportation, counseling and peer support groups; and
 - Training and technical assistance or other support services to increase capacity of states or subgrantees to carry out microenterprise activities.



- ✓ **Commercial rehabilitation.** These are activities that are designed to bring commercial structures up to code or improve their facades.
 - If the commercial structure is owned by a private, for-profit entity, the following limitations apply:
 - Rehabilitation is limited to the exterior of the building and the correction of code violations; and
 - Any other improvements are carried out under the special economic development activities category discussed above.
- ✓ **Public facilities and improvements.** These are public works that support economic development endeavors. Public works facilities and improvements includes infrastructure projects such as off-site water, sewer, roads, drainage, railroad spurs and other types of public facilities or improvements.
- ✓ **Job training.** Job training involves providing skill building classes to employees or potential employees and can be an important part of an economic program. This activity can be undertaken:
 - As a part of a special economic development project;
 - As a public service;
 - By a nonprofit development organization as a part of an eligible 105(a)(15) project; or
 - As a part of microenterprise assistance package to the owner of a micro business for his or her employees.

8.1.2 Ineligible Activities

- ✓ Activities not described above are generally ineligible; however, nonprofit development organizations under 105(a)(15) can undertake many otherwise ineligible activities when they retain direct and controlling involvement in a qualified project.
- ✓ The following restrictions apply when a nonprofit development organization under 105(a)(15) undertakes an activity:
 - They may not carry out otherwise ineligible activities (i.e., general government buildings or expenses, or political activities); and
 - They cannot carry out special economic development activities that do **not** meet the state's underwriting guidelines for such projects **and** HUD's mandatory public benefit standards.
- ✓ Nonprofit development organizations are authorized to carry out public services that exceed the 15 percent public services cap when the services are specifically designed to increase economic opportunities through job training/placement and other employment support services.
- ✓ Nonprofit development organizations may also provide public services of any type outside of the public services cap if the services are undertaken as part of a state-approved Community Revitalization Strategy Area (CRSA).



- ✓ Nonprofit development organizations may not carry out program administration or planning activities that would result in the state exceeding the 20 percent limit on such expenditures.
- ✓ Job pirating is prohibited under Section 588 of the Quality Housing and Work Responsibility Act of 1998. Job pirating refers to the use of federal funds to lure or attract a business and its jobs from one labor market to another. (See exhibit 8-1 below for further information)

**EXHIBIT 8-1:****SUMMARY OF ANTI-PIRATING RULE**

In 1998, Section 105 of the HCDA was amended by section 588 of the Quality Housing and Work Responsibility Act, which added Subsection (h) titled Prohibition on Use of Assistance for Employment Relocation Activities to the HCDA. This provision was added to address a number of concerns raised over the expenditure of federal funds.

- Subsection (h) of the statute indicates that CDBG funds may not be used “to assist directly the relocation of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation likely to result in a significant loss of employment in the labor market area from which the relocation occurs.”
- The statute did not clearly define several items, which HUD has addressed in an interim rule published in the Federal Register on December 23, 2005 (note that this rule follows publication of an October 24, 2000, proposed rule and takes into consideration comments made by the public). The interim rule took effect on February 21, 2006 (which is also the end of the public comment period) and the rule was finalized on May 24, 2006.

Rule clarifications:

- **Direct Assistance** – The HCDA authorizes direct assistance to for-profit businesses, for-profit businesses, CBDOS, and other non-profit entities that target economic development activities. The interim rule:
 - Prohibits the provision of CDBG assistance to for-profit businesses and CBDOS (does not apply to non-profit entities), if the relocation of a plant or facility resulted in a significant loss of jobs in the area from which the relocation occurs.
 - Some exceptions as explained in the rule, including.
 - Public facilities; and
 - Indirect assistance that will provide benefit to multiple businesses unless it includes the provision of infrastructure to aid a specific business.
- **Significant loss of employment** – The statute did not define the term “significant job loss”.
 - The interim rule establishes a de minimis definition of job loss – a loss of 25 or fewer jobs would not constitute a significant job loss.
 - The loss of 500 jobs or more would constitute a significant job loss and would invoke job pirating rule.
 - Job losses between 25 - 500 must be less than 0.1 percent of the areas labor force, (i.e. the area losing jobs) to avoid being counted as significant.



EXHIBIT 8-1: CONTINUED

- **Labor Market Area (LMA)** – The statute did not define who determined the labor market area.
 - States may define their LMA using the following:
 - Area defined as LMA based upon Bureau of Labor Statistics (BLS) data; or
 - Combine non-metropolitan LMAs.
 - States are required to define or reaffirm prior definitions of their LMAs on an annual basis and retain records to substantiate such areas prior to any business relocation that would be impacted by this rule.
- **Company Relocation** –The rule indicates that:
 - Any relocation that results in less than 25 jobs would not invoke the rule and any relocation over 500 jobs would automatically invoke the rule.
 - Measures would have to be taken to determine percentage of jobs lost would invoke rule—must be less than 0.1 percent of LMA.
- **Infrastructure** - Infrastructure improvements are considered same as direct assistance under certain conditions. See section above on direct assistance for further information.
- **Time limits** -- The final rule establishes time limits on the applicability of the anti-piracy requirements. Generally, a job will be considered to be relocated if positions are eliminated at an existing operation within 3 years after the provisions of CDBG assistance to the operation.



- ✓ CDBG funds may not be used to assist for-profit businesses, including expansions, as well as infrastructure improvement projects or business incubator projects designed to facilitate business relocation IF:
 - The funding will be used to assist directly in the *relocation* of a plant, facility or operation; and
 - The relocation is likely to result in a significant loss of jobs in the labor market area from which the relocation occurs.
- ✓ The following are definitions to assist in determining if a business location falls under these provisions:
 - Labor Market Area (LMA): An LMA is an economically integrated geographic area where individuals can live and work within a reasonable distance or can readily change employment without changing their place of residence.
 - Operation: A business operation includes, but is not limited to, any equipment, production capacity or product line of the business.
 - Significant Loss of Jobs:
 - A loss of jobs is significant if:
 - The number of jobs to be lost in the LMA in which the affected business is currently located is equal to or greater than one-tenth of one percent of the total number of persons in the labor force of that LMA ;
 - OR in all cases
 - A loss of 500 or more jobs.
 - A job is considered to be lost due to the provision of CDBG assistance if the job is relocated within three years of the provision of assistance to the business.
 - Notwithstanding the above definition, a loss of 25 jobs or fewer does not constitute a significant loss of jobs.
- ✓ Before directly assisting a business with CDBG funds the state and UGLG shall include appropriate language in the written agreement with the assisted business to ensure that no pirating has occurred. In addition to other programmatic clauses, the written agreement shall include:
 - A statement from the assisted business as to whether the assisted activity will result in the relocation of any industrial or commercial plant, facility, or operation from one LMA to another, and, if so, the number of jobs that will be relocated from each LMA.
 - If the assistance will not result in a relocation covered by this section, a written certification from the assisted business that neither it, nor any of its subsidiaries, have plans to relocate jobs at the time the agreement is signed that would result in a significant job loss as defined in this rule; and
 - The agreement shall provide for reimbursement of any assistance provided to, or expanded on behalf of, the business in the event that assistance results in a relocation prohibited under this section.



8.2 Meeting and Documenting a National Objective

- ✓ This section describes the national objectives that may be used for economic development activities.

Key Topics in This Section	✓ LMI Benefit <ul style="list-style-type: none"> – LMI Area Benefit – LMI Limited Clientele – Job Creation/Retention ✓ Slum/Blight
Statutory Citations	Section 101(c), Section 104(b), Section 105(c)
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> – Chapter 3

8.2.1 National Objective Summary Chart

- ✓ The following chart summarizes the national objective options related to economic development. The text below provides additional details. For a complete copy of the matrix codes and national objectives chart, please see the IDIS chapter of this manual.

National Objective Codes (N = Not Allowed)								
HUD Matrix Code	Activity	LMA	LMC	LMH	LMJ	SBA	SBS	URG
14E	Rehab; Publicly or Privately-Owned Commercial/Industrial			N				
17A	CI Land Acquisition/Disposition			N				
17B	CI Infrastructure Development			N			N	
17C	CI Building Acquisition, Construction, Rehabilitation			N				
17D	Other Commercial/Industrial Improvements			N				
18A	ED Direct Financial Assistance to For-Profits		N	N			N	
18B	ED Technical Assistance		N	N			N	
18C	Micro-Enterprise Assistance			N			N	

8.2.2 LMI Benefit National Objective

- ✓ Economic activities that benefit an LMI area may qualify under the Area Benefit category of the LMI benefit national objective. For example if the state and UGLG are funding a grocery



store in a neighborhood that is at least 51 percent LMI, the activity may qualify as an area benefit.

- If this criterion is used to qualify the activity, the state must document the service area of the business and then demonstrate through Census data/American Community Survey data that 51 percent of the residents are LMI.
- ✓ Additionally, the LMI Limited Clientele category may be used to qualify certain economic development activities under the LMI Benefit national objective.
 - For example, microenterprise activities may be undertaken under the LMI Limited Clientele category if the owner of the business is LMI. If this criterion is used, then the UGLG must document the income of the business owner.
 - Also, job training and placement or other employment support services such as peer counseling, child care and transportation may qualify under the LMI Limited Clientele category if at least 51 percent of the persons benefiting from the activity are LMI.
- ✓ Finally, economic activities designed to create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to or held by LMI persons may qualify under the Job Creation or Retention category of the LMI Benefit national objective.
 - The following requirements must be met for jobs to be considered created or retained.
 - If states fund activities that **create** jobs, there must be documentation indicating that at least 51 percent of the jobs will be held by, or made available to, LMI persons.
 - For funded activities which **retain** jobs, there must be sufficient information documenting that the jobs would have been lost without the CDBG assistance and that one or both of the following applies to at least 51 percent of the jobs:
 - The job is held by a LMI person; or
 - The job can reasonably be expected to turn over within the following two years and steps will be taken to ensure that the job will be filled by, or made available to, a LMI person.
 - The following requirements apply for jobs to be considered available to or held by LMI persons.
 - Created or retained jobs are only considered to be **available** to LMI persons when:
 - (a) Special skills that can only be acquired with substantial training or work experience or education beyond high school are **not** a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and
 - (b) The state and the assisted business take actions to ensure that LMI persons receive first consideration for filling such jobs.
 - Created or retained jobs are only considered to be **held by** LMI persons when the job is actually held by a LMI person.
 - In determining whether a job is made available to or held by a LMI person, states and UGLG may presume that a person is LMI if:



- He/she resides in a Census/American Community Survey tract that meets certain requirements (see below); or
- He/she resides in a Census/American Community Survey tract with at least 70 percent LMI persons; or
- The assisted business is located in an eligible Census/American Community Survey tract (see below) **and** the job will be located within that same Census/American Community Survey tract.
 - An eligible Census/American Community Survey tract is one that is located within a Federally-designated Empowerment Zone or Enterprise Community **or** a Census /American Community Survey tract that:
 - (a) Has a poverty rate of at least 20 percent;
 - (b) Does not include part of a central business district (unless the Census/American Community Survey tract has a poverty rate of at least 30 percent); and
 - (c) Evidences pervasive poverty and general distress by meeting at least one of the following criteria:
 - (i) All block groups in the Census/American Community Survey tract have 20 percent or greater poverty rates;
 - (ii) The activity is undertaken in a block group with a 20 percent or greater poverty rate; or
 - (iii) HUD determines that the tract shows other signs of distress (e.g., crime, homelessness, deteriorated housing, etc.)
- For job training, job placement and other employment support services, the CDBG regulations provide certain circumstances in which these activities can be considered to meet the LMI limited clientele national objective **even** when the percentage of persons assisted is **less** than the 51 percent threshold. The special circumstances under which this is allowed are:
 - Where job training or the provision of supportive services is used to assist businesses, the only use of CDBG funds in the activity is for the job training and/or supportive services; **and**
 - The proportion of the total cost of the job training or supportive services to be paid with CDBG funds is not greater than the proportion of the total number of assisted LMI persons.
- As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies.
- However, in certain cases, such as where CDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park), the requirement may be met by measuring jobs in the aggregate for all the businesses, that locate on the property, provided such businesses are not otherwise assisted by CDBG funds.
- Additionally, where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses from non-CDBG funds, this requirement may be met by



aggregating the jobs created by all of the businesses receiving loans during any one-year period.

8.2.3 Slum/Blight National Objective

- ✓ Economic development activities, such as commercial rehabilitation, which aid in the prevention or elimination of slums or blight in a designated area may qualify under the Area Slum/Blight national objective.
 - In order to qualify under this national objective category, the economic development activity must take place in an area that:
 - The designated area in which the activity occurs must meet the definition of a slum, blighted, deteriorated or deteriorating area under state or local law;
 - Additionally, the area must meet either one of the two conditions specified below:
 - Public improvements throughout the area are in a general state of deterioration; or
 - At least 25 percent of the properties throughout the area exhibit one or more of the following:
 - (a) Physical deterioration of buildings/improvements;
 - (b) Abandonment of properties;
 - (c) Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;
 - (d) Significant declines in property values or abnormally low property values relative to other areas in the community; or
 - (e) Known or suspected environmental contamination.
 - Documentation must be maintained by the state on the boundaries of the area and the conditions that qualified the area at the time of its designation. The designation of an area as slum or blighted must be re-determined every 10 years for continued qualifications.
 - As stated above, qualified activities must address the identified conditions that contributed to the slum and blight.
- ✓ Under the Spot Basis category of the Slum/Blight national objective, activities such as acquisition, clearance and building rehabilitation may be undertaken.
 - When rehabilitation is categorized under the Spot Basis category, it must meet the following requirements:
 - The rehabilitation must eliminate specific conditions of blight or physical decay on a spot basis, i.e., not be located in a designated slum and blight area;
 - Rehabilitation must be limited to only those conditions that are detrimental to public health and safety; and
 - If acquisition or relocation is undertaken, it must be a precursor to another eligible activity (funded with CDBG or other resources) that directly eliminates the specific conditions of blight or physical decay, or environmental contamination.



8.3 Underwriting Guidelines and Public Benefit Standards

- ✓ Economic development project must demonstrate a sufficient benefit in return for the CDBG investment. This section highlights these requirements, as well as the voluntary underwriting standards.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Guidelines and Objectives for Evaluating Project Costs and Financial Requirements ✓ Public Benefit Standards <ul style="list-style-type: none"> – Individual standards – Aggregate standards
Statutory Citations	Section 105 (a)(14) – (17)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> – Chapter 2: Categories of Eligible Activities – Appendix B: Public Benefit Standards

8.3.1 Voluntary Project Guidelines

- ✓ HUD has established guidelines for selecting special economic development projects. The guidelines have two parts:
 - Guidelines and Objectives for Evaluating Project Costs and Financial Requirements, and
 - Standards for Evaluating Public Benefit.
- ✓ **Guidelines and Objectives for Evaluating Project Costs and Financial Requirements.** These underwriting guidelines are designed to assist states and UGLG to select economic development projects that are financially viable and will result in the most effective use of CDBG funds.
 - The use of these guidelines is **voluntary**; however, states electing not to use the following guidelines are expected to conduct basic financial underwriting of projects funded under this eligibility category.
 - There are six criteria that have to be evaluated
 - Project costs are reasonable;
 - All sources of project financing are committed;
 - To the extent practicable, CDBG funds are not substituted for non-federal financial support;
 - Project is financially feasible;
 - To the extent practicable, the return of the owner's equity investment will not be unreasonably high; and



- To the extent practicable, CDBG funds are disbursed on a pro-rata basis with other finances committed to the project.
- These guidelines do not apply to public facilities or microenterprise activities.

8.3.2 Aggregate and Individual Public Benefit Standards

- ✓ **Standards for Evaluating Public Benefit.** The use of these standards is **mandatory**. States and UGLG are responsible for ensuring that a minimum level of public benefit is obtained when CDBG funds are used for special economic development projects and when used for public facilities and improvements projects undertaken for economic development purposes. The standards have two levels: standards for individual activities and aggregate standards.
- **Standards for Individual Activities**—An activity is considered by HUD to provide **insufficient** public benefit and can **not** be assisted with CDBG funds if:
 - The amount of CDBG assistance exceeds \$50,000 per full-time equivalent (FTE), permanent job (created or retained) **or** \$1,000 per LMI person to which goods and services are provided by the activity;
 - In addition, an activity would be considered to have an insufficient benefit if it consists of or includes:
 - General promotion of the community (as a whole);
 - Assistance to professional sports teams;
 - Assistance to privately-owned recreational facilities that serve a predominantly higher income clientele where the benefit to users clearly outweighs the benefit of jobs created or retained;
 - Acquisition of land for which a specific use has not been identified (i.e., land banking); or
 - Assistance to a for-profit business owner that is the subject of unresolved findings of noncompliance related to previous CDBG assistance.
- **Aggregate Standards**—Activities, in the aggregate, must either:
 - Create or retain at least one FTE, permanent job per \$35,000 of CDBG funds used; or
 - Provide goods and services to an area where the number of LMI persons served by the assisted business amounts to at least one LMI person per \$350 of CDBG funds used.
 - Certain activities can be excluded from the aggregate standards (as discussed below and in 570.482(f)(3).

8.3.3 Applying the Public Benefit Standards

- ✓ As discussed previously, when CDBG funds are used for special economic development projects and/or public facilities and improvements projects undertaken for economic development purposes, states must ensure that a minimum level of public benefit is obtained.
- ✓ Note: the public benefit standards do not apply to microenterprise assistance provided under the applicable section of the statute.



- ✓ The individual **and** aggregate activity standards must be used as follows in order to make this determination.
- ✓ Applying the standards for **individual** activities:
 - If an activity both creates/retains jobs and provides goods/services to LMI residents of an area, the activity is ineligible only if it fails both standards (i.e. it must meet one);
 - The standards are applied to the number of jobs projected or LMI area residents at the time funds are obligated; and
 - If the activity is limited to job training/placement or employment services, the jobs assisted with CDBG are considered jobs created/retained for the purpose of applying the individual activity standards.
- ✓ Applying the **aggregate** standards:
 - States must apply the aggregate standards to all activities for which funds were first obligated from any given year's CDBG allocation;
 - States may elect to apply the standards to the creation/retention of jobs or to the provision of goods and services to LMI residents, but cannot count an activity under both standards;
 - If the activity is limited to job training/placement or other employment services, the jobs assisted with CDBG are considered as jobs created or retained when applying the aggregate standards;
 - The following activities may be excluded from the aggregate standards:
 - Jobs are provided exclusively for unemployed persons or participants of JTPA, JOBS or AFDC programs;
 - Jobs are provided predominantly for residents of public or Indian housing units;
 - Jobs are provided predominantly for homeless persons;
 - Jobs are provided predominantly for low-skilled, LMI persons and the business agrees to provide clear opportunities for promotion and economic advancement (e.g., provision of training);
 - Jobs are provided predominantly for persons residing in a Census/American Community Survey tract with at least 20 percent of the residents in poverty;
 - Assistance is provided to businesses that operate in a Census/American Community Survey tract with at least 20 percent of the residents in poverty;
 - The activity stabilizes or revitalizes a neighborhood that has at least 70 percent low- and moderate-income residents;
 - Assistance is provided to a CDFI that serves a predominantly LMI area;
 - Assistance is provided to a CBDO that serves a neighborhood that has at least 70 percent LMI residents;
 - Provides services or creates/retains jobs in a HUD-approved Neighborhood Revitalization Strategy Area; or
 - With prior HUD approval, represents some other innovative approach with substantial benefits to LMI residents.



8.4 Section 108 Loan Guarantee Program

- ✓ Section 108 is a significant resource that can be used to create community and economic development projects. States can use Section 108 loan guarantees to assist non-entitlement jurisdictions for eligible CDBG activities. This section summarizes the Section 108 Program.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Program Parameters ✓ The Loan Process ✓ Players and Their Roles ✓ Typical Uses of Section 108 ✓ Advantages of Using Section 108
Statutory Citations	
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> – Chapter 2: Categories of Eligible Activities – Appendix F: Making the Most of your CDBG Resources ✓ CPD Notice 01-10

- ✓ The Section 108 Program is a loan guarantee program, which enables the state to authorize UGLG to borrow funds. The maximum that can be borrowed statewide is five times the state annual allocation.
 - The state pledges future CDBG funds as security for the loan.
 - HUD acts as the guarantor of a 108 loan made from private market funds, promising investors that the loan will be repaid.
- ✓ Being able to borrow large sums of money may help UGLG undertake large scale, capital-intensive projects and provides a mechanism for states to extend the impact of their CDBG Program.
- ✓ If a state allows Section 108 loan guarantees, it must be described in the state's method of distribution (MOD) including amounts to apply for and how applications will be selected.
- ✓ It is important to note that an interim rule was published on August 21, 2009 expanding the eligibility of Section 108 for states. The interim rule was issued in response to Section 222 of the Omnibus Appropriations Act, 2009. This interim rule authorized the following flexibilities:
 - States may now directly borrow Section 108 funds on behalf of local governments in non-entitlement areas. Prior to the enactment of Section 222, HUD could not guarantee notes issued directly by states on behalf of UGLG. Non-entitlement areas may also continue to apply for state-supported Section 108 loan guarantees (rather than the guarantee being issued via the state);
 - If a state elects to undertake this new process, it must distribute all guaranteed funds to UGLG in non-entitlement areas. In its application to HUD, the state must identify the local governments that will be eligible to be assisted by the state with the Section 108 guaranteed funds. States can:



- List the specific UGLG that are eligible for the funds; or
 - Describe that all or a specific subset or type of UGLG that are eligible for the funds. For example, the state could dictate that only UGLG with a poverty rate of great than 20% are eligible for assistance;
 - The activities undertaken by the state must be eligible under the existing Section 108 regulations at 570.703. The state can directly use Section 108 proceeds to: pay for interest on the guaranteed obligation; pay for issuance, underwriting, servicing, trust administration and other costs allowed under 570.703(g); and for debt service reserves as allowed under 570.703(k). These costs are allowed be directly paid by the state because they are related to financing the UGLG Section 108 activities.
 - If the state wishes to participate in the Section 108 program under this new flexibility, it must describe its planned approach and the eligible UGLG in its Consolidated Plan MOD.
 - State applications for Section 108 assistance may either directly identify eligible projects in selected UGLG or may describe the types of projects and indicate how it will determine the eligibility and national objective of these projects. If the second, more general type of application is submitted, the state has to get HUD approval of any specific project that is later chosen.
 - State Section 108 projects are subject to all of the other applicable CDBG and other federal rules, as outlined below.
- ✓ This chapter provides an overview of Section 108 basics and its advantages.

8.4.1 Advantages to Using Section 108

- ✓ States take on the risks of borrowing Section 108 funds because the program provides the following significant advantages:
- **Potential leverage**—A state has access to funds totaling up to five times its annual grant while retaining the use of its funds. The maximum Section 108 loan guarantee is the five times its annual CDBG allocation minus any outstanding Section 108 commitments and/or principal balances on Section 108 loans for which the State has pledged its CDBG funds as security. Each individual UGLG can borrow up to \$7,000,000. HUD will be publishing a revised CDBG rule which will state these limitations.
 - **Avoid referendum**—Since Section 108 borrowing is not ordinarily a general obligation, the UGLG can avoid a referendum and the Section 108 indebtedness does not affect the debt limit of the UGLG.
 - **Accelerate CDBG activities**—Instead of “paying as you go,” UGLGs can complete needed projects now by utilizing Section 108.
 - **Spread Costs Over Time**—The costs for projects can be spread out over long periods of time—the maximum loan term is 20 years. Long-term repayment schedules lessen the yearly debt burden.
 - **Avoid private benefit restrictions**—Most state constitutions prohibit the use of tax-generated funds to benefit private interests. Since Section 108 generally encumbers federal entitlements and not tax revenue, UGLGs can avoid this restriction.



- **Access funds at an AAA rate**—Despite the premium over Treasuries associated with Section 108 debt; the rate is approximately equal to what AAA-rated publicly held companies pay for its debt. Consequently, a third party borrower, who is typically non-rated and privately held, can access financing at significantly lower rates than would be otherwise be available to small businesses.
 - **Access long-term funds at a fixed rate**—The fixed rate eliminates the risk of future rate changes to the UGLG. Thus, the community is able to make long-term plans with certainty about its future obligations.
- ✓ These advantages are substantial enough that many UGLGs have accepted the risks of Section 108 borrowing and successfully expanded their economic opportunities.

8.4.2 Program Parameters

- ✓ The following basic parameters apply to the Section 108 program:
- **Maximum loan amount**—Up to five times a state's annual CDBG grant.
 - **Loan Terms**—Interest rates and repayment schedules can vary on a case-by-case basis, but the maximum loan term is 20 years.
 - **Eligible Applicants**—States, non-entitlement communities that are assisted by states, and non-entitlement communities eligible under the State CDBG Program.
 - **Eligible Activities**—Eligible Section 108 activities are different than those under the regular CDBG program. Section 108 can fund the following activities (NOTE: consult the regulations for a more complete description of these requirements):
 - Acquisition;
 - Rehabilitation of publicly-owned property;
 - Clearance, demolition, removal and site preparation related to acquisition or rehabilitation;
 - Economic development activities;
 - Housing rehabilitation;
 - Payment of issuance and finance costs associated with 108 loans;
 - Relocation assistance necessitated by a 108 project;
 - Acquisition, construction, reconstruction, rehabilitation or installation of public facilities;
 - Site preparation, including construction, reconstruction, and installation of public and other site improvements, facilities and utilities (see the regulations for additional requirements).
 - **Program Requirements**—With its origin derived from CDBG legislation, Section 108 is subject to CDBG requirements. The following criteria are the same for both CDBG and Section 108:
 - Compliance with national objectives;
 - Davis-Bacon labor standards;
 - Environmental review requirements;



- Underwriting guidelines;
- Compliance with the primary objective (i.e., 70 percent of expenditures benefit LMI persons);
- Public benefit standards; and
- CDBG certifications.
- **Ineligible Activities**—Several activities that are eligible under CDBG are not eligible under Section 108, including public services, payment of the non-Federal share of other Federal grant programs, and long-term planning.

8.4.3 Typical Uses of Section 108

- ✓ Although CDBG is more inclusive, the activities that are eligible under Section 108 are quite broad. UGLGs can finance: operating costs for businesses and developers; micro loan funds and Fortune 500 companies; machinery, equipment and working capital; and leasehold improvements, furniture and fixtures. While some of these categories may carry burdens relating to additional security, all are eligible.
- ✓ Examples of completed Section 108 projects include:
 - Industrial expansion;
 - Capitalization of a revolving loan fund;
 - Construction of a neighborhood shopping center;
 - Expansion of an accounting practice;
 - Construction of a warehouse facility and industrial park;
 - Funding a business incubator;
 - Creation of a retail business;
 - Constructing an office building; and
 - Housing rehabilitation carried out by a nonprofit organization.

8.4.4 Players and Their Roles

- ✓ The typical Section 108 transaction has the following players:
 - **Eligible Community**—The state incurs the ultimate risk of the Section 108 debt. If the state manages risk prudently and transfers the risk and cost to the third parties, the state can accelerate CDBG activities and achieve tremendous leverage. To secure Section 108 debt, the state pledges future CDBG allocations, program income, and provide additional security as HUD deems necessary.
 - **HUD**—HUD reviews the application to see if the proposed activities comply with Section 108 regulations and are underwritten in a prudent manner. If the application is approved, HUD provides a 100 percent full faith and credit guarantee, which is the cornerstone of the program.
 - **Underwriter**—The underwriter is a consortium of national brokerages, which sell the Section 108 notes to private investors. The underwriters receive a fee for their services. HUD competitively procures the underwriting services on a periodic basis.



- **Fiscal Agent**—The Fiscal Agent manages Level #1 transactions. It acts as a trustee for the investors and manages disbursements to UGLGs and repayments from the project that are conveyed back to the investors.
- **Private Investors**—Private investors fall into two major groups: (1) individuals; or (2) institutions. The investors are buying paper, which has fixed rates and has nominal credit risk (due to the full faith and credit guarantee). The Section 108 notes are roughly equivalent to Treasury issues but carry a slight premium to Treasuries, ranging from one eighth of a percent in the shorter maturities to six tenths of a percent in the longer terms. To date, no investor has ever incurred a loss from buying a Section 108 note.
- **Third Party Borrowers**—If the state allows, and the non-entitlement community chooses, it can re-loan Section 108 proceeds to third party borrowers. The third party borrowers accept some portion of the risk and cost from the community. Section 108 can provide such borrowers with fixed-rate, long-term and reasonably priced financing that may be difficult to obtain conventionally.

8.4.5 The Loan Process

- ✓ The basic steps of a typical Section 108 transaction work as follows:
 - The state and/or UGLG apply to HUD for a Section 108 Loan Guarantee.
 - The state pledges a portion of its future CDBG grants plus any needed additional security to ensure that the notes will be repaid in the event of a project default.
 - Notes are sold to investors in a public offering to raise funds for the state's approved project.
 - The UGLG uses the funds raised by the sale of the notes to undertake the approved project.
 - The loan repayments are used to repay investors. Funds to repay the note can come from future CDBG funds, program income generated by the project, or other revenue sources that the state has available.
 - Depending on the type of project that is financed, states may have from one to twenty years to repay the Section 108 notes.
 - The notes may be repaid with future CDBG grants; or
 - The UGLGs may transfer the risk and cost (interest) by lending Section 108 proceeds to third party borrowers. If the third party repays this loan the state/UGLG may never have to dip into its CDBG funds to repay the notes. However, if the third party defaults, the UGLG is typically required to repay the loan to the state (or if unfeasible, the state must repay the loan to HUD).
- ✓ In summary, Section 108 consists of two levels:
 - **Level # 1**—UGLGs borrow money from private investors (which the financial underwriters find).
 - **Level # 2**—UGLGs either carry out activities, which are eligible under Section 108 **or**, alternatively, re-loan the funds to third parties (entrepreneurs, developers, nonprofits, etc.) who undertake eligible activities.



- ✓ To ensure the marketability of Section 108 notes, HUD provides a 100 percent full faith and credit guarantee to the private investors who purchase the notes at the public offering.
- ✓ To comply with the Credit Reform Act of 1992, HUD cannot rely solely on the pledge of future CDBG funds to repay the Section 108 loan. Accordingly, the community must prove to HUD that either:
 - The project being financed with Section 108 funds has sufficient collateral and satisfies sound underwriting; or
- ✓ The community pledges other assets that provide additional security beyond CDBG funds to bridge any repayment shortfalls.

CHAPTER 9: OTHER ELIGIBLE ACTIVITIES



CHAPTER PURPOSE & CONTENTS

This chapter provides States with general information on other CDBG-eligible activities. The chapter covers:

SECTION	TOPIC
9.1	Interim Assistance
9.2	Relocation
9.3	Loss of Rental Income
9.4	Technical Assistance
9.5	Planning & Planning Only Grants
9.6	Special Activities by Nonprofit Development Organization
9.7	Other Miscellaneous Activities
9.8	Summary of National Objective Options for Other Eligible Activities

9.1 Interim Assistance

This section outlines activities that are eligible and ineligible interim assistance activities under the CDBG program. The following is a summary of the topics in this section, applicable statutory and regulatory citations, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none">✓ Eligible Interim Assistance Activities✓ Ineligible Activities
Statutory Citations	
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ Guide to National Objectives and Eligible Activities for States<ul style="list-style-type: none">- Chapter 2, Chapter 3

9.1.1 Eligible and Ineligible Activities

Eligible Activities

- ✓ The HCDA statute does not explicitly discuss interim assistance so states may use the entitlement regulations for guidance on this activity.
- ✓ CDBG funds may be used to provide interim assistance where:
 - Immediate action is necessary to stop physical deterioration until something permanent can be done; or



- Emergency conditions threaten the public health and safety.
- ✓ When immediate action is necessary to stop physical deterioration until something permanent can be done, certain activities are allowed on an interim or temporary basis. Under these circumstances:
 - The state must determine that:
 - Immediate action is necessary to stop the deterioration; and
 - Permanent improvements will be carried out as soon as possible.
 - Acceptable activities include:
 - Repairing streets, sidewalks, parks, playgrounds, publicly owned utilities and public buildings; and
 - Special garbage, trash, and debris removal, such as neighborhood cleanup campaigns.
- ✓ Where emergency conditions threaten the public health and safety, some activities are allowed on an interim or temporary basis in order to alleviate the threatening conditions. Under these circumstances:
 - The Chief Executive Officer of the state must determine that:
 - The situation is emergency in nature; and
 - The situation requires immediate attention.
 - The following activities are allowed:
 - Repairing streets, sidewalks, publicly owned utilities and public buildings (but not parks and playgrounds);
 - Special garbage, trash, and debris removal, such as neighborhood cleanup campaigns;
 - The clearance of streets including snow removal and similar activities; and
 - The improvement of private properties.

Ineligible Activities

- ✓ Regular activities of local government, such as curbside collection of garbage or trash, are NOT eligible CDBG activities. However, a specially planned community trash or cleanup campaign may be an eligible CDBG activity under the interim assistance category.
- ✓ The repair of parks and playgrounds is not an eligible activity under alleviating emergency conditions threatening the public health and safety.

9.1.2 National Objectives

LMI Benefit National Objective

- ✓ Interim assistance qualifies under the LMI area benefit national objective if the activities benefit all persons in a primarily residential area where at least 51% of persons (or less if the upper quartile applies) who are benefiting from the activities are LMI persons.



Slum/Blight National Objective

- ✓ Interim assistance activities may qualify under the Slum/Blight national objective if the activities are carried out in a designated slum or blighted area.
- ✓ The requirements for meeting the Slum/Blight National Objective under the Area Basis criteria include:
 - The area delineated by the state in which the activity occurs meets a definition of a slum, blighted, deteriorated or deteriorating area under state or local law:
 - Additionally, the area must meet either one of the two conditions specified below:
 - Public improvements throughout the area are in a general state of deterioration; or
 - At least 25 percent of the properties throughout the area exhibit one or more of the following:
 - Physical deterioration of buildings/improvements;
 - Abandonment of properties;
 - Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;
 - Significant declines in property values or abnormally low property values relative to other areas in the community; or
 - Known or suspected environmental contamination.
 - Documentation must be maintained by the state on the boundaries of the area and the conditions that qualified the area at the time of its designation. The designation of an area as slum or blighted must be re-determined every 10 years for continued qualifications.
 - The activity addresses one or more of the conditions that contribute or contributed to the deterioration of the area.

Urgent Needs National Objective

- ✓ Interim assistance activities may also qualify under the Urgent Needs national objective if the activities are designed to alleviate existing conditions (of recent origin or recent urgency) that the UGLG as posing serious and immediate threat to the health or welfare of the community where the UGLG is unable to finance the activity on its own and other sources of funds are not available.

9.2 Relocation

This section outlines activities that are eligible and ineligible relocation activities under the CDBG program. The following is a summary of the topics in this section, applicable statutory and regulatory citations, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible Relocation Activities ✓ Ineligible Activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(11), Section 105(c)



Other Reference Materials on This Topic

- ✓ Guide to National Objectives and Eligible Activities for States
- Chapter 2, Chapter 3

9.2.1 Eligible Activities

- ✓ CDBG funds may be used for relocation payments and other assistance to displaced persons, including:
 - Individuals,
 - Families,
 - Businesses,
 - Nonprofit organizations, and
 - Farm operations.
- ✓ CDBG funds may be used for permanently and temporarily relocated persons where:
 - Required under the provisions of §570.606 of the regulation; or
 - Determined by the state to be appropriate under the provisions of §570.606(d).
- ✓ States are required to comply with:
 - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (49 CFR part 24); and
 - Section 104(d) and the residential antidisplacement and relocation assistance plan (24 CFR part 42, subpart B).
- ✓ On an optional basis, States may use CDBG funds for relocation payments and assistance to persons displaced by an activity not subject to the requirements described above, including:
 - Payments and other assistance for temporary relocation; and
 - Payments and assistance at levels higher than those required.
- ✓ Unless optional payments and assistance are made pursuant to State or local law, States may make such payments and assistance only after a written determination documents that such payments and assistance are appropriate. In addition, States must adopt a written policy, available to the public, stating the relocation payments and assistance it elects to provide. The written policy must also stipulate for equal payments for all displaced persons in similar circumstances.

9.2.2 National Objectives

- ✓ The requirements of compliance with national objectives, with regard to relocation activities depends on the nature of the relocation assistance. Relocation assistance can be a required or voluntary activity, depending on the type of activity that prompts the need for relocation.
 - Where relocation assistance is required by the Uniform Act or the CDBG statute, the relocation activity qualifies as meeting the LMI national objective only if the acquisition or rehabilitation that prompts the required relocation also qualifies under the LMI national objective.



- Where relocation assistance is voluntary, the initial activity causing the displacement and subsequent need for relocation is not required to meet the same national objective as the relocation itself. Relocation payments could meet a national objective based on the purpose of the re-use of the property or on the income of the States of the relocation assistance. The classification is the state's discretion.

9.3 Loss of Rental Income

This section outlines activities that are eligible and ineligible rental income activities under the CDBG program. The following is a summary of the topics in this section, applicable statutory and regulatory citations, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible Loss of Rental Income Activities ✓ Ineligible Activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(6), Section 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities States - Chapter 2, Chapter 3

9.3.1 Eligible Activities

- ✓ CDBG funds may be used to compensate property owners for the loss in rental income incurred while temporarily holding housing units to be used for the relocation of individuals and families displaced by CDBG-assisted activities.
- ✓ According to statutory requirements related to displacement, certain replacement housing must be made available to displaced persons. If a displaced household requires a unique type of housing that is not widely available, it may be necessary for the UGLG to hold an existing available unit for a short period until the displacement occurs.

9.3.2 National Objectives

- ✓ Compliance with national objectives of this activity is directly associated with the national objective(s) met by the related underlying relocation activity.
 - If the activity resulting in the relocation assistance to the displaced household qualified on the basis of benefit to LMI persons, then paying the housing owners for losses incurred in holding units for those displaced persons also qualifies as benefiting LMI persons, even if the displaced household itself is not LMI.
 - If the relocation assistance to displaced persons qualified under the Slum/Blight or Urgent Needs national objectives, then paying housing owners for losses incurred in holding units for those displaced persons also would qualify under Slum/Blight or Urgent Needs, as applicable.

9.4 Technical Assistance

This section outlines activities that are eligible and ineligible technical assistance activities under the CDBG program. The following is a summary of the topics in this section, applicable statutory and regulatory citations, and other reference materials available from HUD.



Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible Technical Assistance Activities ✓ Ineligible Activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(19), Section 105(c), 106(d)(5)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States - Chapter 2, Chapter 3

9.4.1 Eligible Activities

- ✓ There are two ways that states may pay for technical assistance under CDBG, depending on the purpose of that TA.
- ✓ Under the first approach, CDBG funds may be used for the provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities.
 - Prior to providing the assistance, States must determine:
 - The eligibility of the activity for which the capacity is to be built; and
 - Whether it is likely that a national objective will be met once the public or nonprofit entity has received the technical assistance and undertakes the activity. This is especially important because the technical assistance will only meet a national objective IF the associated neighborhood revitalization or economic development activity will meet a national objective.
- ✓ Technical assistance activities that are related to building capacity for neighborhood revitalization and economic development are not subject to the 20% administrative cap.
- ✓ The second way of doing technical assistance is under section 106(d)(5) of the statute, which enables the state to use a part of the 3% administration, planning and technical assistance set aside to support TA and capacity building.
- ✓ Under this section, TA can be done in a number of ways:
 - Agency staff who provide the TA;
 - Hiring a contractor;
 - Granting funds to recipients to enable them to purchase TA; or
 - Granting funds to a subgrantee, such as a community college or regional planning organization to allow them to provide TA.

9.4.2 National Objectives

- ✓ If using the first approach to TA, prior to providing the technical assistance, the state must determine that there is a reasonable expectation that a national objective can be met once the entity receiving the assistance undertakes the activity.
- ✓ To determine compliance with a national objective is a reasonable expectation, prior to funding the assistance, the state should review the following factors:



- The nature of the organization receiving the assistance;
 - The type and eligibility of the activity to be carried out;
 - The location of the activity; and
 - The entity's expected clientele.
- ✓ If the state is using the second approach to TA under 106(d)(5) as a part of the 3% administration, planning and technical assistance set aside, the activity is not required to meet a national objective.

9.5 Planning & Planning Only Grants

This section outlines planning activities that are eligible. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible Planning Only Activities ✓ National Objectives
Statutory Citations	<ul style="list-style-type: none"> ✓ 105(a)(12) and 105(a)(15) ✓ 24 CFR 570.483(b)(5)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> - Chapter 2, Chapter 3

9.5.1 Eligible Activities

- ✓ There are three different ways that planning may be done under the state CDBG program:
- General planning to assist in determining community needs;
 - Planning that is related to implementing a CDBG-assisted project; and
 - Planning for a specific project or activity (known as planning only grants).
- ✓ If the state is funding general planning activities, these may include but are not limited to:
- Comprehensive plans;
 - Community development plans;
 - Small area and neighborhood plans; or
 - Local analyses of impediments to fair housing choice.
- ✓ The amount of CDBG funds that may be used for activities under this general planning category is subject to the statutory limitation on planning and administrative costs.
- ✓ States may award “planning only grants” to units of general local government in which planning is the only activity, or in which planning activities are unrelated to any other activity funded as part of the grant.
- ✓ Planning only grant activities may include:
- Studies,



- Analysis,
- Data gathering,
- Preparation of plans, and
- Identification of actions that will implement plans.

9.5.2 National Objectives

- ✓ The national objective for planning depends on whether related activities are also being funded with CDBG assistance and on whether the planning is general or related to a potential community development activity.
 - If the CDBG funds are being used for general community plans, such as an analysis of impediments to fair housing or a comprehensive land use plan, these plans are considered to be a part of the 20% planning and administrative cap and as such do not need to meet a national objective.
 - CDBG funds spent for planning and capacity building costs when undertaken in conjunction with other CDBG-assisted activities, are considered to address the national objectives of the CDBG program as a whole; no documentation of such compliance is required. Reference: 24 CFR 570.483(f)
 - If the state awards grants to UGLGs in which planning is the only activity or in which planning activities are unrelated to any CDBG-funded activity (planning only grants), the planning activity must comply with the requirements of the low/mod income or slum and blight national objectives. It is not possible for a planning-only grant or activity to comply with the Urgent Needs national objective. Planning-only grants or activities can meet the low/mod income benefit objective if it can be shown that at least 51 percent of the persons who would benefit from implementation of the plan are L/M income persons. Planning-only grants or activities can meet the slum/blight national objective if the plans are for a slum or blighted area, or if all the elements of the planning are both necessary for and related to an activity which, if implemented, could be shown to meet the slum/blight national objective criteria. For either the low/mod income or slum and blight national objectives, such national objective determinations are not dependent on the planned-for activity or project actually being implemented at some point. Reference: 24 CFR 570.483(b)(5); 24 CFR 570.483(c)(3).

9.6 Special Activities by Nonprofit Development Organization

This section outlines activities that are eligible and ineligible activities undertaken by a nonprofit development organization under 105(a)(15) of the statute. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible Nonprofit Development Organization Activities ✓ Ineligible Activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)(15), Section 105(c)



Other Reference Materials on This Topic

- ✓ Guide to National Objectives and Eligible Activities for States
- Chapter 2, Chapter 3

9.6.1 Eligible and Ineligible Activities

Eligible Activities

- ✓ States may provide CDBG funds to UGLGs who in turn may provide grants or loans to qualified nonprofit development organizations (see Chapter 2 for a discussion of eligible Nonprofit development organization) to carry out the following types of projects:
 - Neighborhood Revitalization: Includes activities of sufficient size and scope to have an impact on the decline of a geographic location within the jurisdiction of a unit of local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographic designation; or the entire jurisdiction of a unit of general local government which is under 25,000 population.
 - Community Economic Development: Includes activities that increase economic opportunity, primarily for persons of LMI, or that stimulate or retain businesses or permanent jobs, including projects that include one or more such activities that are clearly needed to address the lack of affordable housing accessible to existing or planned jobs and those activities specified at 24 CFR 91.1(a)(1)(iii).
 - Energy Conservation: Includes activities that address energy conservation, principally for the benefit of the residents of the state's jurisdiction.

Ineligible Activities

- ✓ Special activities by nonprofit development organizations do not include:
 - Buildings for the general conduct of government, general government expenses, and political activities.
 - Provision of public services that do not meet the requirements of the statute, or that would exceed the 15% cap described under the statute unless the regulations otherwise provide that the services are exempt from the cost limitation.
 - Provision of assistance for special economic development activities that do not comply with the Public Benefit requirements.
 - Planning and administrative activities which would result in the state exceeding the 20% cost limitation on such activities, unless the regulations specifically provide that the activity is exempt from that cost limitation.

9.6.2 National Objectives

- ✓ Nonprofit development organizations carry out activities primarily eligible under other categories. For these activities, refer to the applicable sections of this manual as well as the national objectives, Chapter 3.



9.7 Other Miscellaneous Activities

This section outlines other activities that are eligible under the CDBG program. The following is a summary of the topics in this section, applicable statutory and regulatory citations, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible Activities ✓ Ineligible Activities
Statutory Citations	Section 101(c), Section 104(b), Section 105(a)21, Section 105(a)(9), Section 105(a)(10), Section 105(c)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> – Chapter 2, Chapter 3

9.7.1 Assistance to Institutions of Higher Education

- ✓ States via UGLG may provide assistance to institutions of higher education (e.g., secondary schools or higher) when the state determines that such an institution has a demonstrated capacity to carry out activities that fall under one or more of the basic eligibility categories.

9.7.2 Payment of Non-Federal Share

- ✓ This provision allows CDBG funds to be applied by a UGLG to the non-Federal share of a Federal grant-in-aid. According to the specific statute and regulations for that program, States and UGLG must first establish whether or not such funds are allowed to be applied.

9.7.3 National Objectives

- ✓ National objectives related to the miscellaneous activities described above depend on the activity being carried out. Refer to the national objectives chapter of this manual.

9.8 Summary of National Objective Options for Other Eligible Activities

- ✓ All CDBG activities must meet a national objective in order to be eligible to use CDBG funds. This requires that all activities qualify as meeting one of the three national objectives of the program and meet specific tests for benefiting LMI persons, preventing or eliminating slums or blight and meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.
- ✓ The following chart summarizes the national objective options related to other eligible activities discussed in this chapter. The text in each section above provides additional details for each specific type of activity. For a complete copy of the matrix codes and national objectives chart, please see the IDIS chapter of this manual.



HUD Matrix Code	<u>Activity</u>	<u>LMA</u>	<u>LMC</u>	<u>LMH</u>	<u>LMJ</u>	<u>SBA</u>	<u>SBS</u>	<u>URG</u>
6	Interim Assistance		N	N	N			
7	Urban Renewal Completion					N	N	N
8	Relocation							
9	Loss of Rental Income							
19D	CDBG Assistance to Institutes of Higher Education							
20A	Planning only (States)							

CHAPTER 10: REVITALIZATION AREAS



CHAPTER PURPOSE & CONTENTS

This chapter provides detailed information on Community Revitalization Strategy Areas (CRSA). Topics covered include:

SECTION	TOPIC
10.1	Background
10.2	Benefits
10.3	Preparing and Submitting CRSA
10.4	Funding the CRSA Area
10.5	HUD Review, Approval, and Monitoring
10.6	Local Target Areas

10.1 Background

- ✓ States and UGLG may designate local target areas for revitalization. There are no HUD rules concerning the designation of such areas; however, additional guidance is provided at the end of this chapter.
- ✓ The Community Revitalization Strategy Area (CRSA) approach are submitted as a part of, or as an amendment to, a state's Consolidated Plan. Under this approach, the state describes its CRSA process to HUD in the Con Plan and then upon HUD approval of this process, the State can approve local CSRA from UGLG.
- ✓ The following is a summary of applicable statutory and regulatory citations and other reference materials available from HUD:

Statutory Citations	
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ Guide to National Objectives and Eligible Activities for States<ul style="list-style-type: none">- Chapter 2, Chapter 3✓ CPD Notice 97-01

10.2 Benefits

- ✓ Communities with state-approved CRSAs are offered enhanced flexibility in undertaking economic development, housing, and public service activities with their CDBG funds.
- ✓ This flexibility is designed to promote innovative programs in economically disadvantaged areas of the community.
- ✓ Areas of enhanced regulatory flexibility include:



- Job creation or retention effort focused on the selected neighborhood may be classified as meeting the LMI area benefit national objective requirements.
 - Businesses that receive such assistance need not track the specific income of newly hired employees to demonstrate LMI benefit.
 - This provision reduces the administrative burden to the business and is intended to provide an incentive to businesses to participate in the community's job creation/retention programs.
- Aggregation of housing units for which CDBG funds obligated during each program year and treat them as a single structure.
 - 51 percent of total number of units must be occupied by LMI households.
 - This permits states greater flexibility in applying the LMI housing national objective criteria for the housing category.
 - In turn, states have flexibility in providing housing to residents of the CRSA neighborhood.
 - NOTE: The flexibility to aggregate housing units assisted does not change the requirement that homeownership assistance under 105(a)(24) must be provided only to LMI households.
- Economic development activities carried out in the CRSA may be excluded from the aggregate public benefit standards.
 - This reduces recordkeeping requirements.
 - This affords greater flexibility in selecting and implementing economic development activities, and reduces the amount and scope of information that states must collect and document regarding its programs.
 - Note, however, that projects are still subject to the individual/project public benefit standards.
- All public services offered within the CRSA **and** carried out as part of qualified projects under the CRSA **by a Nonprofit Development Organization under 105(a)(15)** are exempt from the public services cap.
 - This permits states to offer a more intensive level of services with the approved community, as needed to stimulate revitalization.
 - This flexibility includes job training and other employment related services and as such, it can provide an important foundation for economic opportunity for neighborhood residents.

10.3 Preparing and Submitting a CRSA

- ✓ In its Consolidated Plan, the state must describe its implementation approach and process for reviewing UGLG CRSA plans. The state's review process should address all of the parameters in the following sections.

10.3.1 Boundaries

- ✓ The UGLG CRSA submission must identify the boundaries of the CRSA area. While the UGLG does not need to focus on a particular "neighborhood", it does need to focus on an area with enough mass and population density that it will be effective.



10.3.2 Demographic Criteria

- ✓ The UGLG CRSA submission must fully describe the geographic area to be covered by the CRSA.
 - The selected area must be primarily residential.
 - The area must contain a high percentage of LMI households.
- ✓ The percentage of LMI residents within the neighborhood must be equal to:
 - 70 percent of the total population in the selected area;
 - Neighborhoods within Federally-designated Empowerment Zones (EZs) and Enterprise Communities (ECs) are assumed to meet this test; or
 - All of the Census/American Community Survey tracts/block groups in the area have at least a 20% poverty rate and at least 90% have a 25% poverty rate.

10.3.3 On-Going Support

- ✓ As a part of reviewing UGLG CRSA plans, the state must consider how that plan will be completed if its funding relationship with the UGLG is episodic. The state needs to consider whether there will likely be adequate resources to complete the proposed CRSA tasks, given the competitive nature of the state's CDBG funding.

10.3.4 Integration of Resources

- ✓ States are encouraged by HUD to integrate the use of other, non-CDBG resources into the CRSA.

10.3.5 Community Consultation

- ✓ The CRSA plan by the UGLG should outline the process used by the community to develop the CRSA. The CRSA must be developed in consultation with members of the community, including:
 - Residents of the area;
 - Owners/operators of businesses in the area;
 - Local financial institutions;
 - Non-profit organizations; and
 - Community groups.
- ✓ When describing the consultation process, it is important to describe the methods used by the community to provide outreach to the types of groups noted above and how the needs and concerns of the consulted parties were incorporated into the CRSA.

10.3.6 Assessment

- ✓ In this section of the CRSA, the UGLG must assess the area selected.
- ✓ First, the CRSA must assess the ***economic conditions*** of the proposed neighborhood. This analysis might include a discussion of such topics as:
 - Levels of unemployment;



- Numbers of businesses located within the area, including: numbers of service facilities such as grocery stores, drug stores, gas stations, etc.; and the number of people employed by such businesses;
 - Access to capital (or lack thereof) in order to form businesses in the area;
 - Housing needs of residents in the area including: rents; home prices; and housing quality; and
 - Current availability of economic development or other community services within the area.
- ✓ Next, the CRSA must describe the **opportunities** for economic development improvement within the neighborhood. This analysis might include a discussion of such topics as:
- Unmet demand for specific types of facilities or services (such as the need to create/foster a lending institution within the neighborhood);
 - Community organizations that are ready and available to assist with economic development efforts;
 - Skills or services that are currently unused or underutilized within the community; and
 - Visionary or fledgling projects unable to take root in the CRSA due to lack of funding.
- ✓ Finally, the CRSA must describe the **problems** that the community is likely to face as it implements programs in this neighborhood. This discussion might cover such common problems as:
- Hesitation from private sources (such as area banks) to invest in the area;
 - Community opposition to certain types of development activities (NIMBY sentiments);
 - Inexperience of local community groups or organizations; and
 - Crime and/or security concerns at project sites.

10.3.7 Economic Empowerment

- ✓ This section describes actions the UGLG will undertake to increase economic opportunities within the CRSA.
- ✓ The CRSA must discuss the activities that will be undertaken to create meaningful jobs for unemployed LMI residents of the area. This discussion should be realistic and indicate how the state plans to accomplish this objective.
- ✓ The CRSA must also highlight how the plan will promote revitalization of the neighborhood. In other words, what the CRSA is really going to do to help turn the neighborhood around and promote economic opportunity for residents.

10.3.8 Performance Measures

- ✓ Finally, the CRSA must set goals and anticipated results for the implementation of the plan. These results must be described in measurable terms. UGLG are expected to report on their progress toward these measurable outcomes to the state.
- ✓ Measurable outcomes may cover such areas as physical improvements, social initiatives, and economic empowerment. Examples may include:
 - Create 25 new businesses;



- Achieve five percent increase in employment;
- Open two new job training centers;
- Reduce families on welfare by five percent;
- Attract new community lending institution to the neighborhood;
- Formation of a community business association; and
- Offer ten training seminars to teach area residents about small business start-up.

10.4 Funding the CRSA Area

- ✓ HUD does not require that UGLG commit specific **future** funds for use in the CRSA at the time that the CRSA is submitted to the state but a state may wish to require this.

10.5 HUD Review, Approval, and Monitoring

- ✓ As noted above, the state's CRSA process request is submitted with the Consolidated Plan to HUD for review and approval or is submitted as an amendment to an existing plan.
 - If the state has already submitted its Consolidated Plan for a given year, the CRSA request may be undertaken as an amendment to the plan.
- ✓ Once approved, the CRSA process remains in effect for the term designated by the state in the Con Plan. If the state wishes to extend the CRSA beyond the original time frame, it must advise HUD in its subsequent Consolidated Plan submission.
- ✓ As applicable, HUD will approve the state's CRSA process at the same time it approves the Consolidated Plan. NOTE: HUD will not withhold its approval of the Consolidated Plan if all else is acceptable and the CRSA piece is not in order.
- ✓ CAREFUL: HUD must expressly state in writing its approval of the CRSA process. It cannot be assumed that approval of the Consolidated Plan is also an approval of the CRSA.

10.6 Local Target Areas

- ✓ Many CDBG states or UGLG decide to take a locally targeted approach to the investment of their CDBG funds to focus on neighborhood revitalization and set up specific target areas in their community.
 - States may offer special incentives or additional funding may be provided by the state in target communities.
 - These target areas do not have specific criteria like CRSAs. These areas do not need to be specifically approved by their HUD Field Office; however, these areas are typically included as part of the state's Consolidated Plan and Annual Action Plan.
 - The Integrated Disbursement and Information System (IDIS) also provides a mechanism for tracking and reporting data within a local target area.

**U.S. Department of Housing and Urban Development
Community Planning and Development**

Special Attention of:

Notice CPD-97-1

All CPD Division Directors

All State Coordinators

All State CDBG Grantees

Issued: February 4, 1997

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Cross References:

Subject: CDBG Community Revitalization Strategies in the State CDBG PROGRAM

PURPOSE

This Notice outlines the process for state implementation of the revitalization strategy area concept. [The October 22, 1996, State CDBG Program interim rule amends Sect 91.315(e)(2) of the Consolidated Plan regulations to allow Community Revitalization Strategies.] It describes the parameters within which states may design their implementation approach, the procedures for state submission of their process description statement, and the process for HUD's approval of states, process descriptions.

In recent years, HUD's Office of Community Planning and Development (CPD) has stressed a coordinated marshalling of resources to facilitate grantees' ability to engage in comprehensive community revitalization strategies. Comprehensive community revitalization strategies seek to create partnerships among federal and local governments, the private sector, community organizations and local residents. The Department seeks to create communities of opportunity in distressed areas by stimulating the reinvestment of human and economic capital and by economically empowering low-income residents. On their own, a number of states have adopted "holistic" approaches to community development in administering the State CDBG program.

The Department recognizes the fundamental necessity of partnering in problem-solving in order to achieve much greater success in community revitalization efforts. Many citizens, unhappy with their residential environments, have generally had three options available to them: pack up and move to a more satisfactory environment; change the unsatisfactory aspects of their communities; or stoically accept their living conditions.

DGBS: Distribution: W-3-1

The continuing decline and widespread disinvestment in many communities and the spill-over effects in surrounding areas point to a need for a different approach to rebuilding communities. HUD believes that no effort will succeed without the support of all of the community actors. Successful revitalization strategies are those that

bring together the community's stakeholders to forge partnerships that:

- o obtain commitments to community building;
- o make communities attractive for investments, thereby creating a market for profits;
- o generate community participation to ensure that the benefits of economic activity are reinvested in the community for long-term development;
- o support the use of nonprofit intermediary institutions (e.g., Community Development Corporations [CDCs], Community Development Financial Institutions [CDFIs], community housing development organizations [CHDOs under the HOME program], and religious institutions) to bridge gaps between local government agencies, the business community, community groups, and residents;
- o foster the growth of resident-based initiatives to identify and address their housing, economic and human services needs;
- o coordinate the delivery of various local, state and Federal resources; and
- o support initiatives to move unemployed people from public assistance into jobs.

The participation of all of the stakeholders, particularly residents, in the development of a comprehensive revitalization strategy enhances the chances of its successful implementation by bringing all of the affected parties into the process from the beginning, thus gaining participants' trust and garnering needed financial support. This approach also recognizes that the complexity of the causes of community decline requires a multi-pronged coordinated approach. The value of this approach has been borne out in the strategic planning process that many communities participated in during the development of their federal Empowerment Zone/Enterprise Community applications.

B. REGULATORY FRAMEWORK AND INCENTIVES

HUD encourages states to adopt a comprehensive revitalization strategy approach to the use of State Community Development Block Grant (CDBG) resources by units of general local government. The Department seeks to stimulate the development of Community Revitalization Strategies by offering certain incentives for units of local government receiving State CDBG funding. These incentives are described in amendments to the CDBG regulations at [24 CFR 570](#) which were published in the Federal Register on October 22, 1996. They are

as follows:

- (1) Job Creation/Retention as Low/Moderate Income Area Benefit: Job creation/retention activities undertaken pursuant to a revitalization strategy may be qualified as meeting area benefit requirements, thus eliminating the need for a business to track the income of persons that take, or are considered for, such jobs [[24 CFR 570.483](#)(b)(1)(v) and (e)(5)(i)];
- (2) Aggregation of Housing Units: Housing units assisted pursuant to a revitalization strategy may be considered to be part of a single structure for purposes of applying the low- and moderate-income national objective criteria, thus providing greater flexibility to carry out housing programs that revitalize a community [24 CFR 570.483(b)(3) and (e)(5)(ii)];
- (3) Aggregate Public Benefit Standard Exemption: Economic development activities carried out under a strategy may, at the grantee's option, be exempt from the aggregate public benefit standards, thus increasing flexibility for program design as well as reducing record-keeping requirements [[24 CFR 570.482](#)(f)(3)(v)(L) and (M)]; and
- (4) Public Service Cap Exemption: Public services carried out pursuant to the strategy by a nonprofit entity pursuant to Section 105(a)(15) of the Housing and Community Development Act (as amended) will be exempt from the public service cap (24 CFR 570.482(d)(3)).

Two attachments to this notice provide further guidance on these flexibilities. Appendix 1 consists of excerpts from the October 22, 1996 interim rule which pertain to these benefits. Appendix 2 provides illustrative examples of situations in which these new provisions might be used.

C. STATE ACTIONS TO IMPLEMENT THE REVITALIZATION STRATEGY APPROACH

[24 CFR 91.315](#)(e) of the Consolidated Plan regulations (as amended on October 22, 1996) authorizes states to allow units of general local government to adopt and implement Community Revitalization Strategies. If a state elects to implement the revitalization strategy approach, the state must design its specific implementation approach and develop a process for approving local governments' strategies. States have substantial flexibility in designing an approach that fits the needs of its communities, and will be responsible for approving local strategies. A state's process for implementing Community Revitalization Strategies must be submitted to and approved by HUD before it can be implemented. The parameters within which HUD expects states to design their approach, and HUD's approval process, are

described elsewhere in this notice.

To the extent that a state's revitalization strategy review and approval process will be established as part of the method of distributing funds to local governments, the Action Plan contained in the state's Consolidated Plan must reflect this process. For example, the method of distribution must describe the selection criteria which will be used if a state: establishes a separate funding category for revitalization strategy projects; awards "bonus points" within its present funding system for projects which would implement a revitalization strategy; or requires submission of an acceptable strategy as a threshold requirement which applications must meet in order to be considered for funding.

On the other hand, a state might establish the submission of a strategy as a purely voluntary action on the part of localities, or a state might incorporate the development of a strategy as an application content or citizen participation requirement. The development of a strategy might thus have no bearing on the category of funding which can be applied for by the community or on the rating score the application receives. Under such scenarios, the state may need to make only minor revisions to its present method of distribution. It is difficult to imagine a situation in which the development of a strategy is so totally unrelated to the award of CDBG funds for specific activities that no mention of Community Revitalization Strategies is needed in the method of distribution.

A state must still submit a description of its specific approach and process for approving local revitalization strategies, even if no changes are required to the existing method of distribution. This is because HUD's approval of the state's process will be separate from approval of the Consolidated Plan.

In designing its process for implementing the revitalization strategy concept, the state must consult with affected units of local government in nonentitlement areas of the state, to the same extent that it must presently do in developing its method of distribution. In addition, the state must ensure that local governments' strategies are implemented in accordance with the civil rights-related program requirements stated in the Consolidated Plan rule at [24 CFR Part 91](#).

D. DESIGN PARAMETERS FOR COMMUNITY REVITALIZATION STRATEGIES IN THE STATE CDBG PROGRAM

Local government revitalization strategies should be designed to achieve substantial improvements in the target area and create meaningful levels of economic opportunities for residents within a reasonable period of time. States have the flexibility to define or negotiate appropriate time periods for achieving local goals, within the state's overall approach. HUD recognizes that it is unrealistic to expect that an area could be fully revitalized within some foreseeable time period; in developing their approach, states should

consider what level of improvement is realistically achievable.

HUD promotes the development of local strategies that not only will successfully revitalize the target areas but will also economically empower its residents. HUD encourages innovative and creative state approaches to promote the active and meaningful participation of the stakeholders throughout the development and implementation of the plan. A state's design for implementing the revitalization strategy approach (and its process description statement) must adequately address each of the following parameters.

- (1) **Boundaries:** A local strategy should identify the boundaries of the area for which the strategy applies. In the CDBG Entitlement program, this concept is referred to as "Neighborhood Revitalization Strategies." The Department avoids referring to "neighborhood" strategies in the State CDBG program; the concept of what is a "neighborhood" in small communities is nebulous or incongruous in many areas of the country. The nature of the areas in which states work varies greatly; states fund cities and towns which range in size from a few dozen to nearly 50,000. Some western counties may be larger than entire eastern states, but contain no incorporated communities. How residents of an area define the boundaries of their community varies greatly among regions of the country.

The Strategy Area concept represents a targeted approach to community development, requiring some critical mass of population density in order to be effective. HUD does not mandate a minimum or maximum population size or density for an area; a reasonable minimum population density would be very different in southern New England than in the northern Great Plains. There are areas in each state where the revitalization strategy concept is probably not practical. HUD expects states' designs to embody this principle of critical mass.

In designing their approach, states have flexibility to define size limits to fit the needs of their program and their communities. States should think carefully about the appropriate size (in area and population) for strategy areas, weighing available financial resources against the need for demonstrable improvement in the target area. In developing their approach, states should consider how they will handle strategy areas which cross jurisdictional boundaries. Large, multi-county regions are likely to be too large to effectively treat, unless a state is prepared to commit a major share of its available resources to the region. (See also a separate discussion of Federal Empowerment Zones and Enterprise Communities.)

- (2) **Demographic Criteria:** The intent of the revitalization

strategy area concept is to improve the lives of low-income residents of an area. HUD expects approved strategy areas to meet one of the following criteria:

- o The area is primarily residential in character, and contains at least 70% low- and moderate-income persons.
- o The area is in a Federally-designated Empowerment Zone or Enterprise Community;
- o All of the census tracts/block numbering areas in the area have at least a 20% poverty rate, and at least 90% of them have at least a 25% poverty rate; and the area is primarily residential.

For individual strategy areas, a state may request an exception to the 70% low/moderate income threshold or the 25% poverty rate threshold; approval must be gained from HUD before the state grants final approval to such a strategy. In no case, however, will HUD grant an exception for a revitalization strategy where fewer than 51% of the residents are low- and moderate-income and the poverty rate for the area as a whole is less than 20%.

HUD field offices will review and approve such exception requests on a case-by-case basis. Such cases are the only situations in which HUD would be actively involved in the approval of individual strategies. Exceptions are envisioned to be granted only for unusual circumstances, where strong targeting of benefits to low- and moderate-income residents can still be shown. (For example, a state may have income characteristics data which is more current than Census data, or data showing extremely high unemployment rates resulting from a major economic downturn.) HUD will not entertain requests for "blanket" exceptions covering all proposed strategy areas in a state.

- (3) Ongoing Support and Delivery of Resources: States' contractual relationships with local governments are usually for a finite and relatively short (one to three year) time period. Success in revitalizing a defined area may require a longer time period and more resources than can be provided by a single CDBG grant to the locality. Given the common limitations imposed by highly competitive funding processes, states should consider carefully how they can ensure the provision of adequate resources to accomplish local revitalization strategies. (Multi-year funding commitments may be one such means to ensure longer-term funding of activities.) States should also consider how they will ensure long-term local attention to carrying out approved strategies, particularly once grants to units of local government have been closed out.

HUD believes that the provision of economic opportunities to residents of revitalization strategy areas is an essential component of the concept. A number of states presently have funding categories wherein localities may apply for a combination of activities to be carried out in a defined target area. States' methods of distribution often refer to these as "comprehensive" applications. The revitalization strategy concept, as envisioned by HUD, may be more narrowly focused geographically, and encompass a wider variety of activities (particularly concerning economic empowerment of low and moderate-income area residents) than is presently provided for in typical "comprehensive" funding categories. States tying the revitalization strategy approach to their existing "comprehensive" funding category should closely examine their method of distribution criteria for such funding categories, and make changes as appropriate.

- (4) Integration of other Funding Resources and Initiatives: States have considerable flexibility--and are encouraged--to integrate the delivery of other state funding resources into their revitalization strategy approach. States have already proven themselves adept at using State CDBG funds to leverage other Federal and state resources. Given that substantial treatment of an approved strategy area is likely to require a commitment of resources beyond those available through the CDBG program, States are encouraged to consider additional ways in which their Revitalization Strategy process can be a vehicle for directing other state controlled resources into the target areas.

States are also encouraged to link the Revitalization Strategy concept to compatible state targeting or planning initiatives. In doing so, states are free to capitalize on existing locally-prepared documents or state review/approval and fund allocation processes, to avoid duplication of effort at the local or state level. The following is an illustrative list of common state programs and initiatives to which Community Revitalization Strategies might be linked:

- o State requirements for development of local strategic or comprehensive plans
- o "Certified economic development readiness" designations
- o State Enterprise Zone designations
- o Military base closure or defense industry adjustment planning processes
- o State welfare reform and welfare-to-work programs

- o Economic diversification initiatives in areas dominated by declining industries
- o Main Street programs
- o State-funded housing rehabilitation or housing development programs
- o State energy programs

The Community Revitalization Strategy approach also offers states the opportunity to link other HUD funding resources with CDBG to holistically improve communities. The HOME Program provides states with significant resources to address housing needs identified in local strategies---particularly for needs such as rental subsidies and new housing construction, which may be undertaken with CDBG funds in only limited circumstances. Similarly, the Section 108 Loan Guarantee Program can provide additional resources to revitalization strategy areas, particularly for economic empowerment activities and large public works projects. States which do not presently participate in the Section 108 Program should seriously consider the role this program can play in "stretching" scarce CDBG dollars to accomplish comprehensive revitalization efforts.

Any "piggy-backing" of other federal or state initiatives or funding programs should be explained in the state's process description and (as necessary) in the method of distribution.

- (5) Consultation: HUD believes that local revitalization strategies will be most successfully achieved when there is community ownership in and support for the strategy; involvement of area stakeholders (including residents, owners/operators of businesses and financial institutions, non-profit organizations and community groups serving the area) is crucial. In developing its implementation approach, a state should carefully consider what expectations it will place on local governments regarding community involvement in the development of local strategies. At the least, a state's process must ensure that the citizen participation requirements for units of local government [at [24 CFR 91.115](#) and 24 CFR 570.486(a)] are complied with in the development of local strategies.
- (6) Assessment: A state's process must ensure that local strategies include an assessment of the economic conditions of the area; an examination of the opportunities for economic development improvement; and an assessment of the problems likely to be encountered.

- (7) Economic Empowerment: A state's process must ensure that local strategies contain a realistic development strategy and implementation plan to promote the area's economic progress, focusing on activities to create meaningful jobs for the unemployed and low- and moderate-income residents of the area as well as activities to promote the substantial revitalization of the area.
- (8) Performance Measurements: A state's process must include a mechanism which identifies the results (e.g., physical improvements, social initiatives and economic empowerment) expected to be achieved, and a mechanism by which localities report measurable accomplishments. States are free to determine whether reporting on revitalization strategy accomplishments is best handled within a state's existing CDBG grantee reporting process, or by an alternative mechanism. The Integrated Disbursement and Information System (IDIS), once implemented for states, may provide an avenue for reporting accomplishments.

States are expected to evaluate localities' progress and accomplishments against the strategy. HUD does not expect that all locally-identified goals must be met, but states should clearly define their performance expectations for communities. HUD encourages states who have adopted outcome-oriented evaluation processes to integrate their revitalization strategy approach into such initiatives. Within the context of the process by which a state will approve local strategies and evaluate performance, a state should carefully consider what steps it should take in situations where it determines that a locality is not adequately implementing its strategy or achieving its goals. (Welfare reform is an issue of great importance both nationally and to states. Various changes have been made to the CDBG program in the last several years specifically position the program as a valuable funding resource for job creation, job training and employment support services. HUD encourages states to consider as one possible performance measure the number of public assistance recipients who are employed or who receive employment training or support services as a result of CDBG assistance.)

HUD evaluation of a state's Revitalization Strategy concept implementation will occur primarily through existing processes, such as the Consolidated Plan report and monitoring for conformance with the Method of Distribution. As with other aspects of State administration of the CDBG program, states which encounter problems in implementing their Revitalization Strategy concept (at the local or state level) should take steps to modify their approach.

HUD PARTNERSHIP APPROVAL PROCESS

HUD expects to approve a state's revitalization strategy approach, if it addresses each of the design considerations outlined in the "Design Parameters" section above. Since the state's HUD CPD Field Office representative will review the process description, the state should consult with its HUD representative to discuss its proposed approach and to discuss whether changes to the existing method of distributing CDBG funds will be required.

In the event HUD believes that a state's submission does not satisfactorily address each of the design parameters HUD will provide necessary technical assistance to the state to try to arrive at a consensus of what would constitute an acceptable process design. If, after such technical assistance, HUD and the state remain apart in their assessment of what is a realistic process, HUD has the option of not approving the process description statement.

The process description may be submitted as part of the state's Consolidated Plan or may be submitted as an amendment to it. When applicable, HUD's approval of the state's Consolidated Plan will also indicate its approval of the revitalization strategy process. Approval of a state's Consolidated Plan, without such express approval of the state's revitalization strategy process description, shall not constitute approval of such strategy approach.

EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

The revitalization strategy concept is rooted in the Empowerment Zone/Enterprise Community (EZ/EC) initiative. Many of the ingredients HUD sees as essential to a revitalization strategy have their counterparts in the strategies and benchmarks developed for the EZ/EC competition: active consultation with, and involvement of, the full range of community players; development of a comprehensive needs assessment; an action plan to guide the implementation of activities; economic empowerment of lower-income residents as an integral component of revitalization; and the establishment of performance measures by which the community and HUD can gauge successful implementation.

HUD applauds states for their support of the EZ/EC initiative. Many of the states in which Federally-designated EZs or ECs are located have committed additional state resources to the implementation of EZ/EC strategies, or have given such areas priority consideration in State CDBG funding competitions. HUD encourages states to use the EZ/EC process as a model for the design of their own approach to implement the revitalization strategy concept.

In the Entitlement program counterpart to this Notice (CPD Notice [96-01](#)), HUD indicated that it will presume that any Federally-designated EZ or EC located in an entitlement community meets the criteria for HUD approval; reports required under the EZ/EC program

will be considered to meet the neighborhood revitalization strategy reporting requirements. HUD encourages states to take a similar position regarding designated EZs and ECs in nonentitlement areas, for two reasons: successful applicants have already demonstrated the strengths of their plan through a highly competitive selection process; and by accepting existing assessments, action plans and benchmarks and Federally-required performance reports, states can save those communities the burden of recreating already-extensive documentation in a slightly different format.

Elsewhere, this notice discusses HUD's concerns about designating revitalization strategy areas which are too large. This concern, however, does not extend to Federally-designated EZs and ECs, even though a number of these span multiple counties. The approved EZs and ECs have developed strategies which demonstrate that they can effect substantial improvement in their designated areas. In addition, these areas have received a commitment of substantial Federal funding as a part of their designation. The CDBG regulations which allow economic development activities in revitalization strategy areas to use the low/moderate income area benefit criterion are written to presume that designated EZs and ECs meet that criterion. For these reasons, HUD strongly encourages states to accept Federally-designated EZ or EC areas as qualifying for state Community Revitalization Strategies, even if the size of those areas is larger than a state would otherwise allow.

Communities which submitted qualifying applications under the EZ/EC initiative, but which did not receive Federal designation, have similarly invested substantial time and effort in community consultation, needs assessment and strategy development. HUD believes those communities should generally be able to demonstrate that they meet a state's criteria for revitalization strategy approval. HUD encourages states to consider documents already prepared for the EZ/EC competition from such communities, and, where appropriate, to accept their documentation as evidence of meeting the state's revitalization strategy requirements.

States with questions and comments on aspects of this Notice should contact their HUD CPD Field Office Representative. Field offices should direct queries and comments to the State and Small Cities Division in Headquarters (202-708-1322).

APPENDIX 1: EXCERPTS FROM THE INTERIM REGULATIONS
REGARDING COMMUNITY REVITALIZATION STRATEGIES

Consolidated Plan regulations:

§91. 315 (e) (1):

Nonhousing community development plan. If the State seeks assistance under the Community Development Block Grant program, the consolidated plan must describe the State's priority nonhousing community development needs that affect more than one unit of general local government and involve activities typically funded by the State under the CDBG program. These priority needs must be described by CDBG eligibility category, reflecting the needs of persons or families for each type of activity. This community development component of the plan must state the State's specific long-term and short-term community development objectives (including economic development activities that create jobs), which must be developed in accordance with the statutory goals described in § 91.1 and the primary objective of the CDBG program to develop viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for low-income and moderate-income persons.

- (2) A State may elect to allow units of general local government to carry out a community revitalization strategy that includes the economic empowerment of low income residents, in order to obtain the additional flexibility available as provided in [24 CFR part 570](#), subpart I. A State must approve a local government's revitalization strategy before it may be implemented. If a State elects to allow revitalization strategies in its program, the method of distribution contained in a State's action plan pursuant to § 91.320(g)(1) must reflect the State's process and criteria for approving local governments, revitalization strategies. The State's process and criteria are subject to HUD approval.

91.320(g): Program-specific requirements. In addition, the plan must include the following specific information:

- (1) The method of distribution shall contain a description of all criteria used to select applications from local governments for funding, including the relative importance of the criteria -- if the relative importance has been developed. The action plan must include a description of how all CDBG resources will be allocated among all funding categories and the threshold factors and grant size limits that are to be applied. If the State intends to aid nonentitlement units of general local government in applying for guaranteed loan funds under 24 CFR part 570, subpart M, it must describe available guarantee amounts and how applications will be selected for assistance. If a State elects to allow units of general local government to carry out community revitalization strategies, the method of distribution shall reflect the State's process and criteria

for approving local governments' revitalization strategies. (The statement of the method of distribution must provide sufficient information so that units of general local government will be able to understand and comment on it and be able to prepare responsive applications.)

State CDBG Regulations:

570.482(d): Provision of Public Services. The following activities shall not be subject to the restrictions on public services under section 105(a)(8) of the Housing and Community Development Act of 1974, as amended:

(3) Services of any type carried out under the provisions of section 105(a)(15) of the Act, pursuant to a strategy approved by a State under the provisions of S 91.315(e)(2) of this title.

§570.482(f)(3): Applying the aggregate standards.

(v) Any activity subject to these standards which meets one or more of the following criteria may, at the grantee's option, be excluded from the aggregate standards described in paragraph (f)(2) of this section:

(L) Provides services to the residents of an area pursuant to a strategy approved by the State under the provisions of 91.315(e)(2) of this title;

(M) Creates or retains jobs through businesses assisted in an area pursuant to a strategy approved by the State under the provisions of § 91.315(e)(2) of this title.

570.483(b)(1): Area benefit activities.

(iv) Activities meeting the requirements of paragraph (e)(4)(i) of this section may be considered to qualify under paragraph (b)(1) of this section.

(v) HUD will consider activities meeting the requirements of paragraph (e)(5)(i) of this section to qualify under paragraph (b)(1) of this section, provided that the area covered by the strategy meets one of the following criteria:

(A) The area is in a Federally-designated Empowerment Zone or Enterprise Community;

(B) The area is primarily residential and contains a percentage of low and moderate income residents that is no less than 70 percent;

(C) All of the census tracts (or block numbering areas) in the area have poverty rates of at least 20 percent, at least 90 percent of the census tracts (or block numbering areas) in the area have poverty rates of at least 25 percent, and the area is primarily residential. (If only part of a census tract or block numbering area is included in a strategy area, the poverty rate shall be computed for those block groups (or any part thereof) which are included in the strategy area.)

(D) Upon request by the State, HUD may grant exceptions to the 70 percent low and moderate income or 25 percent poverty minimum thresholds on a case-by-case basis. In no case, however, may a

strategy area have both a percentage of low and moderate income residents less than 51 percent and a poverty rate less than 20 percent.

§570.483 (b) (3):

Housing activities. An eligible activity carried out for the purpose of providing or improving permanent residential structures that, upon completion, will be occupied by low and moderate income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property by the unit of general local government, a subrecipient, an entity eligible to receive assistance under section 105(a)(15) of the Act, a developer, an individual homebuyer, or an individual homeowner; conversion of nonresidential structures; and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. If two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. If housing activities being assisted meet the requirements of paragraphs (e)(4)(ii) or (e)(5)(ii) of this section, all such housing may also be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The unit of general local government shall adopt and make public its standards for determining "affordable rents" for this purpose. The following shall also qualify under this criterion:

§570.483(e): Additional criteria.

(5) If the unit of general local government has elected to prepare a community revitalization strategy pursuant to the authority of §91.315(e)(2) of this title, and the State has approved the strategy, the unit of general local government may also elect the following options:

(i) Activities undertaken pursuant to the strategy for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of paragraph (b) of this section under the criteria at S 570.483(b)(1)(v) instead of the criteria at S 570.483(b)(4); and

(ii) All housing activities in the area undertaken pursuant to the strategy may be considered to be a single structure for purposes of applying the criteria at paragraph (b)(3) of this section.

(6) If an activity meeting the criteria in 570.482(f)(3)(v) also meets the requirements of either paragraph (e)(4)(i) or (e)(5)(i) of this section, the unit of general local government may elect to qualify the activity either under the area benefit criteria at paragraph (b)(1)(iv) or (v) of this section or under the job aggregation criteria at paragraph (b)(4)(vi)(D) of this section, but

not under both. Where an activity may meet the job aggregation criteria at both paragraphs (b)(4)(vi)(D) and (E) of this section, the unit of general local government may elect to qualify the activity under either criterion, but not both.

APPENDIX 2: EXAMPLES OF SITUATIONS IN WHICH NEW REGULATORY FLEXIBILITIES CAN BE USED IN REVITALIZATION STRATEGY AREAS

The Town of Amberwave submits a Community Revitalization Strategy to its state, which the state approves. Amberwave is a town of 1879 people. The strategy area covers about 2/3 of the town. This portion of the town contains 1155 people, 71.4% of whom are low- and moderate-income.

There are 352 single-family housing units in the strategy area, 105 of which are substandard, and 98 multi-family housing units, of which 51 are substandard.

(1) Job Creation/Retention as Low/Moderate Income Area Benefit: (24 CFR 570.483(b)(1)(v) and (e)(5)(i)): The Majestic County Economic Development Corporation will administer a CDBG-funded loan program for small businesses in the strategy area. Several such businesses have expressed an interest in expanding, but are reluctant to commit to creating a specific number of new jobs. Under the normal low/moderate income benefit national objective criteria for job creation activities, each business must be tracked separately for job creation/retention; 51% of the jobs created or retained by each individual business must be held by (or made available to) low/moderate income persons.

HUD will presume that any activity undertaken to create or retain jobs pursuant to a Community Revitalization Strategy benefits the entire strategy area. The business loan program can be classified as an area benefit activity (71.4% low/moderate income benefit). No information need be collected regarding the income of employees filling the new jobs; the Town and the businesses need not show that first consideration was given to hiring low-and moderate-income persons. (However, the Town must still demonstrate that jobs are created, and so should obtain information from each business on the number of new jobs created as a result of the CDBG assistance.)

(2) Aggregation of Housing Units: (24 CFR 570.483(b)(3) and (e)(5)(ii)): Amberwave will implement a housing rehabilitation program for both single-family and multi-family properties in the strategy area. Several dilapidated structures will be acquired and demolished; the Town will transfer the lots to a local non-profit housing developer, Housing Opportunities Unlimited in the SouthEast, (HOUSE, Inc.). HOUSE, Inc. will use CDBG funds to construct new single-family housing units on the vacant lots. To increase the percentage of homeownership in the target area, HOUSE, Inc. will offer first-time homebuyer assistance, using CDBG funds, to purchasers of houses in the target area.

Under the normal low/moderate income benefit national objective criteria for housing, each single-family housing unit built or rehabilitated must be occupied by a low- and moderate-income household. In essence, this means that single-family housing activities must achieve 100% low/moderate income benefit. But because Amberwave's housing rehabilitation program will be undertaken pursuant to its revitalization strategy, the Town can lump together the single- and multi-family housing rehabilitation and new construction activities in demonstrating national objective compliance; 51% of the assisted housing units must be occupied by low/moderate income households.

Section 105(a)(24) of the Housing and Community Development Act requires that CDBG-funded homeownership assistance activities be limited to low-and moderate-income persons. Therefore, if the state classifies the activity as eligible under §105(a)(24) of the Act, 100% of the households assisted through the first-time homebuyer program must be of low and moderate incomes. Any household which uses CDBG first-time homebuyer assistance to purchase one of HOUSE, Inc.'s newly-constructed homes must be low-and moderate income.

There is an exception to this rule, however. Prior to the permanent addition of homeownership assistance as an eligible activity in the Act, downpayment assistance could be undertaken as a public service, pursuant to §105(a)(8) of the Act. The addition of §105(a)(24) does not eliminate the option of classifying downpayment assistance as a public service. If the state classifies HOUSE, Inc.'s homeownership assistance program as a §105(a)(8) public service, all assisted units may be treated as a single structure; only 51% of the assisted housing units would then need to be occupied by low/moderate income households.

(3) Aggregate Public Benefit Standard Exemption: (24 CFR 570.482 (f)(3)(v)(L) and (M)): The Majestic County Economic Development Corporation has convinced a small, homegrown, high-tech start-up firm to stay and expand in Amberwave, rather than move to the Silicon Valley. CDBG funds will be lent to the firm to build a new facility. The nature of the business entails very high capital equipment acquisition costs; because the firm is still young, it cannot commit to create a large number of jobs.

Under the normal public benefit standards requirements, the aggregate average cost per job for all economic development activities funded by a state from a given year's allocation cannot exceed \$35,000. Given the high CDBG cost per job (\$48,795 per job) for this project, the state is worried that its statewide aggregate public benefit figure might be exceeded.

Because this project is being undertaken pursuant to a Community Revitalization Strategy, it may be exempted from the aggregate public benefit standard; it only needs to meet the individual activity public benefit standard (\$50,000 CDBG per job).

(4) Public Service Cap Exemption: (24 CFR 570.482(d)(3)):
Amberwave's Community Revitalization Strategy identified affordable day care as a major need, especially among lower-income households where the lack of day care forces a parent to stay home (and out of the workforce). In putting together its strategy, the Town learned that the one existing day care provider, run by the Fruited Plains Community Action Agency, is in danger of shutting down because of funding cutbacks. The Town has agreed to provide CDBG funds to the Community Action Agency to keep the day care center open, and to expand service once it returns to fiscal stability. Because this public service activity is being undertaken under 105(a)(15) of the Act and pursuant to a Revitalization Strategy, it can be exempted from the usual restrictions on public services (the 15% statewide cap on funding and the new/increased level-of-service requirement).

CHAPTER 11: ENVIRONMENTAL REVIEW



CHAPTER PURPOSE & CONTENTS

This chapter provides states with general information on environmental review. The chapter will provide an overview of the applicable regulations, responsibilities, guidance on classifying the activity and the appropriate level of review. States must consult the regulations (cited within this chapter) and their HUD Environmental Representative for more detailed guidance than this chapter can provide.

SECTION	TOPIC
11.1	Overview of Environmental Requirements

11.1 Overview of the Environmental Requirements

11.1.1 Background and Applicable Regulations

- ✓ The purpose of the environmental review process is to analyze the effect a proposed project will have on the people and the natural environment within a designated project area and the effect the material and social environment may have on a project.
- ✓ UGLG who receive CDBG funds are considered responsible entities and must complete an environmental review of all project activities prior to obligating CDBG funds. This requirement also applies to projects funded with CDBG generated program income.
- ✓ The HUD rules and regulations that govern the environmental review process can be found at 24 CFR Part 58.
- ✓ The provisions of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations in 40 CFR Parts 1500 through 1508 also apply. In addition, a myriad of other Federal and state laws and regulations (some of which are enforced by State agencies) also apply depending upon the type of project and the level of review required.
- ✓ The following is a summary of applicable statutory and regulatory cites and other reference materials available from HUD:

Key Topics in This Section	<ul style="list-style-type: none">✓ Applicable environmental rules✓ Legal responsibilities✓ Triggering actions✓ Classifying the activity
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Regulatory/Statutory Citations	24 CFR Part 58 40 CFR Part 1500-1508
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ HUD's Office of Environment and Energy: http://www.hud.gov/offices/cpd/environment/ ✓ HUD's Environmental Review Requirements: http://www.hud.gov/offices/cpd/environment/review/ ✓ Environmental Review and the CDBG Program Guidebook http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/files/Environmental_Review_Guide(Greenbook).pdf ✓ Assessment Tools for Environmental Compliance http://www.hud.gov/offices/cpd/environment/atec.cfm ✓ HUD's Frequently Asked Environmental Questions and Answers: http://www.hud.gov/offices/cpd/environment/library/ ✓ CDBG – Toolkit on Crosscutting Issues http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm ✓ CPD Notice 02-07

11.1.2 The Responsible Entity & Official Designations

- ✓ Under 24 CFR Part 58, the term “responsible entity” (RE) means the UGLG receiving CDBG assistance. The responsible entity must complete the environmental review process. The RE is responsible for ensuring compliance with NEPA and the Federal laws and authorities has been achieved, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the Environmental Review Record (ERR) is complete.
- ✓ In order to fulfill its obligations under 24 CFR Part 58, the RE should designate two responsible parties:
 - **Certifying Officer:** The responsible entity must designate a Certifying Officer -- the “responsible Federal official” -- to ensure compliance with the National Environmental Policy Act (NEPA) and the Federal laws and authorities cited at section 58.5 has been achieved. This person is the chief elected official, chief executive official, or other official designated by formal resolution of the governing body. Within the State CDBG Program, states generally make the same requirement of their state recipients. The certifying officer must have the authority to assume legal responsibility for certifying that all environmental requirements have been followed. This function may not be assumed by administering agencies or consultants.
 - **Environmental Officer:** The funding recipient should also designate an Environmental Officer. The Environmental Officer is responsible for conducting the environmental review including such tasks as: writing the project narrative, obtaining maps of the project area, soliciting comments from appropriate local, state and federal agencies, and facilitating responses to comments received on the environmental findings.



11.1.3 Environmental Review Record

- ✓ Each responsible entity must prepare and maintain a written record of the environmental review undertaken for each project. This written record or file is called the Environmental Review Record (ERR), and it must be available for public review upon request.
- ✓ The ERR shall contain all the environmental review documents, public notices (and proof of their publication), and written determinations or environmental findings required by 24 CFR Part 58 as evidence of review, decision making and actions pertaining to a particular project. The document shall:
 - Describe the project and each of the activities comprising the project, regardless of individual activity funding source; and
 - Evaluate the effects of the project or the activities on the human environment;
 - Document compliance with applicable statutes and authorities; and
 - Record the written determinations and other review findings required by 24 CFR Part 58.
- ✓ The ERR will vary in length and content depending upon the level of review required for the categories of activities.
- ✓ Public comments, concerns and appropriate resolution by the recipient are extremely important and must be fully documented in the ERR.
- ✓ Many states have developed their own forms and procedures for the State CDBG program which are to be used for the Environmental Reviews. However, there are some sample forms and templates on the website referenced above, CDBG – Toolkit on Crosscutting Issues or on HUDclips: <http://www.hud.gov/offices/adm/hudclips/>.

11.1.4 Actions Triggering Environmental Review and Limitations Pending Clearance

- ✓ According to the NEPA (40 CFR 1500-1508) and Part 58, the responsible entity is required to ensure that environmental information is available before decisions are made and before actions are taken. In order to achieve this objective, Part 58 prohibits the commitment or expenditure of CDBG funds until the environmental review process has been completed and, if required, the state receives a release of funds.
 - States and UGLG may not spend either public or private funds (CDBG, other Federal or non-Federal funds), or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site until environmental clearance has been achieved.
 - States and UGLG must avoid any and all actions that would preclude the selection of alternative choices before a final decision is made – that decision being based upon an understanding of the environmental consequences and actions that can protect, restore and enhance the human environment (i.e., the natural, physical, social and economic environment).
 - Activities that have physical impacts or which limit the choice of alternatives cannot be undertaken, even with the state or other project participant's own funds, prior to obtaining environmental clearance.



- ✓ For the purposes of the environmental review process, “commitment of funds” includes:
 - Execution of a legally binding agreement (such as a property purchase or construction contract);
 - Expenditure of CDBG funds;
 - Use of non-CDBG funds on actions that would have an adverse impact--- e.g., demolition, dredging, filling, excavating; and
 - Use of non-CDBG funds on actions that would be “choice limiting”--- e.g., acquisition of real property; leasing property; rehabilitation, demolition, construction of buildings or structures; relocating buildings or structures, conversion of land or buildings/structures.
- ✓ It is acceptable for states to execute non-legally binding agreements prior to completion of the environmental review process. A non-legally binding agreement contains stipulations that ensure the project participant does not have a legal claim to any amount of CDBG funds to be used for the specific project or site until the environmental review process is satisfactorily completed.

11.1.5 Classifying the Activity and Conducting the Appropriate Level of Review

- ✓ To begin the environmental review process, funding recipients must first determine the environmental classification of the project. The term “project” can be defined as an activity or group of activities geographically, functionally, or integrally related, regardless of funding source, to be undertaken by the UGLG, or a public or private entity in whole or in part to accomplish a specific objective.
- ✓ If various project activities have different classifications, the recipient must follow the review steps required for the most stringent classification.
- ✓ The four environmental classifications are:
 - Exempt Activities,
 - Categorically Excluded Activities,
 - Activities Requiring an Environment Assessment, or
 - Activities Requiring an Environmental Impact Statement.
- ✓ Regardless of the number of activities associated with a project, a single environmental review is required. Aggregating related activities ensures the recipient adequately addresses and analyzes the separate and combined impacts of a proposed project.
- ✓ Project Aggregation (grouping “like” activities) may be necessary. Conditions under which project aggregation would occur include:
 - Activities are in a concentrated area;
 - Activities are within unspecified sites;
 - Multi-year activities; or
 - Special HUD initiatives.



- ✓ In project aggregation, the responsible entity must group together and evaluate as a single project all of the individual activities that are related. They may be related geographically or functionally or are logical parts of a group of contemplated actions.
- ✓ Related activities are ones that:
 - Automatically trigger other actions;
 - Cannot or will not proceed unless other actions are taken beforehand or at the same time; or
 - Are mutually dependent parts of a larger activity/action.
- ✓ See attachment 1 on the Levels of Environmental Review.

11.1.6 Exempt Activities

- ✓ Certain activities are by their nature highly unlikely to have any direct impact on the environment. Accordingly, these activities are not subject to most of the procedural requirements of environmental review.
- ✓ Listed below are examples which may be exempt from environmental review. For complete details refer to the environmental regulations.
 - Environmental and other studies;
 - Information and financial services;
 - Administrative and management activities;
 - Engineering and design costs;
 - Interim assistance (emergency) activities if the assisted activities do not alter environmental conditions and are for temporary or permanent improvements limited to protection, repair or restoration actions necessary only to control or arrest the effects of disasters or imminent threats to public safety or those resulting from physical deterioration;
 - Public service activities that will not have a physical impact or result in any physical changes;
 - Inspections and testing of properties for hazards or defects;
 - Purchase of tools or insurance;
 - Technical assistance or training;
 - Payment of principal and interest on loans made or guaranteed by HUD; and
 - Any of the categorically excluded activities subject to Part 58.5 (as listed in 58.35(a)) provided there are no circumstances which require compliance with any other Federal laws and authorities listed at Part 58.5 of the regulations. Refer to the section below on categorically excluded activities subject to Part 58.5.
- ✓ If a project is determined to be exempt the responsible entity is required to document in writing that the project is exempt and meets the conditions for exemption as spelled out in § 58.34.



- ✓ In addition to making a written determination of exemption, the RE must also determine whether any of the requirements of 24 CFR Part § 58.6 are applicable and address as appropriate.
 - The requirements at 24 CFR § 58.6 include the Flood Disaster Protection Act; the Coastal Barriers Resources Act; and HUD's requirement for disclosure of properties located in airport runway clear zones.

11.1.7 Categorically Excluded Activities

Categorically Excluded Activities not Subject to 58.5

- ✓ The following activities, listed at 24 CFR Part 58.35(b), have been determined to be categorically excluded from NEPA requirements and are not subject to Section 58.5 compliance determinations.
 - Tenant based rental assistance;
 - Supportive services including but not limited to health care, housing services, permanent housing placement, short term payments for rent/mortgage/utility costs, and assistance in gaining access to local State and Federal government services and services;
 - Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training, recruitment, and other incidental costs;
 - Economic development activities including but not limited to equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
 - Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction such as closing costs, down payment assistance, interest buy downs and similar activities that result in the transfer of title to a property; and
 - Affordable housing predevelopment costs with NO physical impact such as legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.
- ✓ To complete environmental requirements for Categorically Excluded projects not Subject to 24 CFR Part § 58.5, the responsible entity must take the following steps:
 - Make a finding of Categorical Exclusion not Subject to § 58.5 and put in the ERR.
 - The ERR must contain a written determination of the RE's finding that a given activity or program is categorically excluded not subject to § 58.5. When these kinds of activities are undertaken, the RE does not have to issue a public notice or submit a request for release of funds (RROF) to HUD.
 - In order to document the finding of categorical exclusion not subject to §58.5. The RE must cite the applicable subsection of § 58.35(b), identify and describe the specific activity or activities, and provide information about the estimated amount of CDBG or other funds to be used.
 - Carry out any applicable requirements of 24 CFR Part § 58.6 and document the ERR as appropriate.



- The RE must determine whether the activity triggers any of the other requirements at 24 CFR 58.6, which are: the Flood Disaster Protection Act; the Coastal Barriers Resources Act; and HUD's requirement for disclosure of properties located in airport runway clear zones.

Categorically Excluded Activities Subject to 58.5

- ✓ The list of categorically excluded activities is found at 24 CFR Part 58.35. While the activities listed in 58.35(a) are categorically excluded from NEPA requirements, the state must nevertheless demonstrate compliance with the laws, authorities and Executive Orders listed in 58.5.
- ✓ The following are categorically excluded activities subject to 58.5:
 - Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size, or capacity of more than 20 percent.
 - Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and disabled persons.
 - Rehabilitation of buildings and improvements when the following conditions are met:
 - For residential properties with one to four units:
 - The density is not increased beyond four units;
 - The land use is not changed; and
 - If the building is located in a floodplain or in a wetland, the footprint of the building is not increased.
 - For multi-family residential buildings (with more than four units):
 - Unit density is not changed more than 20 percent;
 - The project does not involve changes in land use from residential to non-residential; and
 - The estimated cost of rehabilitation is less than 75 percent of the total estimated replacement cost after rehabilitation.
 - For non-residential structures including commercial, industrial and public buildings:
 - The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - The activity does not involve a change in land use, e.g. from commercial to industrial, from non-residential to residential, or from one industrial use to another.
 - An individual action on up to four-family dwelling where there is a maximum of four units on any one site. *“Individual action”* refers to new construction, development, demolition, acquisition, disposition or refinancing (does not include rehabilitation which is covered previously). The units can be four one-unit buildings or one four-unit building or any combination in between;



- An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site;
- Acquisition (including leasing) or disposition of or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
- Combinations of the above activities.
- ✓ The ERR must contain a written determination of the RE's finding that a given activity or program is categorically excluded subject to § 58.5. This determination should:
 - Include a description of the project (including all the related activities, even though HOME funds may not be used for all of them);
 - Cite the applicable subsection of § 58.35(a);
 - Provide the total estimated project cost; and
 - Provide written documentation as to whether or not there were any circumstances which required compliance with any of the Federal laws and authorities cited in §58.5.
- ✓ The RE must use the HUD recommended Statutory Checklist, or an equivalent format, to document its environmental findings. (Contact the HUD Environmental Representative for a copy of the most current version of the checklist and instructions for its completion.)
- ✓ The RE's documentation must support its determinations related to compliance with the Federal laws and authorities cited in §58.5, including correspondence with the applicable agencies having jurisdiction over the various areas on the checklist.
- ✓ Upon completion of the checklist, the RE will make one of three environmental findings:
 - The project converts to exempt [§ 58.34(a)(12)];
 - The project invokes compliance with one or more of the laws and/or authorities and, therefore, requires public notification and approval from HUD; or
 - The unusual circumstances of the project may result in a significant environmental impact and, therefore, compliance with NEPA is required.
- ✓ If upon completing the Statutory Checklist, the RE determines compliance is required for one or more of the Federal laws and authorities listed in § 58.5, then the RE must publish or post a public notification known as the Notice of Intent to Request Release of Funds (NOI/RROF).
- ✓ After the seven-day comment period has elapsed, the responsible entity must prepare the Request for Release of Funds (RROF) and Environmental Certification. The Environmental Certification certifies that the RE is in compliance with all the environmental review requirements. The RROF and Certification must be signed by the Certifying Officer and submitted to HUD. The RE must receive the release of funds from HUD before proceeding forward with the project.

11.1.8 Activities Requiring an Environmental Assessment

- ✓ Activities which are neither exempt nor categorically excluded (under either category) will require an environmental assessment (EA) documenting compliance with NEPA, HUD and with the environmental requirements of other applicable Federal laws.



- ✓ The responsible entity must take the following steps to complete environmental requirements for projects requiring an environmental assessment:
 - Complete the Modified Format II: Environmental Assessment form completely. The responsible entity must ensure that reliable documentation sources are cited for every item on this assessment checklist. The state's HUD Environmental Representative can provide detailed guidance on the Modified Format II, including appropriate documentation for each area of the checklists.
 - Once the Format II has been completed, including consultation with applicable agencies and persons, the state must make a determination as to whether the project will or will not have a significant impact on the environment. This can be done once the review has been completed and any comments have been addressed appropriately. The Responsible Entity must select one of the following two findings/determinations:
 - The project is not an action that significantly affects the quality of the human environment and, therefore, does not require the preparation of an environmental impact statement; or
 - The project is an action that significantly affects the quality of the human environment and, therefore, requires the preparation of an environmental impact statement. Both the finding and the environmental assessment must be signed by your environmental certifying officer and included in the ERR.
- ✓ In most instances, the environmental assessment will result in a finding that the project is not an action that significantly affects the quality of the environment and, therefore, does not require an environmental impact statement. If this is the case, the responsible entity must complete the following:
 - Publish and distribute a public notice called a Combined/Concurrent Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF).
 - The RROF and Environmental Certification must be submitted to HUD or the state no sooner than 16 days after publishing the combined/concurrent notice. The Certification must be signed by the Certifying Officer of the jurisdiction.
 - HUD or the state must hold the Release of Funds for a 15-day period to allow for public comment. If no comments are received during this time, HUD will send back a signed Release of Funds and the project may proceed.
- ✓ If the environmental assessment will result in a finding that the project will significantly affect the environment and, therefore, requires an environmental impact statement, the state should contact its HUD Environmental Representative for guidance.

11.1.9 Environmental Impact Statement

- ✓ An Environmental Impact Statement (EIS) details the recipient's final analyses and conclusions, according to NEPA, related to potential significant environmental impact of the project. Recipients must follow prescribed steps in the course of preparation, filing and review of an Environmental Impact Statement (See 24 CFR 58, Subpart G, and 40 CFR 1500-1508).
- ✓ An EIS may be required when:



- The project is so large that it triggers density thresholds, and common sense suggests it may have a substantial environmental impact.
 - A Finding of Significant Impact (FOSI) is found as a result of completing an environmental assessment for the project.
 - Preparation of an EIS is mandatory if the project meets any of these requirements below:
 - Any project to provide a site or sites for hospitals and nursing homes with a total of at least 2,500 beds.
 - Any project to remove, destroy, convert or substantially rehabilitate at least 2,500 existing housing units.
 - Any project to construct, install or provide sites for at least 2,500 housing units.
 - Any project to provide water and sewer capacity for at least 2,500 housing units.
 - Any project that exceeds the 2,500-unit threshold for nonresidential housing construction.
- ✓ EISs are very rare under the CDBG program. Contact your HUD Environmental Officer if there is any indication an EIS may be necessary.

ATTACHMENT 11-1: SUMMARY OF LEVELS OF ENVIRONMENTAL REVIEW & DOCUMENTATION REQUIRED IN ERR

rev. 1-27-2010

LEVEL OF ENVIRONMENTAL REVIEW				
58.34 Exempt	58.35(b) Categorically Excluded NOT subject to 58.5	58.35(a) Categorically Excluded AND subject to 58.5 "A" checked for all on Statutory Worksheet*	58.35(a) Categorically Excluded AND subject to 58.5 statutory authorities: "B" checked for one or more on Statutory Worksheet*	58.36 NEPA Environmental Assessment
TYPE OF ACTIVITIES				
Environmental and other studies	Tenant-based rental assistance			
Resource Identification	Supportive services such as health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent,	Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are already in place and will be retained in the same use without change in size or capacity of more than 20%		Activities not exempt or categorically excluded.
Development of plans and strategies	mortgage, or utilities, assistance in gaining access to government benefits.	<ul style="list-style-type: none">Replacement of water or sewer linesReconstruction of curbs & sidewalksrepaving of streets		
Information and financial services	Operating costs including maintenance, furnishings, security, equipment, operation, supplies, utilities, staff training and recruitment	Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to the elderly and handicapped.		Generally, new construction of 5 or more homes, and conversion from one type of land use to another.
Administrative and Management Activities	Economic development activities including equipment purchase, inventory financing, interest subsidy, operating costs, and other expenses not associated with construction or expansion	Single Family Housing Rehab <ul style="list-style-type: none">Unit density is not increased beyond 4 units,Project doesn't involve change in land use from residential to non-residentialThe footprint of the building in not increased in a floodplain or a wetland.		
Public services, i.e., employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation, welfare, recreational needs	Activities to assist homeownership of existing dwelling units or units under construction, including closing costs and down payment assistance to homebuyers, interest buy downs or other actions resulting in transfer of title.	Multifamily Housing Rehab <ul style="list-style-type: none">Unit density change is not more than 20%Project doesn't involve change in land use from residential to non-residentialCost of rehabilitation is less than 75% of the estimated cost of replacement after rehab		
Inspections and testing for hazards or defects	Affordable housing pre-development costs: legal consulting, developer and other site-option costs, project financing, administrative costs for loan commitments, zoning approvals, and other activities which don't have a physical impact.	Non-Residential Structures <ul style="list-style-type: none">Facilities and improvements were in place and will not be changed in size or capacity by more than 20%Activity does not involve change in land use from non-residential to residential, commercial to industrial, or one industrial use to another		
Purchase insurance and tools				
Engineering or design costs				
Technical assistance and training				

ATTACHMENT 11-1: SUMMARY OF LEVELS OF ENVIRONMENTAL REVIEW & DOCUMENTATION REQUIRED IN ERR

rev. 1-27-2010

Temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities to control or arrest the effects from disasters or imminent threats to public safety, including those resulting from physical deterioration.	Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under Part 58, if: approval is by same the RE, and re-evaluation is not required, per 58.47	Individual action (e.g., disposition, new construction, demolition, acquisition) on a 1 to 4 family dwelling; or individual action on five or more units scattered on sites more than 2000 feet apart and no more than 4 units per site.	
Payments of principal and interest on loans or obligations guaranteed by HUD		Acquisition (including leasing) or disposition of, or equity loans on an existing structure or acquisition (including leasing) of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.	
		Combinations of the above activities	
DOCUMENTATION REQUIRED IN ERR			
Describe activity and make a written determination of exemption. Also, determine compliance with 58.6: <ul style="list-style-type: none">◆ National Flood Insurance Program◆ Coastal Barrier Resource Act◆ Runway Clear Zones	Describe activity and make a written 58.35(b) determination. Also, determine compliance with 58.6: <ul style="list-style-type: none">◆ National Flood Insurance Program (NFIP)◆ Coastal Barrier Resource Act (CBRA)◆ Runway Clear Zones	Complete Statutory Worksheet, (sec. 58.5) and indicate converts exempt. Also, determine compliance with 58.6 <ul style="list-style-type: none">◆ NFIP◆ CBRA◆ Runway Clear Zones	Complete Statutory Worksheet (sec. 58.5) NOI/RROF notification RROF & Certification (form 7015.15) Authority to Use Grant Funds (form 7015.16) Also, determine compliance with 58.6 <ul style="list-style-type: none">◆ National Flood Insurance Program◆ Coastal Barrier Resource Act◆ Runway Clear Zones
			Environmental Assessment (including Statutory Checklist)* FONSI and NOI/RROF notification Form 7015.15 Form 7015.16 Also, determine compliance with 58.6

CHAPTER 12: LABOR STANDARDS



CHAPTER PURPOSE & CONTENTS

This chapter provides states with general information on labor standards as these requirements apply to CDBG-funded construction work. The following topics are covered:

SECTION	TOPIC
12.1	Overview of the Labor Standards Requirements

12.1 Overview of the Labor Standards Requirements

- ✓ Construction work that is financed in whole or in part with CDBG funds must adhere to certain Federal labor standards requirements. This chapter describes the policies and procedures that must be followed when undertaking construction projects with CDBG funds to ensure compliance with the labor laws and requirements.

Key Topics in This Section	<ul style="list-style-type: none">✓ Overview of requirements and responsibilities of the state✓ Applicable laws and regulations✓ Other resources
Regulatory/Statutory Citations	Section 110; 40 USC, Chapter 3, Section 276a-276a-5; 29 CFR Part 1, 3, 5, 6 and 7; 40 USC, Chapter 3 Section 276c; 18 USC, Part 1, Chapter 41, Section 874; 29 CFR Part 3; 40 USC Chapter 5, Sections 326-332; 29 CFR Part 4, 5, 6 and 8; 29 CFR Part 70 to 240
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ Excluded Parties List https://www.epls.gov/✓ "Making Davis-Bacon Work: A Practical Guide for States, Indian Tribes and Local Agencies"✓ "Making Davis-Bacon Work: A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects"✓ CDBG – Toolkit on Crosscutting Issues http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm

- ✓ Under the labor laws, the prime or general contractor is responsible for full compliance with applicable requirements, including all employers/subcontractors on the project. The state and UGLG are responsible for the administration and enforcement of the requirements to ensure compliance.
- ✓ Before general labor laws and regulations are checked for compliance requirements, the first task that the UGLG must conduct is to ensure any contractor or subcontractor are not listed on the Federal government's Excluded Parties List prior to the execution of any contract. The website for checking excluded parties is noted above.



12.1.1 Labor Laws and Requirements

- ✓ The labor laws that may apply to CDBG-funded construction work include the following:
 - The **Davis-Bacon Act** (40 USC, Chapter 3, Section 276a-276a-5; and 29 CFR Parts 1, 3, 5, 6 and 7) is triggered when construction work over \$2,000 is financed in whole or in part with CDBG funds. It requires that workers receive no less than the prevailing wages being paid for similar work in the same area. Davis-Bacon does not apply to the rehabilitation of residential structures containing less than eight units or force account labor (construction carried out by employees of the UGLG). HUD has concluded that new construction (as well as rehabilitation) of residential property is exempt from Federal labor standards if the property contains less than 8 units. HUD should be contacted if there is any situation where the applicability of Davis-Bacon is in question; however, here are a few examples of 8+ unit properties:
 - 5 townhouses side-by-side which consist of 2 units each.
 - 3 apartment buildings each consisting of 5 units and located on one tract of land.
 - 8 single-family (not homeowner) houses located on contiguous lots.
 - The **Copeland Anti-Kickback Act** (40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR Part 3) requires that workers be paid weekly, that deductions from workers' pay be permissible, and that contractors maintain and submit weekly payrolls.
 - The **Contract Work Hours and Safety Standards Act** (40 USC, Chapter 5, Sections 326-332; and 29 CFR Part 4, 5, 6 and 8; 29 CFR Part 70 to 240) applies to contracts over \$100,000 and requires that workers receive overtime compensation (time and one-half pay) for hours they have worked in excess of 40 hours in one week. Violations under this Act carry a liquidated damages penalty (\$10 per day per violation).
 - **Section 3 of the Housing and Urban Development Act of 1968**, as amended requires the provision of opportunities for training and employment that arise through HUD-financed projects to lower-income residents of the project area. Also required is that contracts be awarded to businesses that provide economic opportunities for low- and very low-income persons residing in the area. Please see the Fair Housing chapter of this manual for more information.
- ✓ NOTE: Some states have labor laws that may also apply to CDBG-funded construction projects. If Federal and State laws differ, states must comply with the more stringent of the two.
- ✓ HUD has published two guides that are available for downloading from its web site on labor standards requirements. These documents are "Making Davis Bacon Work: A Practical Guide for States, Indian Tribes and Local Agencies" and "Contractor's Guide to Davis-Bacon: Prevailing Wage Requirements for Federally-Assisted Construction Projects."
- ✓ Additional information is available on HUD's Office of Labor Relations web site at <http://www.hud.gov/offices/olr/>.
- ✓ Finally, there are some sample forms and templates on the website referenced above, CDBG – Toolkit on Crosscutting Issues.



12.1.2 Bidding and Contracting Requirements

- ✓ Once it is determined that a construction project is subject to Federal labor standards requirements, certain steps must be taken to ensure compliance. Specifically, states and UGLG must include all applicable labor standards language and the appropriate wage decision in construction bid and contract documents.

Wage Rate Decisions

- ✓ The Davis-Bacon wage decision that applies to a project contains a schedule of work/job classifications and the minimum wage rates that must be paid to persons performing particular jobs. Some wage decisions cover several counties and/or types of construction work.
- ✓ The state and UGLG may access Federal wage rate decisions through the internet at www.wdol.gov. Federal wage determinations are generally issued for four categories: Building, Residential, Heavy, and Highway. It is important to understand the differences when determining which rate category to request to avoid paying wages from an inappropriate determination.
 - **Building construction** generally includes construction of sheltered enclosures with walk-in access for housing persons, machinery, equipment or supplies. This includes all construction within and including the exterior walls, both above and below grade.
 - **Residential projects** involve the construction, alteration or repair of single-family houses or apartment buildings no more than four stories tall.
 - **Heavy construction** is generally considered for all construction not properly classified as highway, residential, or building. Water and sewer line construction will typically be categorized as heavy construction.
 - **Highway projects** include construction, alteration or repair of roads.
- ✓ HUD should be consulted if there are questions about properly identifying the type of wage determination and/or modifications.
- ✓ If a work classification that is needed for the project does not appear on the wage decision that will be used, the UGLG must request an additional classification and wage rate from the state and HUD. Requests must be made in writing through the state and must meet certain criteria to be approved. Requests which fail to meet HUD approval are forwarded to DOL for final determination.
- ✓ Apprentices and trainees may be paid less than the journeyman's rate for their craft only if registered in a program approved by the DOL or a state apprenticeship agency recognized by DOL.

Labor Clauses and Wage Decisions in Bid and Contract Documents

- ✓ The labor clauses, which are contained in HUD-4010, and the applicable wage rate decision (and any additional classifications), must be a physical part of the bid package. The labor clauses obligate the contractor to comply with the Davis-Bacon wage and reporting requirements and provide remedies and sanctions should violations occur.



- Ten days prior to bid opening, the UGLG must check to see if the wage decision has been modified. If so, UGLGs should notify all potential bidders appropriately in conformance with local procurement procedures.
- If a contract has been awarded but construction has not yet begun within 90 days of the award, the UGLGs must also determine if any modifications have been issued to the wage decision. If so, the contractor must adhere to the modified wage decision.

12.1.3 Enforcement of Requirements during Construction

During construction, the UGLG is responsible for enforcing the labor standards requirements described in this chapter. This includes good construction management techniques (e.g., pre-construction conferences, issuance of notices to proceed and payments tied to compliance with the labor requirements), in addition to payroll reviews and worker interviews.

Pre-construction Conference

- ✓ Pre-construction conferences are no longer required in order to comply with Federal labor standards requirements. However it is recommended that UGLGs hold them prior to the start of work to review contractual requirements, including labor, and performance schedules.
- ✓ The UGLG as well as performance expectations. Items that should be covered at the pre-construction conference include, but are not limited to:
 - Provide and review with the contractor with a copy of the “Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects.” This guide can be downloaded from at: <http://www.hud.gov/offices/olr/library.cfm>.
 - Explain that the contractor must submit weekly payrolls and Statements of Compliance signed by an officer of the company, and that the prime contractor is responsible for obtaining and reviewing payrolls and Statements of Compliance from all subcontractors.
 - Explain that wages paid must conform to those included in the wage rate decision included in the contract. Discuss the classifications to be used. If additional classifications are needed, contact HUD immediately.
 - Explain that employee interviews will be conducted periodically during the project.
 - Emphasize that a copy of the wage rate decision must be posted at the job site.
 - Explain that apprentice or trainee rates cannot be paid unless the apprentice or training program is certified by the State Bureau of Apprenticeship and Training. If apprentices or trainees are to be used, the contractor must provide the UGLG with a copy of the State certification of his/her program.
 - If the contract is \$100,000 or greater, explain that workers must be paid overtime if they work more than 40 hours in one week, and that failure to pay workers at least time and a half whenever overtime violates the Contract Work Hours and Safety Standards law. In addition to restitution, noncompliance with this law makes the contractor liable for liquidated damages of \$10 per day for every day each worker exceeded 40 hours a week without being paid time and a half.
 - Explain that no payroll deductions can be made that are not specifically listed in the Copeland Anti-kickback Act provisions unless the contractor has obtained written



permission of the employee. Unspecified payroll deductions are a serious discrepancy and must be resolved prior to further contractor payments.

- Provide contractor with posters for the job site, such as the “Notice to All Employees Working on Federal or Federally Financed Construction Projects.” These posters and others that are required are available at:
<http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>.
- The UGLG should also describe the compliance monitoring that will be conducted during the project, and indicate that discrepancies and underpayments discovered as a result of compliance monitoring must be resolved prior to making further payment to the contractor. Remind the contractor that labor standards provisions are as legally binding as the technical specifications, and failure to pay specified wages will result in contractor payments being withheld until all such discrepancies are resolved and potentially restitution, liquidated damages and/or recommendation for debarment.

Notice to Proceed

- ✓ Following execution of the contract documents and completion of the pre-construction conference, it is typical practice to issue a Notice to Proceed to the prime/general contractor to begin performance of the work. The Notice to Proceed establishes the construction start date and the scheduled completion date, and provides the basis for assessing liquidated damages. The construction period and basis for assessing liquidated damages must be consistent with those sections of the contract documents.

Payroll Review

- ✓ Once construction is underway, the prime/general contractor should complete a weekly payroll report for its employees on the covered job and sign the Statement of Compliance. The prime/general contractor must also obtain weekly payrolls (including signed Statements of Compliance) from all subcontractors as they work on the project.
- ✓ Certified payroll reports should be submitted by the prime/general contractor to the UGLG within a reasonable timeframe so as to ensure compliance, typically no more than 10 working days following the end of the payroll period.
- ✓ The HUD payroll form (WH-347) does not have to be used, but alternative payroll documentation must include all of the same elements in order to determine compliance with applicable regulations. The Statement of Compliance must be completed and signed by an authorized representative of the company and submitted in conjunction with the payroll form (or alternate equivalent payroll documentation).
- ✓ The payrolls should be reviewed by the general contractor to ensure that there are no discrepancies or underpayments. Remember that the prime contractor is responsible for the full compliance of all subcontractors on the project and will be held accountable for any wage restitution that may be necessary. This includes restitution for underpayments and, potentially, liquidated damages that may be assessed for overtime violations.
- ✓ UGLGs should review a payroll to ensure that workers are being paid no less than the prevailing Davis-Bacon wages and that there are no other falsifications.
- ✓ In addition to the falsification indicators described in the HUD guidance, items to be spot-checked should include:



- The correct classification of workers;
 - A comparison between the classification and the wage determination to determine whether the rate of pay is at least equal to the rate required by the determination;
 - A review to ensure that work by an employee in excess of 40 hours per week is being compensated for at rates not less than one and one-half times the basic rate of pay;
 - Review of deductions for any non-permissible deductions; and
 - The Statement of Compliance has been signed by the owner or an officer of the firm.
- ✓ Any discrepancies and/or falsification indicators must be reported to the state and HUD, along with the steps being taken by the UGLG to resolve the discrepancies. Where underpayments of wages have occurred, the UGLG and state is responsible to make sure the correct wages are paid and that the employer will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions. UGLGs and states should contact HUD for assistance if a violation occurs.

On-Site Interviews

- ✓ The labor standards requirements include periodically conducting job site interviews with workers. The purpose of the interviews is to capture observations of the work being performed and to get direct information from the laborers and mechanics on the job as to the hours they work, the type of work they perform and the wage they receive.
- ✓ Interviews should occur throughout the course of the construction and include a sufficient sample of job classifications represented on the job as well as workers from various companies to allow for a reasonable judgment as to compliance.
- ✓ Information gathered during an interview is recorded on the Record of Employee Interview form (HUD-11).
- The interview should take place on the job site and conducted privately (this is a one-on-one process).
 - The interviewer should observe the duties of workers before initiating interviews. Employees of both the prime contractor and subcontractors should be interviewed.
 - To initiate the interview, the authorized person shall:
 - Properly identify himself/herself;
 - Clearly state the purpose of interview; and
 - Advise the worker that information given is confidential, and his/her identity will be disclosed to the employer only with the employee's written permission.
 - When conducting employee interviews, the interviewer should pay particular attention to:
 - The employee's full name;
 - The employee's permanent mailing address;
 - The last date the employee worked on that project and number of hours worked on that day. The interviewer should make it clear that these questions relate solely to work on the project and not other work.



- The employee's hourly rate of pay. The aim is to determine if the worker is being paid at least the minimum required by the wage decision.
 - The interviewer should be sure the worker is not quoting their net hourly rate or "take-home" pay.
 - If it appears the individual may be underpaid, the interviewer should closely question the worker:
 - (a) Ask for any records.
 - (b) Arrange to re-interview the employee.
- Enter the worker's statement of his/her classification.
- Observe duties and tools used:
 - If worker's statements and observations made by the interviewer indicate the individual is performing duties conforming to classification, indicate this on the Record of Employee Interview form.
 - If there are discrepancies, detailed statements are necessary.
- Enter any comments necessary.
- Enter date interview took place.
- ✓ The HUD-11s must be compared to the corresponding contractor and subcontractor payroll information.
 - If no discrepancies appear, "None" should be written in the comment space of the Record of Employee Interview form and it should be signed by the appropriate person.
 - If discrepancies do appear, appropriate action should be initiated. When necessary action has been completed, the results must be noted on the interview form.
- ✓ If there are wage complaints, the interviewer should complete the Federal Labor Standards Complaint Intake Form (HUD Form 4731). The complaint must be investigated and resolved. Contact HUD if necessary.

Progress Payments

- ✓ Upon receipt of requests for payment during construction, the UGLGs should check that labor standards compliance is being met.
 - All weekly payrolls and Statements of Compliance have been received, reviewed and any discrepancies resolved; and
 - Employee interviews have been conducted as necessary, checked against payrolls and the wage rate decisions, and all discrepancies corrected.
- ✓ Although retainage is not a requirement, many UGLSs have found it helpful to maintain 10 percent retainage from partial payments until after final inspection, in case of any unresolved problems.



Final Payment

- ✓ When construction work has been completed, the contractor will submit a final request for payment. Before making final payment, the UGLG must ensure that:
 - All weekly payrolls and Statements of Compliance have been received and any discrepancies have been resolved;
 - All discrepancies identified through job site interviews have been resolved; and
 - All files are complete.

12.1.4 Restitution for Underpayment of Wages

- ✓ Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions.
- ✓ Wage restitution is simply the difference between the wage rate paid to each affected employee and the wage rate required on the wage decision for all hours worked where underpayments occurred. The difference in the wage rates is called the adjustment rate. The adjustment rate times the number of hours involved equals the gross amount of restitution due.
- ✓ UGLGs must notify the prime contractor in writing of any underpayments that are found during payroll or other reviews. The notification should describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The prime contractor is allowed 30 days to correct the underpayments.
- ✓ The employer is required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period of time for which restitution is due (e.g., payrolls #1 through #6; or a beginning date and ending date). The correction payroll must list:
 - Each employee to whom restitution is due and their work classification;
 - The total number of work hours;
 - The adjustment wage rate (the difference between the required wage rate and the wage rate paid);
 - The gross amount of restitution due;
 - Deductions; and
 - The net amount to be paid.
- ✓ A signed Statement of Compliance must be attached to the corrected payroll form and each employee who has received restitution should sign the corrected payroll as evidence of their receipt of the payments.
- ✓ The UGLG should review the correction payroll to ensure that full restitution was paid. The prime contractor shall be notified in writing of any discrepancies and will be required to make additional payments, if needed. Additional payments must be documented on a supplemental correction payroll within 30 days.
- ✓ Sometimes, wage restitution cannot be paid to an affected employee because, for example, the employee has moved and can't be located. In these cases, at the end of the project the



prime contractor will be required to place in a deposit or escrow account an amount equal to the total amount of restitution that could not be paid because the employee(s) could not be located. The UGLG should continue to attempt to locate the unfound workers for three years after the completion of the project. After three years, any amount remaining in the account for unfound workers should be forwarded to HUD.

- ✓ Additional information is available from HUD on disputes, withholding, deposits and escrow accounts including in the publication “Making Davis-Bacon Work: A Contractor’s Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects.”

12.1.5 Documentation & Reporting Requirements

Documentation

- ✓ UGLGs and states must maintain documentation to demonstrate compliance with the labor standards requirements including, but not limited to:
 - Bid and contract documents with the labor standards clause and wage decision;
 - Payroll forms from the contractor and subcontractors, including signed statements of compliance;
 - Documentation of on-site job interviews and review of the corresponding payroll to detect any discrepancies;
 - Documentation of investigations and resolutions to issues that may have arisen (e.g., payments to workers for underpayments of wages or overtime); and
 - Enforcement reports (see below for more information).
- ✓ The labor standards compliance documents contain highly sensitive and confidential information. With the growing rise in identity theft and fraud, it is critical to carefully guard this sensitive information so that the person(s) for whom the information has been collected are not unduly exposed to financial or personal risk.
- ✓ The standard compliance documents must be preserved and retained for a period of five years following the completion of work. Therefore, it is important to follow guidelines outlined in the Labor Relations Letter 2006-02 to minimize risk of improper and/or unnecessary disclosure, including:
 - Keep sensitive materials secret at all times (in locked file cabinet, not left in areas accessible to the public);
 - Do not include Social Security Numbers on documents and records unless it is absolutely necessary;
 - Do not disclose the identity of any informant unless it is necessary and only if authorized by the informant; and
 - Dispose of documents and records containing sensitive information responsibly.

Reporting

- ✓ UGLGs and states must report to the Department of Labor on all covered contracts awarded and on all enforcement actions taken each six months. HUD collects the reports from its



client agencies and compiles a comprehensive report to DOL covering all of the Davis-Bacon construction activity.

- ✓ The Semi-Annual Report form (HUD-4710) and instructions (HUD-4710i) are available on HUD's web site and HUDClips (<http://www.hud.gov/offices/adm/hudclips/>) or on the website, CDBG – Toolkit on Crosscutting Issues.

Chapter 13: LEAD-BASED PAINT



CHAPTER PURPOSE & CONTENTS

Whenever Federal funds, such as CDBG, are used to assist housing built before 1978, steps must be taken to address lead hazards. These rules must be met for the state to be in compliance.

The purpose of this chapter is to provide states with a general understanding of HUD's Lead Safe Housing Rule (24 CFR Part 35). The Rule applies to all housing units assisted with CDBG funds, including single and multi-family units, whether publicly or privately owned. The requirements differ, however, depending on the activity – rehabilitation or acquisition.

SECTION	TOPIC
13.1	Lead Safe Housing Rule Overview
13.2	The Renovation, Repair and Painting Rule

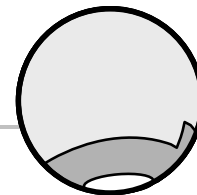
13.1 Lead Safe Housing Rule Overview

Key Topics in This Section	✓ Rule overview
Regulatory/Statutory Citations	24 CFR Part 35
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ Making It Work: Implementing the Lead Safe Housing Rule✓ Interpretive Guidance on HUD's Lead Safe Housing Rule June 21, 2004✓ CPD Assistant Secretary Memo of 8/19/03✓ CDBG – Toolkit on Crosscutting Issues http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm✓ CPD Notice 01-01

All housing units in a project assisted with CDBG funds must comply with the regulations found at 24 CFR Part 35.

The lead-based paint regulations consolidate all lead-based paint requirements for HUD-assisted housing. The purpose of the regulation is to identify and address lead-based paint hazards before children are exposed to lead. The regulation is divided into subparts, of which the following apply to the CDBG program:

- ✓ Subpart A: Disclosure;
- ✓ Subpart B: General Requirements and Definitions;
- ✓ Subpart J: Rehabilitation;



- ✓ Subpart K: Acquisition, Leasing, Support Services, and Operations; and
- ✓ Subpart R: Methods and Standards for Lead-Based Paint Hazard Evaluation and Reduction

13.1.1 Types of Requirements

- ✓ For CDBG projects, the lead-based paint requirements established by the regulation fall into the three major categories listed below:
 - Notification: Recipients must meet four notification requirements:
 - Lead Hazard Information Pamphlet - Occupants, owners, and purchasers must receive the EPA/HUD/Consumer Product Safety Commission (CPSC) lead hazard information pamphlet, or an EPA-approved equivalent.
 - Pamphlets should be provided to all households at time of application.
 - It is recommended that states develop an acknowledgement form and have all households sign to document they received and understood the pamphlet.
 - A copy of this acknowledgment form should then be placed in the file.
 - Disclosure - Check that property owners have provided purchasers and lessees with available information or knowledge regarding the presence of lead-based paint and lead-based paint hazards prior to selling or leasing a residence.
 - A disclosure notice must be provided to purchasers before closing so that they are aware that there may be lead in the home they are purchasing. A copy of the disclosure notice must be placed in the file.
 - Tenants must receive a disclosure notice before moving into the unit. Ideally, they should receive a disclosure notice at time of application so they can make an informed decision when choosing housing for their household. A copy of the disclosure notice should be kept by the landlord in the tenant's file.
 - Notice of Lead Hazard Evaluation or Presumption - Occupants, owners, and purchasers must be notified of the results of any lead hazard evaluation work or the presumption of lead-based paint or lead hazards.
 - A copy of this notice must be provided to owners and tenants within 15 days of the evaluation.
 - A copy of this notice should be kept in the project file.
 - Notice of Lead Hazard Reduction Activity - Occupants, owners, and purchasers must be notified of the results of any lead hazard reduction work.
 - A copy of this notice must be provided to owners and tenants within 15 days of the project achieving clearance.
 - A copy of this notice should be kept in the project file.
- ✓ Lead Hazard Assessment/Evaluation: Assessment/evaluation methods include visual assessments, paint testing, and risk assessments. Each method has specific requirements (defined in Subpart R of the regulation) and must be done by qualified professionals. The specific method required depends on the activity undertaken.



- ✓ Lead Hazard Reduction: Lead hazard reduction may include paint stabilization, interim controls, standard treatments, or abatement. Each method has specific requirements (defined in Subpart R of the regulation) and must be done by qualified professionals. The specific method required depends on the activity undertaken.

13.1.2 Exemptions

- ✓ Some CDBG projects may be exempt from the Lead Safe Housing Rule if they meet the criteria listed below:
 - Housing units constructed after 1978.
 - Emergency repairs to the property are being performed to safeguard against imminent danger to human life, health or safety, or to protect the property from further structural damage due to natural disaster, fire or structural collapse. The exemption applies only to repairs necessary to respond to the emergency.
 - The property will not be used for human residential habitation. This does not apply to common areas such as hallways and stairways of residential and mixed-use properties.
 - Housing “exclusively” for the elderly or persons with disabilities, with the provision that children less than six years of age will not reside in the dwelling unit.
 - An inspection performed according to HUD standards found the property contained no lead-based paint.
 - According to documented methodologies, lead-based paint has been identified and removed, and the property has achieved clearance.
 - The rehabilitation will not disturb any painted surface.
 - The property has no bedrooms.
 - The property is currently vacant and will remain vacant until demolition.
- ✓ UGLGs administering emergency repair programs should pay particular attention to the exemption “The rehabilitation will not disturb any painted surfaces.” Many emergency repair programs replace only water heaters or roofs where no painted surfaces are disturbed and thus may be exempt from the Rule.
- ✓ All exemptions must be documented in the project file. HUD has developed a Lead Safe Housing Rule Applicability form that can be found in the August 19, 2003, memo from Roy A. Bernardi, Assistant Secretary for Community Planning and Development, with the subject Lead-Safe Housing Rule Checklist and Associated Guidance for Implementing and Documenting Compliance.

13.1.3 Requirements for Rehabilitation Projects

- ✓ CDBG funds may be used rehabilitation of existing units. When such an activity is undertaken using Federal funds on a unit built before 1978, the Lead Safe Housing Rule applies. This section briefly describes the relevant requirements.



13.1.4 Calculating the Level of Assistance

- ✓ The lead hazard evaluation and reduction activities required for rehabilitation projects depend on the level of rehabilitation assistance received by the project. This level of assistance is determined by taking the lower of:
 - Per unit rehabilitation hard costs (regardless of source of funds); or
 - Per unit Federal assistance (regardless of the use of the funds).
- ✓ To make this determination, it helps to understand several terms:
 - Rehabilitation Hard Costs. The rehabilitation costs are calculated using only hard costs. They do not include soft costs or the costs of lead hazard evaluation and reduction, as described below.
 - Lead Hazard Evaluation and Reduction Costs. Lead hazard evaluation and reduction costs include costs associated with site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributable to lead-based paint hazard reduction.
 - Federal Assistance. Federal assistance includes all Federal funds provided to the rehabilitation project, regardless of whether the funds are used for acquisition, construction, soft costs or other purposes. This also includes funds from program income, but excludes low-income housing tax credit funds (LIHTC), Department of Energy Weatherization Program funds, or non-Federal HOME Program match funds.

13.1.5 Requirements for Projects Receiving Rehabilitation Assistance Up to and Including \$5,000 per Unit

- ✓ Projects where the level of rehabilitation assistance is less than or equal to \$5,000 per unit must meet the following requirements:
 - The goal is to “do no harm.” Therefore all work must be conducted using lead safe work practices. Workers must be trained in lead safe work practices (see the attachments).
 - Lead Hazard Evaluation. Paint testing must be conducted to identify lead-based paint on painted surfaces that will be disturbed or replaced. Alternatively, UGLGs may presume that these surfaces contain lead-based paint.
 - Lead Hazard Reduction. UGLGs must repair all paint that will be disturbed during rehabilitation, unless such paint is found not to be lead-based paint.
 - If lead-based paint is detected or presumed, safe work practices must be used during rehabilitation.
 - Clearance is required by a certified clearance examiner.
 - Notices must be provided to owners and tenants:
 - The Lead Hazard Information pamphlet;
 - The Notice of Evaluation (if paint testing is performed) or Notice of Presumption (if paint testing is not performed); and
 - The Notice of Lead Hazard Reduction.



- ✓ In short, for rehabilitation projects where the level of assistance is less than or equal to \$5,000 per unit, workers must be trained in safe work practices, notices must be provided to owners and tenants, and clearance must be achieved.

13.1.6 Requirements for Projects Receiving Rehabilitation Assistance Between \$5,000-\$25,000 per Unit

- ✓ Projects where the level of rehabilitation assistance is between \$5,000 and \$25,000 per unit must meet the following requirements.
 - The goal is to “identify and address lead hazards.” A risk assessment is required to identify lead hazards and identified hazards must be addressed by interim controls.
 - Lead Hazard Evaluation. A risk assessment must be conducted by a qualified professional prior to rehabilitation to find lead-based paint hazards in assisted units, in common areas that service those units, and on exterior surfaces. The risk assessment must include paint testing of any surfaces to be disturbed by the rehabilitation.
 - Lead Hazard Reduction. If the risk assessment identifies lead-based paint hazards interim controls must be implemented to address lead-based paint hazards.
 - Interim controls must be performed by qualified professionals using safe work practices.
 - Clearance, conducted by a qualified clearance examiner, is required when lead hazard reduction activities are complete.
 - Options. There are two options, as follows:
 - The UGLG is permitted to presume that lead-based paint is present and that lead-based paint hazards exist. In such cases, evaluation is not required. The UGLG must perform standard treatments in lieu of interim controls on all applicable painted surfaces and presumed lead-based paint hazards.
 - The UGLG is also permitted to conduct a lead hazard screen instead of a risk assessment. The lead hazard screen has more stringent requirements and is only recommended in units in good condition. If the lead hazard screen indicates that there is no lead contamination, no lead hazard reduction is required. If the lead hazard screen indicates the presence of lead hazards, the UGLG must then conduct a risk assessment. (Note: Passing a lead hazard screen, or a risk assessment, does not eliminate the requirement to perform interim controls on lead-based paint hazards created as a result of the rehabilitation work.)
 - Notices must be provided to owners and tenants:
 - The Lead Hazard Information pamphlet;
 - The Notice of Evaluation (if a risk assessment is performed) or Notice of Presumption (if a risk assessment is not performed); and
 - The Notice of Lead Hazard Reduction.
 - In short, compliance with the Lead Safe Housing Rule for such rehabilitation projects will affect the project planning, timeline, scope of work, contracting and budget.



13.1.7 Requirements Projects Receiving Rehabilitation Assistance over \$25,000 per Unit

- ✓ Projects where the level of rehabilitation assistance is over \$25,000 per unit must meet the following requirements.
 - The goal is to “identify and eliminate lead hazards.” A risk assessment is required to identify hazards and any identified hazards must be abated by a certified abatement professional.
 - Lead Hazard Evaluation. A risk assessment must be conducted prior to rehabilitation to find lead-based paint hazards in assisted units, in common areas that service those units, and on exterior surfaces. The risk assessment must include paint testing of any surfaces to be disturbed by the rehabilitation or UGLG may assume that lead-based paint hazards exist.
 - Lead Hazard Reduction. To address hazards identified:
 - Abatement must be conducted to reduce all identified lead-based paint hazards except those described below. Abatement must be conducted by a certified abatement contractor.
 - If lead-based paint hazards are detected during the risk assessment on the exterior surfaces that are not to be disturbed by rehabilitation, interim controls may be completed instead of abatement to reduce these hazards.
 - Clearance is required when lead hazard reduction activities are complete.
 - Options. There are two options, as follows:
 - The UGLG is permitted to presume that lead-based paint hazards exist. In such cases, a risk assessment is not required. The UGLG must abate all applicable painted surfaces that will be disturbed during rehabilitation and all presumed lead hazards.
 - The UGLG is permitted to conduct a lead hazard screen instead of a risk assessment. The lead hazard screen has more stringent requirements and is only recommended in units in good condition. If the lead hazard screen indicates that there is no lead contamination, no lead hazard reduction is required. If the lead hazard screen indicates the presence of lead hazards, the UGLG must then conduct a risk assessment. (Note: Passing a lead hazard screen, or a risk assessment, does not eliminate the requirement to perform abatement on lead-based paint hazards created as a result of the rehabilitation work.)
 - Notices must be provided to owners and tenants:
 - The Lead Hazard Information pamphlet;
 - The Notice of Evaluation (if a risk assessment is conducted) or Notice of Presumption (if a risk assessment is not conducted); and
 - The Notice of Lead Hazard Reduction.
 - In short, compliance with the Lead Safe Housing Rule for such rehabilitation projects will affect the project planning, timeline, scope of work, contracting, and budget. In particular, it involves the engagement of a certified abatement contractor.



13.1.8 Requirements for Acquisition, Leasing or Supportive Services Projects

- ✓ CDBG funds may be used for acquisition, leasing and supportive services. When such an activity is undertaken using Federal funds on a unit built before 1978, the Lead Safe Housing Rule applies. This section briefly describes the requirements needed to follow to be in compliance.
 - Lead Hazard Assessment. A visual assessment must be conducted during initial and periodic inspections by a person who is trained to detect deteriorated paint. Lead hazard evaluation activities must be completed prior to occupancy, or if the unit is already occupied, immediately after receipt of Federal assistance.
 - Lead Hazard Reduction. Deteriorated paint must be corrected using paint stabilization methods. Paint stabilization must be completed prior to occupancy, or if the unit is already occupied, immediately after receipt of Federal assistance.
 - Safe Work Practices. Safe work practices are required so workers must be appropriately trained or supervised.
 - Clearance. Clearance, by a qualified clearance examiner, is required when paint stabilization is complete.
 - Notification
 - Lead Hazard Information Pamphlet. The lead hazard information pamphlet must be provided prior to selling or providing leasing, support services, or operations activities to a house or unit that was built prior to 1978. UGLG do not have to provide the pamphlet if they can document that it has already been received.
 - Notice of Lead Hazard Reduction Activity. The notice must be provided within 15 calendar days of the date when the paint stabilization is completed.

13.1.9 Compliance

- ✓ Failure to comply with the lead-based paint requirements under the regulation will subject a recipient to sanctions authorized under the Federal funding programs providing assistance to the property, and violations may be subject a recipient to other penalties available under state or local law. Notifying owners, purchasers, or occupants of possible lead-based paint hazards does not relieve recipients of their responsibilities under the new regulation.
- ✓ Not complying may expose households and contractors with potentially dangerous levels of lead dust and debris that can cause life threatening illnesses and developmental delays.

13.2 The Renovation, Repair and Painting Rule

- ✓ On April 22, 2008, EPA issued a rule requiring the use of lead-safe practices and other actions aimed at preventing lead poisoning. Under the rule, beginning in April 2010, contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and schools built before 1978 must be certified and must follow specific work practices to prevent lead contamination. Until that time, HUD and EPA



recommend that anyone performing renovation, repair, and painting projects that disturb lead-based paint in pre-1978 homes, child care facilities and schools follow lead-safe work practices.

- ✓ There are some differences between the EPA RRP Rule and the HUD Lead Safe Housing Rule (LSHR). A major difference is that the LSHR requires clearance examinations. All housing receiving federal assistance must still comply with the LSHR. OHHLHC provides information on complying with the LSHR and RRP, and frequently-asked questions from grantees. Additional information for renovators is available.
- ✓ All contractors should follow these three simple procedures:
 - Contain the work area;
 - Minimize dust; and
 - Clean up thoroughly.
- ✓ From December 2008, the rule has required that contractors performing renovation, repair and painting projects that disturb lead-based paint provide to owners and occupants of child care facilities and to parents and guardians of children under age six that attend child care facilities built prior to 1978 the lead hazard information pamphlet “Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools”.
- ✓ Starting on April 22, 2010, the rule will affect paid renovators who work in pre-1978 housing and child-occupied facilities, including:
 - Renovation contractors;
 - Maintenance workers in multi-family housing; and
 - Painters and other specialty trades.
- ✓ Under the rule, child-occupied facilities are defined as residential, public or commercial buildings where children under age six are present on a regular basis. The requirements apply to renovation, repair or painting activities. The rule does not apply to minor maintenance or repair activities where less than six square feet of lead-based paint is disturbed in a room or where less than 20 square feet of lead-based paint is disturbed on the exterior. Window replacement is not minor maintenance or repair.
- ✓ Additional information on becoming an EPA-certified renovator or training provider is available on EPA's Renovator and Trainer Tool Box site.



Exhibit 13-1 Effective Dates of the Renovation, Repair and Painting Rule

June 23, 2008	<p>Unaccredited renovator or dust sampling technician training programs may not advertise or provide training leading to EPA certification</p> <p>States, Tribes, and Territories may begin to apply for authorization</p> <p>Persons performing renovations for compensation in pre-1978 child-occupied facilities (e.g., child care facilities, kindergarten and pre-kindergarten classrooms) must provide either Protect Your Family or Renovate Right to the owners and occupants before beginning renovations</p> <p>Modifications/exemptions to Pre-renovation Education Rule take effect:</p> <p>(1) Minor repair and maintenance exception changes to < 6 ft² per room for interiors, 20 ft² for exteriors. To qualify, the project cannot involve the use of high dust generating (“prohibited”) practices or window replacement.</p> <p>(2) Emergency renovations specifically include interim controls performed in response to an elevated blood lead level in a child.</p> <p>(3) Persons performing renovations for compensation in pre-1978 housing may use either Protect Your Family or Renovate Right to comply with the existing requirement to provide a lead hazard information pamphlet to the owners and occupants of target (pre-1978) housing before beginning renovations</p>
December 22, 2008	Persons performing renovations for compensation in target (pre-1978) housing or child-occupied facilities must provide Renovate Right to the owners and occupants before beginning renovations
April 22, 2009	<p>Training providers may begin applying to EPA for accreditation to provide renovator or dust sampling technician training</p> <p>Persons seeking certification as renovators or dust sampling technicians may take accredited training as soon as it is available</p>
October 22, 2009	Firms may begin applying to EPA for certification to conduct renovations
April 22, 2010	Renovations in target (pre-1978) housing and child-occupied facilities must be conducted by certified renovation firms, using renovators with accredited training, and following the work practice requirements of the rule

✓ Listed herewith is the web site for HUD/EPA renovator training:
<http://www.epa.gov/lead/pubs/epahudrrmodel.htm>



ATTACHMENT 13-1
QUALIFICATIONS FOR HAZARD EVALUATION PROFESSIONALS

Paint inspectors and risk assessors must be certified to conduct evaluations. Rehabilitation specialists and other program staff may have the experience and educational qualifications needed to pursue lead-based paint inspector or risk assessor training and certification. The following specific certification requirements apply to these evaluators (from *40 CFR 745.226*):

- ☐ Certified paint inspectors must:
 - Successfully complete an EPA or state-accredited training program;
 - Pass the exam required by the certifying authority; and
 - Apply for and be certified by the state or EPA.
- ☐ Risk assessors must:
 - Successfully complete an EPA or state-accredited training program;
 - Pass the exam required by the certifying authority; and
 - Apply for and be certified by the state or EPA;

OR

 - Be certified as an industrial hygienist, engineer, architect, or related field;

OR

 - Have a high school diploma and at least three years experience with lead, asbestos, environmental remediation work, or construction.
- ☐ Clearance must be performed by the following:
 - Certified risk assessor;
 - Certified lead-based paint inspector; or
 - Certified lead sampling technician (called a clearance technician in the HUD regulation).
 - Sampling technicians are currently not authorized by EPA to perform clearance examinations after abatement, but HUD regulations permit them to perform clearance after interim controls or maintenance or renovation activities



ATTACHMENT 13-2

Who is qualified to perform LEAD hazard reduction work?

☐ **Qualifications for Abatement Contractors**

- Abatement contractors consist of:
 - Trained and state-certified abatement supervisor(s); and
 - Workers who have successfully completed accredited lead abatement worker training.

☐ **Qualification to Perform Interim Controls or Standard Treatments**

- To perform interim controls or standard treatments, a worker must be supervised by a certified abatement supervisor or have successfully completed one of the following courses:
 - An accredited lead-based paint abatement supervisor course;
 - An accredited lead-based paint worker course;
 - The lead-based paint course: “Work Smart, Work Wet, and Work Clean,” prepared by the National Environmental Training Association for the EPA and HUD;
 - The Remodeler’s and Renovator’s Lead-Based Paint Training Program prepared by HUD and the National Association of the Remodeling Industry (NARI); or
 - A similar course recognized by HUD and EPA. (See HUD’s website, www.hud.gov/offices/lead, for list of approved courses.)

☐ **Qualifications for Safe Work Practices**

- There are no specific qualifications for safe work practices, however, the following courses are useful general courses for all workers who want to work safely with lead.
 - Remodeler’s and Renovator’s Lead-Based Paint Training Program developed by HUD and the National Association for the Remodeling Industry (NARI); and
 - Lead-Based Paint Maintenance Training Program developed by HUD/EPA and the National Educational Training Association (NETA).
- The booklet, “Lead Paint Safety: A Field Guide for Painting, Home Maintenance, and Renovation Work,” is an excellent illustrated guide. Available on www.hud.gov/offices/lead or from the National Lead Information Center at 1-800-424-LEAD or www.epa.gov/lead/pubs/nlic.htm.

**ATTACHMENT 13-3****Four Approaches to Implementing Lead Hazard Evaluation and Reduction**

APPROACH 1. DO NO HARM		
Lead Hazard Evaluation <ul style="list-style-type: none"> ◆ Paint testing performed on surfaces to be disturbed. 	Lead Hazard Reduction <ul style="list-style-type: none"> ◆ Repair surfaces disturbed during work. ◆ Safe work practices used when working on areas identified as lead-based paint. ◆ Clearance performed. 	Options <ul style="list-style-type: none"> ◆ Presume lead-based paint is present and use safe work practices on all surfaces being disturbed.
APPROACH 2. IDENTIFY AND STABILIZE DETERIORATED PAINT		
Lead Hazard Evaluation <ul style="list-style-type: none"> ◆ Visual assessment performed to identify deteriorated paint. 	Lead Hazard Reduction <ul style="list-style-type: none"> ◆ Paint stabilization of identified deteriorated paint. ◆ Safe work practices used. ◆ Clearance performed. 	Options <ul style="list-style-type: none"> ◆ Perform paint testing on deteriorated paint. Safe work practice requirements only apply to lead-based paint.
APPROACH 3. IDENTIFY AND CONTROL LEAD HAZARDS		
Lead Hazard Evaluation <ul style="list-style-type: none"> ◆ Paint testing performed on surfaces to be disturbed. ◆ Risk assessment performed on entire dwelling. 	Lead Hazard Reduction <ul style="list-style-type: none"> ◆ Interim controls performed on identified hazards. ◆ Safe work practices used. ◆ Clearance performed. 	Options <ul style="list-style-type: none"> ◆ Presume lead based paint and/or lead based paint hazards are present and perform standard treatments.
APPROACH 4. IDENTIFY AND ABATE LEAD HAZARDS		
Lead Hazard Evaluation <ul style="list-style-type: none"> ◆ Paint testing performed on surfaces to be disturbed. ◆ Risk assessment performed on entire dwelling. 	Lead Hazard Reduction <ul style="list-style-type: none"> ◆ Abatement performed on identified hazards. ◆ Interim controls performed on identified hazards on the exterior that are not disturbed by rehabilitation. ◆ Safe work practices used. ◆ Clearance performed. 	Options <ul style="list-style-type: none"> ◆ Presume lead-based paint and/or lead-based paint hazards are present and perform abatement on all applicable surfaces – deteriorated, impact, friction, chewable surfaces, and surfaces to be disturbed.



ATTACHMENT 13-4 Summary of Required Activities to Address Lead-Based Paint	
Category	Required Activities
Notification	<p>All of the following notices must be provided as appropriate:</p> <ul style="list-style-type: none"> ✓ Pamphlet; ✓ Disclosure; ✓ Notice of Lead Hazard Evaluation or Presumption; and ✓ Notice of Lead Hazard Reduction Activity.
Lead Hazard Evaluation	<p>One or more of the following may apply:</p> <ul style="list-style-type: none"> ✓ Visual Assessment; ✓ Paint Testing; and ✓ Risk Assessment (or Lead Hazard Screen).
Lead Hazard Reduction	<p>One or more of the following may apply:</p> <ul style="list-style-type: none"> ✓ Paint Stabilization; ✓ Interim Controls (or Standard Treatments); and ✓ Abatement. <p>The following always apply:</p> <ul style="list-style-type: none"> ✓ Safe Work Practices; and ✓ Clearance.
Ongoing Maintenance	<p>This requirement may apply.</p> <ul style="list-style-type: none"> ✓ Inspect and maintain lead hazard reduction work.



ATTACHMENT 13-5
**Comparison Between HUD Lead Safe Housing Rule and Renovation,
 Repair and Painting Rule**

Stage of Job	Requirement	HUD LSHR	EPA RRP	Changes to LSHR Projects to Comply with RRP
Planning and Set-Up	Determination that lead-based paint (LBP) is present	EPA-recognized test kits cannot be used to say paint is not LBP. Only a certified LBP inspector or risk assessor may determine whether LBP is present.	Certified renovators use an EPA-recognized test kit to determine if RRP rule applies or not.	None.
	Training	HUD does not certify renovators or firms. All workers and supervisors must complete a HUD approved curriculum in lead safe work practices, except that non-certified renovation workers need only on-the-job training if they are supervised by a certified LBP abatement supervisor who is also a certified renovator.	EPA or EPA authorized States certify renovation firms and accredit training providers that certify renovators. Only the certified renovator is required to have classroom training. Workers must receive on-the-job training from the certified renovator.	Renovation firms must be certified. At least one certified renovator must be at the job or available when work is being done. (The certified renovator may be a certified LBP abatement supervisor who has completed the 4-hour RRP refresher course.)
	Pre-Renovation	HUD requires conformance with EPA regulations, including EPA's Pre-Renovation Education Rule. EPA had required	Education Renovators must hand out the EPA / HUD Renovate Right: Important Lead	None.



		renovators to hand out the EPA / HUD / CPSC Protect Your Family from Lead in Your Home (Lead Disclosure Rule) pamphlet.	Hazard Information for Families, Child Care Providers and Schools pamphlet. (This requirement went into effect on December 22, 2008.)	
During the job	Treating LBP hazards	Depending on type and amount of HUD assistance, HUD requires that lead hazards be treated using interim controls or ongoing lead-based paint maintenance.	EPA generally requires that renovations in target housing be performed using lead-safe work practices.	None.
	Prohibited Work Practices	HUD prohibits 6 work practices. These include EPA's 3 prohibited work practices plus: heat guns that char paint, dry scraping or sanding farther than 1 ft. of electrical outlets, and use of a volatile stripper in poorly ventilated space.	EPA prohibits 3 work practices (open flame burning or torching, heat guns above 1100 degrees F, machine removal without HEPA vacuum attachment).	None.
	Threshold minimum amounts of interior paint disturbance which trigger lead activities.	HUD has a lower interior at the de minimis threshold (2 sq. ft. per room, or 10% of a small component type) than EPA for lead-safe work practices. HUD also uses this	EPA interior threshold (6 sq. ft. per room) for minor repair and maintenance activities is higher than HUDs de minimis	None.



		lower threshold for clearance and occupant notification.	threshold.	
End of job	Confirmatory Testing	HUD requires a clearance examination done by an independent party instead of the certified renovations cleaning verification procedure.	EPA allows cleaning verification by the renovator or clearance examination. The cleaning verification does not involve sampling and laboratory analysis of the dust.	None.
	Notification to Occupants	HUD requires the designated party to distribute notices to occupants within 15 days after lead hazard evaluation and control activities in their unit (and common areas, if applicable).	EPA has no requirement to notify residents who are not the owners after the renovation.	None.

CHAPTER 14: RELOCATION & ACQUISITION



CHAPTER PURPOSE & CONTENTS

Whenever Federal funds are used in a project involving the acquisition, rehabilitation or demolition of real property, a Federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) generally applies. In some cases, the use of CDBG funds in a project involving the demolition or conversion of lower income dwellings may also trigger another Federal law under Section 104(d) of the Housing and Community Development Act of 1974 (Section 104(d)). The purpose of this chapter is to provide UGLGs with a general understanding of the requirements under both Federal laws in addition to where additional information and assistance may be obtained.

SECTION	TOPIC
14.1	Overview of the Relocation and Acquisition Requirements

14.1 Overview of the Relocation and Acquisition Requirements

There are many CDBG activities that may trigger the URA and 104(d) requirements. This section provides a brief overview of these requirements.

Key Topics in This Section	<ul style="list-style-type: none">✓ Activity Definitions✓ Triggering Actions
Regulatory/Statutory Citations	<ul style="list-style-type: none">✓ 49 CFR Part 24✓ 24 CFR Part 42✓ HUD's Handbook 1378✓ 24 CFR 570.488
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ HUD's Real Estate Acquisition and Relocation website at http://www.hud.gov/offices/cpd/library/relocation/index.cfm✓ CDBG – Toolkit on Crosscutting Issues http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm

14.1.1 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act or URA)

- ✓ The Uniform Act, passed by Congress in 1970, is a Federal law that establishes minimum standards for Federally funded programs and projects that require the acquisition of real property (real estate) or that displace persons from their homes, businesses, or farms. The



Uniform Act's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for Federal or Federally funded projects.

- **49 CFR Part 24** are the government-wide regulations that implement the URA. A formatted copy of these regulations is attached to this chapter.
- **HUD Handbook 1378** provides HUD policy and guidance on implementing the URA and 49 CFR Part 24 for HUD funded programs and projects.
- UGLGs with questions about the URA are urged to contact the HUD Regional Relocation Specialist (RRS) for their region, as well as referring to the regulations, HUD handbook, and HUD's website for additional guidance. A list of the RRS can be found at <http://www.hud.gov/offices/cpd/library/relocation/index.cfm> under contacts.

✓ What are the URA's objectives?

- To provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with Federally funded projects;
- To ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement;
- To ensure that no individual or family is displaced unless decent, safe, and sanitary (DSS) housing is available within the displaced person's financial means;
- To help improve the housing conditions of displaced persons living in substandard housing; and
- To encourage and expedite acquisition by agreement and without coercion.

✓ How do URA requirements impact a UGLG's project?

- Agencies conducting a program or project under the URA must carry out their legal responsibilities to affected property owners and displaced persons. Agencies should plan accordingly to ensure that adequate time, funding, and staffing are available to carry out their responsibilities.

✓ Some of those responsibilities include:

- **For Real Property Acquisition** (Involuntary Acquisition – under threat or use of eminent domain)
 - Appraise property before negotiations;
 - Invite the property owner to accompany the appraiser during the property inspection;
 - Provide the owner with a written offer of just compensation and a summary of what is being acquired;
 - Pay for property before possession; and
 - Reimburse expenses resulting from the transfer of title such as recording fees, prepaid real estate taxes, or other expenses.
- Note that agency responsibilities for voluntary acquisitions differ. Refer to 49 CFR 24.101(b) and **HUD Handbook 1378** Chapter 5 for additional information.
- **For Residential Displacements**
 - Provide relocation advisory services to displaced tenants and owner occupants;



- Provide a minimum 90 days written notice to vacate prior to requiring possession;
- Reimburse for moving expenses; and
- Provide payments for the added cost of renting or purchasing comparable replacement housing.
- **For Nonresidential Displacements (Businesses, Farms, and Nonprofit Organizations)**
 - Provide relocation advisory services.
 - Provide a minimum 90 days written notice to vacate prior to requiring possession.
 - Reimburse for moving and reestablishment expenses.
- ✓ For additional information and resources visit HUD's Real Estate Acquisition and Relocation website at <http://www.hud.gov/offices/cpd/library/relocation/index.cfm>.
- ✓ Finally, there are some sample forms and templates on the website referenced above, CDBG – Toolkit on Crosscutting Issues.

14.1.2 Section 104(d) of the Housing and Community Development Act (Section 104(d)) “The Barney Frank Amendment”

- ✓ Section 104(d) of the Housing and Community Development (HCD) Act provides minimum requirements for CDBG funded programs or projects when units that are part of a community's low-income housing supply are demolished or converted to a use other than low- or moderate-income dwellings.
 - 24 CFR Part 42 are the regulations that implement Section 104(d).
 - HUD Handbook 1378 provides HUD policy and guidance on implementing Section 104(d).
- ✓ What are the Section 104(d) requirements?
 - Replacement, on a one-for-one basis, of all occupied and vacant occupiable low- or moderate-income dwelling units that are demolished or converted to a use other than low- or moderate-income housing in connection with an activity assisted under the HCD Act; and
 - Provision of certain relocation assistance to any lower income person displaced as a direct result of the following activities in connection with Federal assistance:
 - Demolition of any dwelling unit; or
 - Conversion of a low- or moderate-income dwelling unit to a use other than a LMI residence.
- ✓ What triggers Section 104(d)?
 - Section 104(d) requirements are triggered by the use of HOME, CDBG, Section 108 Loan Guarantee, or UDAG funding in a project involving the demolition or conversion of low- or moderate-income housing. It should be noted that CDBG funding used solely for relocation assistance or project administration does not trigger Section 104(d) requirements.
- ✓ What are the relocation requirements under Section 104(d)?



- The relocation assistance and payments for eligible persons under Section 104(d) are similar to those required for the URA, but there are a number of differences. One significant difference is the period of time used to calculate a rental assistance payment: Section 104(d) factors in 60 months vs. 42 months for the URA. Section 104(d) eligible displaced persons may choose to receive relocation assistance under either Section 104(d) or the URA.
- UGLGs with questions about section 104(d) are urged to contact the HUD Regional Relocation Specialist (RRS) for their region, as well as referring to the regulations, HUD handbook, and HUD's website for additional guidance. A list of the RRS can be found at <http://www.hud.gov/offices/cpd/library/relocation/index.cfm> under contacts.
- ✓ For additional information and helpful resources visit HUD's Real Estate Acquisition and Relocation website at <http://www.hud.gov/offices/cpd/library/relocation/index.cfm>.

CHAPTER 15: FAIR HOUSING, ACCESSIBILITY, AND EQUAL EMPLOYMENT



CHAPTER PURPOSE & CONTENTS

This chapter summarizes the key regulations and requirements of fair housing, accessibility, and equal employment and contracting laws applicable to CDBG projects.

SECTION	TOPIC
15.1	Introduction & Overview
15.2	Fair Housing
15.3	Handicapped Accessibility and Section 504
15.4	Employment and Contracting
15.5	Recordkeeping and Monitoring

15.1 Introduction and Overview

The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none">✓ Basic Overview✓ Consolidated Plan/Analysis of Impediments✓ List of Applicable Laws
Regulatory/Statutory Citations	Section 109 §570.487 and 570.495(b)
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ Fair Housing Planning Guide website: http://www.hud.gov/offices/fheo/images/fhpg.pdf✓ CDBG – Toolkit on Crosscutting Issues http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm

15.1.1 Basic Overview

- ✓ This chapter summarizes the key regulations and requirements of fair housing and equal opportunity laws applicable to CDBG projects. To be in compliance, the UGLG must adhere to all the basic tenets of fair housing and equal opportunity regulations. To demonstrate support for ensuring these tenets, UGLGs must endorse in attitude and deed all regulations for fairness in the provision of CDBG funded programs and projects.
- ✓ Fair housing and equal opportunity laws are like an umbrella, intended to protect individuals from discrimination in housing, employment, through business opportunities such as contracting, or through other benefits created by CDBG projects.



- ✓ Finally, there are some sample forms and templates on the website referenced above, CDBG – Toolkit on Crosscutting Issues.

15.1.2 Consolidated Plan Requirements

- ✓ States are required to complete an analysis of impediments to fair housing choice within one year of the effective date of the Consolidated Plan Rule (February 6, 1995). The analysis is not required to be submitted as part of the consolidated plan, but the jurisdiction must certify that it completed the analysis, is taking appropriate actions to overcome the effects of any impediments identified through that analysis, and maintains records reflecting the analysis and related actions.

Analysis of Impediments to Fair Housing Choice

- ✓ In accordance with the Fair Housing Act, the Secretary requires that states administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act. As part of the certification to affirmatively further fair housing that states are required to submit with their consolidated plan, states must complete an analysis of impediments to fair housing choice and to take actions to overcome the effects of any impediments identified through that analysis.
- ✓ In summary, requirements for the analysis of impediments include:
 - States are to assume the responsibility of fair housing planning by conducting an analysis to identify impediments to fair housing choice within their jurisdictions;
 - States are strongly encouraged to annually update their analysis of impediments; and
 - States are to take appropriate actions to overcome the effects of any impediments identified through their analyses, maintaining records reflecting the analyses and related actions, and ensuring that units of local government funded by the state comply with the certification requirements.

15.1.3 List of Applicable Laws

- ✓ This chapter is broken down into three broad areas for the applicable requirements: Fair Housing; Handicap Accessibility; and Equal Opportunity. The fourth section of this chapter is dedicated toward appropriate record keeping and monitoring. Exhibit 19.1 provides the UGLG with references to the major regulations and requirements covering fair housing and equal opportunity.

Exhibit 15.1

Federal and State Laws and Regulations (included amendments)	Fair Housing and Nondiscrimination	Accessibility	Equal Employment and Contracting
Title VI of the Civil Rights Act of 1964: This Act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving Federal financial assistance.	X		



Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act): This Act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promotes fair housing.	X	X	
Restoration Act of 1987. This Act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives Federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability, or age in a program or activity which does not directly benefit from such assistance.	X		
Section 109 of Title 1 of the Housing and Community Development Act of 1974: This section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title I of the Act.	X		X
The Fair Housing Amendment Act of 1988: This Act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand of the Justice Department jurisdiction to bring suit on behalf of victims in Federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.	X		
The Housing for Older Persons Act of 1995 (HOPA): Retained the requirement that the housing must have one person who is 55 years of age or older living in at least 80 percent of its occupied units. The Act also retained the requirement that housing facilities publish and follow policies and procedures that demonstrate intent to be housing for persons 55 and older.	X		
The Age Discrimination Act of 1975: This Act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving Federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic including: KRS 18A.140; KRS 344.040; 101 KAR 1:350 Paragraph 11; 101 KAR 1:375 Paragraph 2(3); 101 KAR 2:095 Paragraphs 6 and 7.	X		



<p>Section 504 of the Rehabilitation Act of 1973: It is unlawful to discriminate based on disability in Federally assisted programs. This section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funding assistance. Section 504 also contains design and construction accessibility provisions for multi-family dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991.</p>	X	X	X
<p>The Americans with Disabilities Act of 1990 (ADA): This Act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment. Kentucky adopted this Act in 1992 with the enrollment and passage of Senate Bill 210.</p>	X	X	X
<p>Executive Order 11063: This Executive Order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with Federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the Federal government.</p>	X		
<p>Executive Order 11259: This Executive Order provides that the administration of all Federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.</p>	X		
<p>Section 109 of Title I of the Housing and Community Development Act of 1974: Requires that no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded with CDBG funds on the basis of race, color, religion, national origin, or sex.</p>	X		X
<p>The Equal Employment Opportunity Act: This Act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in Federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings Federal, State, and local governments under the Civil Rights Act of 1964.</p>			X



<p>The Immigration Reform and Control Act (IRCA) of 1986. Under IRCA, employers may hire only persons who may legally work in the U.S., i.e., citizens and nationals of the U.S. and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9).</p>			X
<p>The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978: This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of Federal laws prohibiting discriminatory employment.</p>			X
<p>Section 3 of the Housing and Urban Development Act of 1968, as amended: Requires the provision of opportunities for training and employment that arise through HUD-financed projects to lower-income residents of the project area, to the greatest extent feasible and consistent with Federal, State and local laws and regulations. Also required is that contracts be awarded to businesses that provide economic opportunities for low- and very low-income persons residing in the area. Amendments to Section 3 in 1992 included requirements for providing these opportunities in contracts for housing rehabilitation, including lead-based paint abatement, and other construction contracts.</p>			X
<p>The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002): This Act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.</p>			X
<p>Executive Order 11246: This Executive Order applies to all Federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race.</p>			X



15.2 Fair Housing

This section of the chapter reviews the requirements UGLGs must follow to be in compliance with the Fair Housing Act when using CDBG funds.

The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Prohibited Discrimination ✓ Fair Housing Activities
Regulatory/Statutory Citations	Section 109 §570.487 and 570.495(b)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Fair Housing and Equal Opportunity Website: http://www.hud.gov/offices/fheo/index.cfm ✓ Uniform Federal Accessibility Standards website: http://www.access-board.gov/ufas/ufas-html/ufas.htm ✓ <i>The Fair Housing Act Design Manual: A Manual to Assist Designers and Builders in Meeting the Accessibility Requirements of The Fair Housing Act</i> ✓ CDBG – Toolkit on Crosscutting Issues http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm ✓ CPD Notice 05-09 ✓ CPD Notice 00-09

15.2.1 Prohibited Discrimination

- ✓ UGLGs should be aware that fair housing provisions apply to the locality as a whole and not just those activities that are CDBG funded; and that implementing fair housing activities is an essential part of the CDBG responsibilities. No person shall be subjected to discrimination because of: race, color, religion, sex, disability, age, familial status, or national origin.
- ✓ Fair housing actions should increase housing opportunities and affirmatively promote fair housing throughout the entire housing market at all income levels. These activities may include independent actions by the UGLG or cooperative ventures with housing related industries, such as mortgage lenders, home builders, and local non-profits working in housing. The UGLG is expected to take progressive actions to further fair housing with each CDBG project.
- ✓ The UGLG must assure that all CDBG-funded activities undertaken as part of the project are conducted in a manner which will not cause discrimination on the basis of race, color, religion, sex, disability, familial status, or national origin. Segregated facilities, services, or benefits and different treatment are prohibited.
- ✓ The UGLG should take care to ensure the following:
 - Access to any advantage arising out of the project is not:



- Denied solely on the basis of race, color, religion, sex, disability, familial status, or national origin; or
- Offered for the enjoyment of a segment of the population in such a way as to intentionally exclude any member of these protected groups.
- ✓ Selection of sites and locations for facilities and improvements do not have an exclusionary or discriminatory effect.
- ✓ Evaluation criteria and administrative practices do not have a discriminatory effect.
- ✓ Affirmative action is used to overcome the effects of past discrimination.
- ✓ A Fair Housing Poster is displayed in a prominent place at the office of the UGLG where applications for assistance are being taken.

15.2.2 Fair Housing Activities

- ✓ The Fair Housing Act provides that, in connection with the design and construction of multi-family housing, the public use and common areas must be accessible and usable by persons with handicaps, all doors must be designed to be wide enough for wheelchair accessible, and all premises should be of adaptive design (e.g., reinforcements within a bathroom to allow installation of grab bars).
- ✓ UGLGs undertaking housing projects and activities must ensure fair housing rules are followed in the provision of housing services and assistance. Opportunities for purchase or rental, terms and conditions, advertising and marketing information, and availability of real estate services should not discriminate.
- ✓ Some examples of possible actions to ensure fair housing are listed below.
 - Developing and implementing a fair housing resolution;
 - Marketing information concerning housing services and activities should be disseminated through agencies and organizations that routinely provide services to protected groups;
 - Criteria for selecting recipients of housing services or assistance should be evaluated for any discriminatory effect;
 - Policies guiding the provisions of relocation housing and services for persons displaced by housing activities should be evaluated for discriminatory effect; and
 - Legal documents used by UGLGs and lending institutions should be reviewed and revised if necessary to eliminate any discriminatory intent or practice.
- ✓ It is important for UGLGs to understand both the Fair Housing Amendment and Section 504. The Fair Housing Amendment requires that a landlord must allow a tenant to make reasonable modifications to a unit paid for by the tenant. Section 504 provides that the landlord is responsible for making reasonable accommodations. Finally, the accessibility logo should be used in housing projects where units are available for the disabled.

15.2.3 Affirmative Marketing

- ✓ UGLGs must adopt affirmative marketing procedures and requirements for all CDBG-assisted housing with five or more units.
- ✓ Requirements and procedures must include:



- Methods for informing the public, owners and potential tenants about fair housing laws and the UGLG's policies (for example, use of the Fair Housing logo or equal opportunity language);
- A description of what owners and/or the UGLG will do to affirmatively market housing assisted with CDBG funds;
- A description of what owners and/or the UGLG will do to inform persons not likely to apply for housing without special outreach;
- Maintenance of records to document actions taken to affirmatively market CDBG-assisted units and to assess marketing effectiveness; and
- Description of how efforts will be assessed and what corrective actions will be taken where requirements are not met.

15.3 Handicapped Accessibility and Section 504

The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Programs ✓ Housing ✓ Facilities ✓ Other Accessibility Rules ✓ Self Evaluation and Transition Plan
Regulatory/Statutory Citations	Section 109 §570.487(e)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Fair Housing and Equal Opportunity Website: http://www.hud.gov/offices/fheo/index.cfm ✓ CDBG – Toolkit on Crosscutting Issues http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm ✓ CPD Notice 05-10 ✓ CPD Notice 00-10

15.3.1 Program Accessibility

- ✓ Communication is an important component of program accessibility. Disabilities involving impairments to hearing, vision, speech or mobility may affect communication. Members of the community who have disabilities must be able to access and enjoy the benefits of a program or activity receiving CDBG funds; therefore, varied approaches may be required to assure effective communication and information dissemination.
- ✓ Specifically, the UGLG must be receptive to the requests and needs of the disabled person(s) within the community when determining which auxiliary aids or services are necessary. For the purposes of Section 504 compliance, the target population includes: the hearing impaired, visually impaired, mobility impaired, developmentally disabled, and those



persons requiring in-home care or institutional care. UGLGs must furnish auxiliary aids and services, as necessary, which may include:

- ✓ For persons with hearing impairments:
 - Qualified sign language interpreters;
 - Note takers;
 - Telecommunication devices for deaf persons (TDDs);
 - Telephone handset amplifiers;
 - Assertive listening devices (devices that increase the sound in large group settings);
 - Flashing lights (where aural communication is used, such as warning bells);
 - Video text displays (devices that display text that is simultaneously being spoken can be used where a public address system provides information);
 - Transcription services; and
 - Closed and open captioning.
- ✓ For persons with vision impairments:
 - Qualified readers;
 - Written materials translated into alternative formats (e.g., Braille, audio tape, large print);
 - Aural communication (e.g., Bells or other sounds used where visual cues are necessary); and
 - Audio description services (i.e., through a headset, a narrator describes what the visually impaired person cannot see).
- ✓ The UGLG must ensure effective communication with persons with all types of disabilities in all activities. Where the UGLG communicates with applicants and beneficiaries by phone, a TDD is required or an equivalent system must be available. Please note that UGLGs are not required to take any action that would result in a fundamental alteration in the nature of a program or activity or undue financial and administrative burdens.

15.3.2 Housing

- ✓ Section 504 also includes accessibility requirements for new construction and substantial rehabilitation of multi-family rental housing. Section 504 provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation in (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funding assistance. Section 504 also contains design and construction accessibility provisions for certain new multi-family dwellings developed for first occupancy on or after March 13, 1991.
- ✓ For the purposes of compliance with Section 504, “accessible” means ensuring that program and activities, when viewed in their entirety, are accessible to and usable by individuals with disabilities. For housing purposes, accessible means a dwelling is on an accessible route and adaptable inside.
- ✓ The following requirements apply to both Federally assisted newly constructed multifamily rental housing containing five or more units and substantial rehabilitation of multi-family



rental housing with 15 or more units. A rehabilitation project is considered substantial when the rehab costs will be 75 percent or more of the replacement cost of the complete facility;

- A minimum of five percent of total dwelling units (but not less than one unit) accessible for individuals with mobility impairments;
- An additional two percent of dwelling units (but not less than one) accessible for persons with hearing or vision impairments; and
- All units made adaptable that are on the ground level or can be reached by an elevator.

15.3.3 Facilities

- ✓ “Facility” is defined under Section 504 as any portion of a building, equipment, roads, walkways, parking lot or other real property. “Accessible” for non-housing purposes means that a facility or portion of a facility can be approached, entered and used by individuals with physical handicaps.
- ✓ Non-housing programs, as well as existing facilities in which they are situated, must be readily accessible to and usable by persons with disabilities. Accessibility programs will be determined once again under self-evaluation. The focus of program access is providing programs in the most integrated setting possible. Providing separate or different programs is illegal unless necessary to achieve equal opportunity.
- ✓ Methods of improving program access in existing facilities can include the following:
 - Relocating programs to accessible facilities or accessible portions of facilities;
 - Acquiring or building new facilities;
 - Selectively altering facilities;
 - Changing operating policies and procedures;
 - Assigning aides to assist beneficiaries;
 - Adding or redesigning equipment or furnishings; and
 - Conducting home visits.

15.3.4 Special Requirements for UGLGs with 15 or More Employees

- ✓ There are two additional requirements for Section 504 compliance for UGLGs (called “recipients” under 504 to include public agencies, instrumentalities, and public and private entities including nonprofits) with 15 or more full or part-time employees:
- ✓ Designation of responsible employee and adoption of grievance procedures:
 - At least one person must be designated to coordinate 504 and related compliance efforts. The agency coordinator should be designated in writing and identified in any written notices.
 - A grievance procedure must also be adopted incorporating due process standards and allowing for prompt local resolution of any complaints of discrimination based on disability. Existing grievance procedures can often be adapted to satisfy this requirement.
 - Any individual or authorized representative who believes that they have been denied opportunities or treated differently due to their race, color, national origin, sex, age



disability, religion and familial status may file a complaint. The complaint may be filed with the UGLG or HUD.

- ✓ Notification to participants, beneficiaries, applicants and employees of their nondiscriminatory provisions. In summary, the UGLG must provide notice regarding the following:
 - UGLGs must publish in a newspaper of general circulation the notice “Policy of Non-Discrimination on the Basis of Disability Status.”
 - UGLGs must include the same language found in their policy of nondiscrimination (mentioned in the first bullet) in all material used for recruitment or general information.
 - UGLGs must ensure that all members of the population with visual or hearing impairments are provided with the information necessary to understand and participate in the programs offered.
 - Methods for ensuring participation may include qualified sign language and oral interpreters, readers, or the use of taped and Braille materials.

15.3.5 Other Accessibility Rules

Americans with Disabilities Act of 1990 (ADA)

- ✓ The Americans with Disabilities Act of 1990 (ADA) guarantees equal opportunities for persons with disabilities in employment, public accommodations, transportation, State and local government services, and telecommunications. Unlike Section 504 which applies only to programs and activities receiving Federal financial assistance, the ADA applies even if no Federal financial assistance is given. Title II of ADA prohibits discrimination based on disability by State and local governments.
- ✓ Facilities
 - Title II also requires that facilities that are newly constructed or altered, by, on behalf of, or for use of a public entity, be designed and constructed in a manner that makes the facility readily accessible to and usable by persons with disabilities. Facilities constructed or altered in conformance with either the Uniform Federal Accessibility Standards (UFAS) or the ADA Accessibility Guidelines for Buildings and Facilities (ADAAG) shall be deemed to comply with the Title II Accessibility requirements, except that the elevator exemption contained in Section 4.1.3(5) and Section 4.1.6(1)(j) of ADAAG shall not apply.
- ✓ Roads and Pedestrian Walkways
 - Title II specifically requires that all newly constructed or altered streets, roads, highways, and pedestrian walkways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level or pedestrian walkway and that all newly constructed or altered street level pedestrian walkways must have curb ramps at intersections. Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways.

Architectural Barriers Act of 1968

- ✓ The Architectural Barriers Act of 1968 (ABA) requires that certain buildings financed with Federal funds must be designed, constructed, or altered in accordance with standards that



ensure accessibility for persons with physical disabilities. The ABA covers any building or facility financed in whole or in part with Federal funds, except privately-owned residential structures. Covered buildings and facilities designed, constructed, or altered with CDBG funds are subject to the ABA and must comply with the Uniform Federal Accessibility Standards (UFAS). In practice, buildings built to meet the requirements of Section 504 and the ADA, will conform to the requirements of the ABA.

15.3.6 Self Evaluation Plan and Transition Plan

Self Evaluation Plan

- ✓ Self evaluation is required by both Section 504 and the Americans with Disabilities Act. Self evaluation promotes inclusion of the programmatic and project-specific alternations that are necessary to ensure long term compliance with the requirements.
- ✓ If a UGLG has not already performed a Section 504 self-evaluation of programs, services, and activities to determine if they are programmatic and physically accessible to person with disabilities, they must conduct such evaluation and document all needs. Note: If a UGLG has already performed a self-evaluation, a new one is not required.
- ✓ UGLGs should also involve persons with disabilities in these evaluations. While performing the self-evaluation, a careful inspection of the following should be performed to determine if they are free from discriminatory effects and practices:
 - Evaluate current policies and practices and analyze them to determine if they adversely affect the full participation of individuals with disabilities in its programs, activities, and services. Be mindful of the fact that a policy or practice may appear neutral on its face, but may have a discriminatory effect on individuals with disabilities.
 - Modify any policies and practices that are not or may not be in compliance with Section 504 or Title II and Title III of the ADA regulations. (See 24 CFR Part 8 and 28 CFR Parts 35, 36.)
 - Take appropriate corrective steps to remedy those policies and practices that either are discriminatory or have a discriminatory effect. Develop policies and procedures by which persons with disabilities may request a modification of a physical barrier or a rule or practice that has the effect of limiting or excluding a person with a disability from the benefits of the program.
 - Document the self-evaluation process and activities. HUD recommends that all recipients keep the self-evaluation on file for at least three years, including records of the individuals and organizations consulted, areas examined and problems identified, and document modifications and remedial steps.
- ✓ An approach many UGLGs have used to examine service and program accessibility is to do a walk-through of the process required for participation. Analyze not only the physical path traveled, but also the administrative requirements, service delivery, eligibility criteria, and application procedures.
- ✓ Any policies and practices that are found to be discriminatory or contrary to Section 504 requirements must be modified and steps taken to remedy the discrimination.



Transition Plan

- ✓ If structural barriers have been identified during the self-evaluation process and cannot be removed with nonstructural solution, a Transition Plan must be completed and made available for public review and comment.
- ✓ The plan must address the following items:
 - Identification of physical obstacles in the facilities that limit program accessibility;
 - Description of the method that will be used to make facilities accessible;
 - Specify a schedule to achieve full program compliance and, if the plan is longer than one year, identify steps to be taken during each year;
 - Indicate the person responsible for implementing the plan; and
 - Identify the person or groups with whose assistance the plan was prepared.
- ✓ The UGLG is not necessarily required to make each existing facility or every part of an existing facility accessible. The Transition Plan must involve persons with disabilities and/or representative organizations.

15.4 Employment and Contracting

Employment and contracting activities also trigger employment and contracting rules related to equal employment practices.

The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Employment ✓ Section 3
Regulatory/Statutory Citations	Section 109 §570.487 and 570.495(b)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Fair Housing and Equal Opportunity Website: http://www.hud.gov/offices/fheo/index.cfm ✓ CDBG – Toolkit on Crosscutting Issues http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm ✓ The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978

15.4.1 Employment

- ✓ Nondiscrimination is a requirement of employment and employment practices. Employment opportunities may not be denied on the basis of race, color, national origin, sex, age, religion, familial status, or disability. Affirmative action and equal employment opportunity policies are fundamental aspects of CDBG funded activities.
- ✓ The Americans with Disabilities Act modifies and expands the Section 504 Rehabilitation Act of 1973 to prohibit discrimination against “a qualified individual with a disability” in



employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.

- ✓ The Equal Employment Opportunity Act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in Federal court against private sector employers after the EEOC has investigated the charge, found “probable cause” of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings Federal, State, and local governments under the Civil Rights Act of 1964.
- ✓ Steps that can be taken to prevent discrimination in employment include the following:
 - Review of jurisdictional employment policies and procedures for discriminatory intent or practice and document review;
 - Advertise employment opportunities and/or to recruit employees for project-related positions;
 - Develop and maintain employment data that indicates staff composition by race, sex, handicap status and national origin; and
 - An Equal Employment Opportunity Poster must be displayed in a prominent place at the office of the UGLG.
- ✓ Specifically, Section 504 has a number of general prohibitions against employment discrimination. UGLGs must ensure that the following items are adhered to:
 - No qualified individual with a disability shall, solely on the basis of their disability be subject to discrimination in employment under any program or activity that receives Federal assistance.
 - Any UGLG cannot legally limit, segregate or classify applicants or employees in any way that negatively affects their status or opportunities because of disability.
- ✓ In pre-employment and employment activities, discrimination based on a disability must not occur and reasonable accommodations must be made to the physical or mental limitations of otherwise qualified individuals unless it creates undue hardship for the UGLG. HUD regulations specify that an employer is prohibited from discrimination in the following instances:
 - Recruiting, advertising, and processing of applications;
 - Hiring, upgrading, promoting, tenure, demotion, transfer, layoffs, termination right or return from layoffs, illness, and rehiring;
 - Rates of pay and any other forms of compensation;
 - Job assignments, classifications and descriptions, organizational structures, lines, progression, and seniority lists;
 - Leaves of absence, sick leave, or any other leave;
 - Fringe benefits available by virtue of employment;
 - Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities and selection for leaves of absence for training;



- Employer sponsored activities (including social or recreation programs); and
- Any other term, condition, or privilege of employment.
- ✓ UGLGs may not participate in a contractual or other relationship that subjects qualified disabled applicants or employees to discrimination.
- ✓ Reasonable accommodation, under Section 504, in employment is determined on a case-by-case basis. It means reasonable modifications on the job or in the workplace to enable a disabled person to perform the job for which she/he is qualified. Section 504 does not require the hiring or promotion of someone simply because she/he has a disability.

15.4.2 Section 3

- ✓ Section 3 of the Housing and Urban Development Act of 1968, as amended, requires the provision of training, employment and other economic opportunities that arise through HUD-financed housing and community development assistance to lower-income residents of the project area, particularly residents of government-subsidized housing, to the greatest extent feasible and consistent with Federal, State, and local laws and regulations. Also required is that contracts be awarded to businesses that provide economic opportunities for low- and very low-income persons residing in the project area. Amendments to Section 3 in 1992 included requirements for providing these opportunities in contracts for housing rehabilitation, including lead-based paint abatement, and other construction contracts.
- ✓ Section 3 applies when a housing construction, housing rehabilitation or other public construction project or activity exceeds certain thresholds. Contractors and subcontractors providing services on projects for which the total amount of the housing and community development assistance exceeds \$200,000 and the amount of the contract or subcontract exceeds \$100,000 are required to comply with Section 3. If a UGLG receives housing or community development assistance for a covered project that is funded in part with CDBG funds, Section 3 requirements apply to the entire project or activity.
- ✓ It is important to document efforts made to comply with Section 3 through recordkeeping. Files should contain memoranda, correspondence, advertisements, etc., illustrating contractor and subcontractor attempts to hire low income residents and business concerns.
- ✓ Finally, there are some forms and templates related to Section 3 on the website referenced above, CDBG – Toolkit on Crosscutting Issues.

15.5 Recordkeeping and Monitoring

Effective recordkeeping procedures and monitoring are tools that UGLGs use to ensure short term and long term compliance.

The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Fair Housing Records ✓ Direct Benefit Records ✓ 504 Records ✓ Employment and Contracting ✓ Monitoring ✓ FHEO Compliance and Monitoring
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Regulatory/Statutory Citations	Section 109 §570.490(a)(b)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States - Chapter 2, Chapter 3 ✓ Managing CDBG: A Guidebook for CDBG UGLGs on Subrecipient Oversight ✓ CDBG – Toolkit on Crosscutting Issues http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm

15.5.1 Fair Housing Records

- ✓ The following records must be maintained by the UGLG in a separate equal opportunity and fair housing file:
 - Documentation of the action(s) the UGLG has taken to affirmatively further fair housing, including records on funds provided, if any, for such actions; and
 - Demographic data (actual survey or latest Census/American Community Survey data) depending on the project undertaken may include:
 - The population of the jurisdiction of the unit of general local government receiving CDBG funds;
 - The minority population of the locality (number and percentage);
 - The target area population;
 - The minority population of the target area (number and percentage);
 - The number of disabled, elderly households, and female-headed households in the target area; and
 - A map of the locality showing the locations of assisted housing units, concentrations of minority population, concentrations of LMI, and the target area.

15.5.2 Direct Benefit Records

- ✓ It is important that UGLGs maintain statistical information on the persons benefiting from the project be maintained and updated throughout the implementation of the project. Even if the project activities meet the “presumptive benefit” test for proving LMI benefits and surveys have not been conducted or statistical data on beneficiaries has not been collected, benefit data for fair housing and equal opportunity purposes must be maintained.
- ✓ UGLGs should note that those benefiting from the project must be determined. A Project Benefit Profile must be maintained for each activity except administration, planning, and contingency.
 - For direct benefit activities, provide data on the extent to which persons have applied for benefits and participated in or benefited from any program or activity funded in whole or in part with CDBG funds. Records must be kept by race, ethnicity, and gender of heads of households.



15.5.3 Section 504 Records

- ✓ The following records must be maintained by the UGLG in a separate 504 file:
 - A copy of the self-evaluation;
 - A copy of the transition plan;
 - A list of interested persons who were consulted;
 - A description of areas and buildings examined and any problems identified;
 - A description of modifications made and remedial steps taken to comply with the regulations; and
 - Evidence that new or substantial rehab multi-family projects were constructed/rehabilitated to meet 504 standards.

15.5.4 Employment and Contracting

- ✓ Data on employment of the local government that is carrying out an activity funded in whole or in part with CDBG funds. The data to be maintained in the files includes:
 - A description of the local government work force in percentage by race, gender, job title, salary, and hire date;
 - The percentage of minorities in the jurisdiction of the unit of general local government that is receiving CDBG funds and the percentage of minorities working for that unit of general local government;
 - The number of project area residents employed with CDBG funds;
 - Data should show the percentage by race and gender of the personnel in any department, office, or agency of the unit of local government using CDBG funds to employ staff.
 - For example, if CDBG funds are being used to pay a portion of a bookkeeper's salary in the accounting department of the city, then employment data should be available for the department.
 - Government hiring practices and policies;
 - Affirmative Action Plan (if applicable);
 - Documentation of the affirmative actions the UGLG has taken to overcome the effects of prior discrimination as determined through a formal compliance review or court proceeding, where the UGLG has previously discriminated against persons on the grounds of race, color, national origin, or sex in administering a program or activity funded in whole or in part with CDBG funds.
 - Procurement procedures and implementation plan;
 - Minority and Women Business Enterprise (MBE/WBE) outreach and networking;
 - MBE and WBE reporting;
 - Section 3 Plan;
 - Section 3 Summary Report (PER); and



- Section 3 reporting by contractors.

15.5.5 Monitoring

- ✓ The designated fair housing and equal opportunity coordinator and/or officers should review compliance requirements on an annual basis.
- ✓ States will be monitored by HUD on a periodic basis. Proper notification of a monitoring visit will be provided. However, it is important for states and UGLGs to keep all records and files in “monitoring readiness” condition at all times. Some of the areas HUD staff will review to determine if states and UGLGs meet compliance with all fair housing and equal opportunity requirements and laws are listed below:
 - A check of the availability and adequacy of employment records;
 - Identification of programs and activities assisted through CDBG funding and assessment of program impact on protected groups;
 - An examination of procurement procedures and awards to assess the utilization of minority and/or female owned enterprises and businesses located in the project area or owned in substantial part by project area residents;
 - A review of voluntary efforts to promote fair housing; and
 - An examination of the extent to which various protected groups have been impacted by relocation activities.

15.5.6 HUD FHEO Compliance and Monitoring

- ✓ HUD’s Office of Fair Housing and Equal Opportunity (FHEO) is responsible for seeking cooperation from and providing assistance to states and UGLGs regarding compliance. FHEO may perform periodic reviews of states and UGLGs or require reports or other information to measure compliance including records of program participation by individuals with handicaps.
- ✓ It is important for states and UGLGs to keep organized records and document their Section 504 activities.
- ✓ A complaint can be made by any individual or authorized representative of that individual who believes they have been denied opportunities or treated differently, due to their race, ethnicity, gender, disability, or age.
- ✓ This complaint would be filed with FHEO under the Housing Discrimination Form 903.1. The complainant’s identity will be held in confidence unless written authorization is given. The time period for filing complaints is within 180 days of the alleged act. States and UGLGs should have copies of this form available to the public.
- ✓ Person who believes his/her rights have been violated may file in Federal court. The remedy through court action may include the award of damages, back pay, seniority and as with any equal opportunity action, attorney fees, or injunction against the noncomplying project.
- ✓ It is HUD’s policy to encourage informal resolutions to matters, solicit voluntary compliance and corrective action. Noncompliance may result ultimately in the termination of or refusal to grant Federal assistance.

CHAPTER 16: FINANCIAL MANAGEMENT



CHAPTER PURPOSE & CONTENTS

This chapter provides an overview of all of the requirements applicable to the financial management of the CDBG Program. Administrative and planning costs including those costs that are eligible under other categories of eligibility will be covered. CDBG policies and rules regarding pre-award costs, float funded activities, revolving loan funds, state revolving funds, lump sum draw downs and program income will be detailed. Finally, financial management requirements that pertain to accounting systems, allowability of costs, audits, tracking, and use of program income and pre-award costs limitations will be discussed.

SECTION	TOPIC
16.1	Administrative, Planning and TA Costs
16.2	Planning, Administration and TA Cap
16.3	Pre-Award Costs
16.4	Float Funded Activities
16.5	Revolving Loan Funds (RLF)
16.6	State Revolving Funds (SRF)
16.7	Lump Sum Draw Downs
16.8	Timely Distribution of Funds
16.9	Program Income
16.10	Uniform Administration Requirements
16.11	Procurement and Conflict of Interest
16.12	Change of Use

16.1 Administrative, Planning and Technical Assistance Costs

Key Topics in This Section	<ul style="list-style-type: none">✓ Eligible administrative activities✓ Eligible planning activities✓ Project delivery costs
Statutory Citations	Section 105(a)(13), Section 105(a)(12)
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ Guide to National Objectives and Eligible Activities for States<ul style="list-style-type: none">– Chapter 2✓ CPD Notice 92-19



16.1.1 Eligible Administrative Activities

- ✓ CDBG funds can be used for administration and planning activities.
 - Examples of administration activities include:
 - General management, oversight and coordination;
 - Providing local officials and citizens with information about the CDBG program;
 - Preparing budgets and schedules;
 - Preparing reports and other HUD-required documents;
 - Monitoring program activities;
 - Fair Housing activities;
 - Indirect costs; and
 - Submission of applications for Federal programs;
- ✓ With respect to determining the amount of staff costs to charge to program administration, states have two options:
 - Include the entire salary, wages and related costs of each person whose **primary** responsibility involves program administration assignments (e.g., executive director position); or
 - Determine the *pro rata* share of each person's salary, wages and related costs whose job includes **any** program administration assignments.
- ✓ Any costs and time charged must be documented through the appropriate means (i.e., invoices, receipts, time and attendance records, etc.). The documentation must be kept on file, and will be reviewed at financial monitoring.

16.1.2 Eligible Planning Activities

- ✓ Examples of planning activities include:
 - Comprehensive plans;
 - Community development plans (including the Consolidated Plan);
 - Functional plans (for housing; land use and urban environmental design; economic development; open space and recreation; energy use and conservation; floodplain and wetlands management; transportation; utilities; historic preservation; etc.);
 - Other plans and studies (e.g., small area and neighborhood plans; capital improvements program plans; individual project plans; general environmental; urban environmental design; historic preservation studies; etc.); and
 - Policy planning, management and capacity building activities.
- ✓ CDBG assistance may also be used to fund activities intended to improve state capacity (including UGLG) to plan and manage programs and activities.
- ✓ Funds used under this category are subject to the statutory limitation on planning and administrative cost.



- ✓ Capacity building is also eligible under the category of Technical Assistance which was discussed previously in this manual.
- ✓ Under this category, CDBG funds may not be used for the following activities:
 - Engineering, architectural and design costs related to a specific project; or
 - Other costs of implementing plans.
 - These costs may be eligible as a part of an eligible project.

16.1.3 Technical Assistance

- ✓ The TA set-aside was made available to states in 1992 by its inclusion in Section 811 of Housing and Community Development Act of 1992. The set-aside is codified at Section 106(d)(5) of the Housing and Community Development Act of 1974 as amended (the Act).
- ✓ In the 2004 Consolidated Appropriations Act, Congress amended Section 106(d) of the Housing and Community Development Act of 1974 (HCDA) to allow grantees to spend a larger percentage of CDBG dollars on either administrative/planning costs or TA, provided that the total amount spent between the two categories does not exceed 3 percent of the current year's allocation + program income + reallocated funds. This change also moved the TA provision to be in the same paragraph as the 2% State Administration costs.
- ✓ States are still responsible for matching CDBG admin expenses dollar for dollar after the first \$100,000. However, TA costs do not need to be matched.
- ✓ Currently, states cannot use program income in calculating the amount of CDBG funds that they can spend on TA in a given year, as they can when calculating administrative costs. HUD is giving strong consideration to allowing states to calculate program income into the amount of CDBG funds they are permitted to spend on TA. HUD would be required to change the regulations to do so, however.
- ✓ Technical assistance funds can be used to:
 - Pay for state staff to provide TA;
 - Hire contractor to provide TA;
 - Grant funds to recipients to allow them to purchase TA;
 - Grant funds to subrecipient such as regional planning organization or Community college to provide TA;
 - Pay for tuition, training and or travel for trainees from UGLG's and non-profits or
 - Transfer funds to another state agency for the provision of TA.
- ✓ For more information, see HUD's CPD Notice 99-09 on TA. While this Notice is outdated in its reference to TA being limited to 1% of a grantee's allocation, it still provides an extensive list of eligible TA expenses.
- ✓ Some activities can be classified as either Administration or TA. For example, workshops for state grant recipients on implementing the CDBG program, or on-site TA by State staff.
- ✓ The following activities are ineligible under TA



- General Administrative activities of the State such as monitoring grantees, or developing the Consolidated Plan. For instance, a State cannot use its TA to do an Analysis of Impediments (AI), since it is a general administrative activity of the State. However, it could provide TA to UGLG's to help them identify impediments, or to help them eliminate local impediments.
- State recipients' general administrative costs, such as hiring Grants Administrator.
- Local administrative expenses not related to community development, such as computerizing county personnel records.
- Training of State staff to perform administrative requirements such as ED monitoring of state recipients. While training of State staff in underwriting so that they can make funding decisions is not an eligible use of TA funds, it is an eligible administrative expense.
- Training of entities other than UGLG's and non-profit participants. For instance, training lead based paint contractors is not an eligible use of TA.

16.1.4 Project delivery costs

- ✓ The costs of carrying out an activity by UGLGs include not only goods and services provided by third parties, such as construction contractors, but also include the costs incurred by the UGLG or subrecipient in connection with the use of its own staff and other resources to carry out the activity.
 - For example, if the UGLG employees underwrite economic development loans that are to be made with CDBG funds, the portion of their salaries spent on this function can be treated as costs of carrying out the activity. This is important because these costs are not subject to the limitation on the use of CDBG funds to pay planning and administrative costs.
- ✓ UGLG can incur project delivery costs outside of the 20% administrative if State wishes to exclude them. These project delivery costs are considered part of the cost of implementing CDBG activities.
- ✓ There are no State CDBG program regulations that describe "project delivery costs." States can use the Entitlement regulations at 24 CFR 570.206 as interpretive guidance.



Calculating Program Administration and Direct Costs Example

- ✓ In Smithville's Housing Department, the Rehab Loan Officer is primarily responsible for marketing and outreach of the rehab loan program, application intake and review, and underwriting and preparing of loan packages for approval by a loan committee.
- ✓ These functions are directly related to the rehab loan program and eligible as program delivery costs. However, the Rehab Loan Officer also contributes information for Smithville's reports to the state, and occasionally assists with general marketing of program activities and Fair Housing.
- ✓ The Rehab Loan Officer maintains time distribution records documenting the time spent on activity delivery and general program administration.
- ✓ The time distribution records indicate that 80 percent of the Rehab Loan Officer's time is spent on activity delivery and 20 percent is spent on program administration. Consequently, the salary and



related costs of the Rehab Loan Officer position will be charged on a pro rata share basis between the rehab loan program (80 percent) and program administration (20 percent).


16.1.5 National Objectives for Administrative and Planning Activities

- ✓ CDBG funds expended for administration, planning and capacity building costs are considered to address the national objectives for the CDBG program as a whole; therefore, no documentation of compliance is required.

16.2 Planning, Administration and TA Cap

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Calculating the cap ✓ Determining compliance with the cap
Statutory Citations	106(d) and 24 CFR 570.489
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States – Chapter 2


- ✓ Planning, administration costs and TA for the state plus all of its UGLG are capped to 20 percent of the sum of grant plus program income plus reallocated funds. The state CDBG planning and Administration cap is described at 24 CFR 570.489 (a)(3).
- ✓ See chart below on Calculating the Planning, TA and Administrative Costs Cap.

		Calculating the Cumulative Planning, TA and Administrative Costs Cap	
Total grant amount		\$10,000,000	
Program income & reallocated funds		<u>\$500,000</u>	
Total: the basis for calculating the cap		\$10,500,000	
<i>Multiplied by 20 percent</i>			<u>x 0.20</u>
Maximum dollar level that may be charged to Planning and Program Administration		\$2,100,000	
* NOTE: This example is for illustrative purposes only.			


- ✓ With respect to compliance, states will be considered to be in compliance if total state and UGLG expenditures charged under planning, administration and TA are no greater than 20 percent of the sum of the grant for the funding year, reallocated funds, and the program income received by state and UGLGs.
- ✓ However, unlike the entitlement program, the state CDBG program has another type of planning, TA and administrative cap with which it must also comply. The cap above applies to the sum of all CDBG-funded administrative, planning and TA costs for both the



- state and its UGLG. The state itself must comply with another cap on its own administrative, planning and TA costs.
- ✓ That cap is calculated as \$100,000 plus 50% of its administrative, planning and TA costs up to 3% of the grant plus program income plus reallocated costs. Note: the \$100,000 is not counted within the 3% cap.
 - ✓ There are numerous implications of this cap. First, it is important to note that this cap is a subset of the 20% cap, not in addition to that cap. So, it means that CDBG-funded state costs are significantly limited.
 - ✓ Second, the 50% of administrative costs above \$100,000 must be matched. Also, states are responsible for matching CDBG admin expenses dollar for dollar after the first \$100,000. So, the state must have alternate resources to create this match for the administrative, planning and TA costs.
 - ✓ CDBG funds used for administration must be matched at the time the CDBG funds are drawn.
 - ✓ Some States limit UGLGs to a lower percent allowance for program administration or require administration to be a local match.
 - ✓ In the 2004, Congress amended HCDA to allow grantees to spend a larger percentage of CDBG dollars on either administrative/planning costs or TA. However, the total amount spent between the two categories does not exceed 3 percent of the current year's allocation + program income + reallocated funds.
 - ✓ Lastly, the state may decide how to allocate the 3% among administration, TA or planning and thus the more spent on planning, for example, the less that can be spent on administration.
 - ✓ Documenting compliance with the 3% cap is either cumulative, since the inception of the program for open grants from HUD, or another method that demonstrates that the requirement is met. Most states show compliance on an annual basis.
 - ✓ Note that the Administration funds can be spent on any year's program activity, regardless of what program year the funds came from.
 - ✓ The following are examples of calculating the 3% cap:

		Example 1: State TA and Administrative Costs Cap: State spends 100% on admin and none on TA	
Total grant amount		\$10,000,000	
Program income		<u>\$2,000,000</u>	
Total available for admin/planning (if fund only admin) – 3% of \$12,000,000 + \$100,000		<u>\$460,000</u>	
Amount that can be unmatched		<u>\$100,000</u>	
Amount that must be matched		\$360,000	
* NOTE: This example is for illustrative purposes only.			



		Example 2: State TA and Administrative Costs Cap: State spends 75% on admin and 25% on TA	
Total grant amount		\$10,000,000	
Program income		<u>\$2,000,000</u>	
Total available for TA -- 3% of \$10,000,000 X 25%		<u>\$75,000</u>	
Total funds available for admin – 3% of \$10,000,000 plus 3% of \$2,000,000 X 75% plus \$100,000		<u>\$370,000</u>	
Amount that does not need to be matched		\$100,000 (admin)	
		+ \$75,000 (TA)	
Amount that does require a match		<u>\$270,000 (admin)</u>	
* NOTE: This example is for illustrative purposes only.			

16.3 Pre-Award Costs

Key Topics in This Section	✓ Requirements ✓ Waivers
Statutory Citations	Regulations at 570.489(b)
Other Reference Materials on This Topic	

- ✓ Under certain conditions, states and UGLG may incur costs prior to the effective date of their CDBG grant agreement.
- ✓ States may permit UGLGs incur project costs before a formal grant relationship between the state and the UGLG exists. If the state permits it, the UGLG can ask for reimbursement of these costs once their grant agreement is executed.
- ✓ The state or UGLG may then pay those costs (including reimbursing itself if it used its own funds to pay the costs) after the effective date of the grant agreement. However, states and UGLG should be careful to ensure that these expenditures meet all applicable CDBG and other federal requirements before reimbursing.
- ✓ States may also incur pre-award costs for their costs prior to a grant agreement with HUD.
 - For state administrative costs, the 3% administration, TA, and planning costs are accounted for within an allocation year but are considered to be “yearless”. Thus states are allowed to incur these costs prior to award.
 - For project costs, it is advisable for the State to put a conditional funding clause in their agreements with UGLG and request Field Office permission prior to incurring the cost.



16.4 Float-Funded Activities

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Description of purpose ✓ Requirements
Statutory Citations	
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States <ul style="list-style-type: none"> – Making the Most of Your CDBG Resources

- ✓ CDBG states have a line of credit that covers the amount of CDBG funds that are available for the state to expend. The state's Consolidated Plan establishes how these funds will be used.
- ✓ Sometimes, however, activities take longer to get started than initially anticipated and funds for undertaking these planned activities remain in the state's line of credit. Under this circumstance, HUD permits states to use a financing technique called float funding.
- ✓ Float loans are not an activity and not included in the list of eligible activities in the HCDA. Float loans are a financing technique that can be used for CDBG eligible activities.
- ✓ Under the float funding provision, the state uses the amount of funds available in the line of credit to fund an alternate eligible activity with the assumption that these funds will be repaid by the alternate activity and then used to fund the originally planned activity.
 - For example, assume that a UGLG plans to use \$500,000 of CDBG funds to build a new community center. However, it will take two years to conduct the environmental review, have an architect design the building, and finally initiate the construction. So, much of that \$500,000 is just sitting in the state's line of credit. Meanwhile, the state receives an application from a UGLG for a housing project which needs \$300,000 in financing. The financing will be provided under a short term rehabilitation loan that will be taken out with the proceeds from the equity syndication of low income housing tax credits over the next year. However, the state has already allocated all of its available CDBG funds to various eligible projects. So, it provides CDBG float funding to the UGLG, using \$300,000 of the \$500,000 planned for the community center. When the equity from syndication of the tax credits is received, the float loan is repaid. The program income derived from the repayment is then available to finance the community center.
- ✓ The state regulations do not address float funding but states may refer to the entitlement regulations for reference.
- ✓ All float-funded activities must meet all of the same requirements that apply to all other CDBG activities. In addition, the following requirements must be met:
 - Float funded activities should generate sufficient program income to permit the originally planned activity to be carried out.
 - The state's program must have in place a requirement that program income from the float-funded activities must be repaid.



- Under normal circumstances, the state is not usually permitted to require that a UGLG return program income when the UGLG is conducting “the same activity”. So, the state must narrowly define “same activity” so that the income can be returned.
- The locality must repay the program income back in time for the original activity to occur.
- The state needs a mechanism to ensure that it will definitely get its money back, such as a letter of credit or unconditional agreement from the UGLG with the float funding.
- ✓ The float-funded activity must be included in the Action Plan and Method of Distribution for the year or the Action Plan must be amended.

16.5 Revolving Loan Funds (RLF)

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Description of purpose ✓ Requirements
Statutory Citations	
Other Reference Materials on This Topic	

- ✓ Revolving loan funds (RLF) are specifically allowed within the CDBG program. Many UGLG use revolving funds in conjunction with single family rehabilitation programs (as well as for other activities such as microenterprise loans).
- ✓ A revolving fund is a separate fund (independent of other CDBG program accounts) set up for the purpose of carrying out specific activities. These activities generate payments to the account for use in carrying out the same types of activities.
- ✓ Program income that is held in a revolving fund does not have to be used before grant funds are drawn down for a different type of CDBG project. However, program income in a revolving fund must be used before additional grant funds are drawn down for revolving fund activities.
- ✓ It is important to note that RLFs are funded by program income and cannot be capitalized with grant funds.
 - If the UGLG’s program income is used to continue the same activity that generated it, the state must allow the UGLG to keep the program income. However, the CDBG rules apply to the re-use of the money.
 - If the UGLG is doing a different activity from that which generated the PI, the state can require it to be paid to the state but then it cannot be used for an RLF.
 - Thus the state must define “continue the same activity”.
- ✓ Repayments of funds into the RLF are CDBG program income and are subject to all CDBG and other regulatory compliance rules. Thus, the state must have a method for determining compliance.
- ✓ States are required to set other parameters/requirements on local RLFs. However, the following are proposed rule changes to safeguard local RLFs:



- Maintaining contractual relationship for duration of existence of program income;
- Closing out underlying activity, but requiring as a condition of close-out that the UGLG obtain advance state approval of either the UGLG's plan for use of program income, or of each use of program income by grant recipients via regularly-occurring reports and requests for approval;
- Closing out the underlying activity, but requiring that the UGLG notify the state when new program income is received; and/or
- With prior HUD approval, other approaches that demonstrate compliance.

16.6 State Revolving Funds (SRF)

- ✓ A state revolving fund (SRF) is variation of the RLF concept at the state level, using program income returned to the state from state grant recipients.
- ✓ State must establish a revolving fund (usually for economic development) and the state's method of distribution must provide for this including: grant amounts, application timetable, selection criteria, etc.
- ✓ Repayments from economic development activities go into the SRF rather than into the general pool of program income received by the state.
- ✓ Repayments are used only to make new economic development grant awards.
- ✓ In the short term, SRF program income on hand at the state is used to honor funds requests from local governments for (economic development) activities funded initially out of the SRF. Funds requests for other local activities (e.g. public facilities) are paid out of "regular" state program income or via drawdown from line of credit.

16.7 Lump Sum Draw Downs

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Description of lump sum draw down purpose ✓ Requirements
Statutory Citations	
Other Reference Materials on This Topic	

- ✓ States may draw down funds from HUD in a lump sum to establish a UGLG rehabilitation fund with one or more private financial institutions for the purpose of financing eligible rehab activities. The reason UGLG may want to establish such a fund is to receive benefits (described below) from the lending institution with which it places the lump sum.
- ✓ The state regulations do not cover lump sum draw downs and so states may defer to the entitlement regulations. The regulations governing lump sum draw downs, which are located at 570.513, stipulate that:
 - The fund may be used in conjunction with various rehabilitation financing techniques, including loans, interest subsidies, loan guaranties, loan reserves, or other uses approved by HUD.



- The fund may not be used for making grants, except when grants are made to leverage non-CDBG funds.
- ✓ Lump sum draw downs are subject to the following limitations:
 - Deposits to a rehabilitation fund cannot exceed the grant amount that the state reasonably expects will be required based on either the prior level of rehabilitation activity or rehabilitation staffing and management capacity during the period specified in the agreement to undertake activities;
 - No grant funds may be deposited under this section solely for the purpose of investment, notwithstanding that the interest or other income is to be used for the rehabilitation activities; and
 - Rehab program administrative costs and the administrative costs of the financial institution may not be funded through lump sum draw down.
- ✓ The following standards apply to all lump sum draw downs of CDBG funds for rehabilitation:
 - States must execute a written agreement with one or more private financial institutions for the operation of the rehabilitation fund.
 - The agreement must specify:
 - The obligations and responsibilities of the parties;
 - The terms and conditions on which CDBG funds are to be deposited and used or returned;
 - The anticipated level of rehabilitation activities by the financial institution;
 - The rate of interest and other benefits to be provided by the financial institution, in return for the lump sum deposit;
 - The agreement must provide that the rehabilitation fund may only be used for authorized activities during a period of no more than two years; and
 - Such other terms as are necessary for compliance with the provisions of this section.
 - The lump sum deposit shall be made only after the agreement is fully executed.
 - Upon execution of the agreement, a copy must be provided to the HUD field office for its record and use in monitoring. Modifications made during the term of the agreement must also be provided to HUD.
 - The CDBG regulations include time limits on the use of funds deposited:
 - The use of funds for rehabilitation financing assistance must start (i.e., the first loan must be made, subsidized or guaranteed) within 45 days of the deposit; and
 - Substantial disbursements from the fund must occur within 180 days of the receipt of the deposit.
 - Deposited funds or program income derived from deposited funds may be used to subsidize or guarantee repayments of rehab loans made with non-CDBG funds **but** the rehabilitation activity would be considered to be CDBG-assisted and subject to the



requirements applicable to the type of activity undertaken. (NOTE: The repayment of the non-CDBG funds is not considered program income.)

- The private financial institution receiving the lump sum deposits must provide specific consideration to the state in exchange for such deposits. The minimum requirements for such benefits are as follows:
 - States shall require the financial institution to pay interest on the lump sum deposit;
 - The interest rate paid by the financial institution shall be no more than three points below the rate on one year Treasury obligations at constant maturity;
 - When an agreement sets a fixed interest rate for the entire term of the agreement, the rate should be based on the rate at the time the agreement is executed;
 - The agreement may provide for an interest rate that would fluctuate periodically during the term of the agreement, but at no time shall the rate be established at more than three points below the rate on one year Treasury obligations at constant maturity;
- In addition to the payment of interest, at least one of the following benefits must be provided by the financial institution:
 - Leverage of the deposited funds so that the financial institution commits private funds for loans in the rehabilitation program in an amount substantially in excess of the amount of the lump sum deposit;
 - Commitment of private funds by the financial institution for rehabilitation loans at below market interest rates, at higher than normal risk, or with longer than normal repayment periods; or
 - Provision of administrative services in support of the rehabilitation program by the participating financial institution at no cost or at lower than actual cost.
- Interest earned on lump sum deposits and payments on loans made from such deposits are considered program income. During the period of the agreement, program income must be used for rehabilitation activities in accordance with the requirements covering the rehabilitation fund.
- States must provide the HUD field office with written notification of the amount of funds to be distributed to a private financial institution before the distribution occurs.

16.8 Timely Distribution of Funds

- ✓ A very important concept in administering CDBG activities is planning for the timely distribution of funds. This section highlights those rules.

Key Topics in This Section	✓ Timely distribution of CDBG funds
Statutory Citations	104(e)(2)
Other Reference Materials on This Topic	✓ Ensuring CDBG Subrecipient Timeliness - Guidelines for State Selection, Management, and Oversight in the Community Development Block Grant Program http://www.hud.gov/offices/cpd/communitydevelopment/library/timeliness.pdf

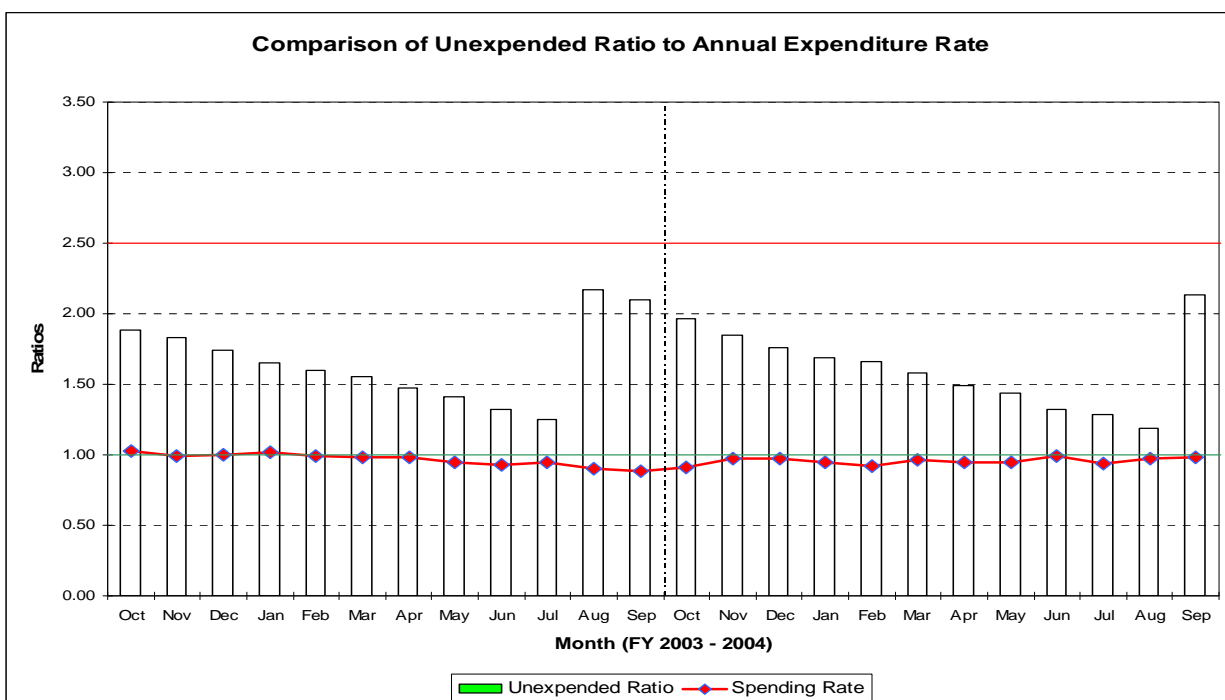


	<ul style="list-style-type: none"> ✓ Keeping CDBG Funds Moving Guidelines for managing your overall Community Development Block Grant Program in a timely manner http://www.hud.gov/offices/cpd/communitydevelopment/library/keepfundsmoving.pdf ✓ Methods for Improving Timely Performance for the State Community Development Block Grant Program http://www.hud.gov/offices/cpd/communitydevelopment/library/statetimeliness.pdf ✓ CPD Notice 06-12: Timely distribution of State CDBG Funds ✓ CPD Notice10-03
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- ✓ Timeliness refers to how quickly the state is able to commit and expend CDBG funds. Since federal program budgets are tight all across the government and since there is a huge need for community development programs, it is vital that CDBG states make every effort to quickly distribute and use their funds.
- ✓ Under the state program, timeliness is defined as:
 - A state annual grant (excluding state administration) has been obligated and announced to UGLG within 15 months of the state signing its grant agreement with HUD.
 - In addition, HUD encourages states to adopt a goal of obligating and announcing 95 percent of funds to UGLG within 12 months of signing the grant agreement with HUD.
- ✓ “Obligation and announced” means the date on which the state officially announces the selection of its awards to its UGLG. Obligated can be defined by any of the following, for example:
 - Contract;
 - Letter;
 - Press release;
 - News announcement; or
 - Public notice.
- ✓ States should also be able to demonstrate that program income and recaptured funds are distributed as soon as possible under the method of distribution.
- ✓ There is currently no timely expenditure regulatory requirement for the State CDBG program in either the statute or the regulation. However, such a requirement may be established in the future as there is Congressional interest in appropriated funds not spent.
- ✓ HUD tracks state expenditures through the Line of Credit Control System (LOCCS) and it is reported monthly to states. On this State Report, the two most significant indicators are the following (see exhibit 16-1):
 - The “Ratio of Unexpended Funds to Grant” This shows in a bar-graph format the number of years of funds that are unexpended in terms of the latest grant amount. States should pay careful attention to the trend of this ratio; is the ratio increasing over time (not favorable) or decreasing (favorable)? A ratio that increases from year to year because funds in the line of credit are increasing may be an indicator that projects are not on schedule.



- The “Ratio of Funds Expended in the Last 12 Months to Grant” portrays a State’s drawdown rate in the last 12-month period compared to the latest grant amount. If the ratio is less than 1.0, the State is spending less than 1 year’s worth of money per year and the “Ratio of Unexpended Funds to Grant” will eventually increase. Conversely, if the ratio is greater than 1.0, the State is spending more than 1 year’s worth of money per year and the “Ratio of Unexpended Funds to Grant” will eventually decrease. Thus, a spending ratio of 1.0 or above will assure that excess funds do not accumulate in the State’s line of credit.

Exhibit 16-1: Sample State Report

- ✓ There are two other reports that are also available to HUD: the Expenditure Report and National Chart. These reports are used to also track state expenditure progress and identify potential issues. States may work with their Local HUD Field Office to obtain these reports and track their timely progress.
- ✓ A state’s program design can also affect timely expenditures including program year start date, method of distribution, state laws and requirements, and the types of activities. The following are examples of ways in which states have ensured funds are spent quickly:
 - Holding 2 years competition at same time;
 - Separating planning from construction grants for large projects;
 - Requiring Environmental review to be complete at time of application; and/or
 - Requiring specific performance / time-frame goals as condition for keeping grant.
- ✓ Refer to the “Methods for Improving Timely Performance” booklet (noted above in resources) for a detailed discussion about how program design can affect timeliness.
- ✓ Additional guidance on timeliness is also available in CPD Notice 05-06.



16.9 Program Income

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Definition ✓ Remission
Statutory Citations	Regulations at 570.489(e)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ CPD Notice 04-11

✓ **Program Income Defined:** Program income is the gross income received by the state and its UGLG directly generated from the use of CDBG funds.

- Program income includes:
 - Proceeds from the sale or lease of property purchased or improved with CDBG funds;
 - Proceeds from the sale or lease of equipment purchased with CDBG funds;
 - Gross income from the use or rental of real or personal property acquired, constructed or improved by the state (or a UGLG), less costs incidental to the generation of income;
 - Payments of principal and interest on loans made using CDBG funds;
 - Proceeds from the sale of loans or obligations secured by loans made with CDBG funds;
 - Interest earned on an RLF pending its disposition;
 - Interest earned on program income;
 - Funds collected through special assessments on properties not owned and occupied by LMI households in order to recover the CDBG portion of a public improvement.
 - UGLG or subgrantee income from an ownership interest in a for-profit entity that was assisted with CDBG.
- Program income does not include:
 - Any income received in a single year by a UGLG and its subgrantees, that does not exceed \$35,000; and
 - Amounts generated and kept by a nonprofit development organization under 105(a)(15) under the statute.
- .Program income paid to the state is always program income and is not subject to the \$25,000 exclusion and must be distributed under the method of distribution.
- The state program income should be distributed, as feasible, prior to additional draws from Treasury.
- Program income retained by the UGLG is:
 - Treated as additional CDBG funds subject to all requirements;



- Unless the funds are in an RLF, these funds must be used before requesting additional draws from the state.
- States must allow the UGLG to keep the program income if it will be used to continue the same activity.

✓ See the program income case studies at the end of this chapter.

16.10 Uniform Administrative Requirements

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Fiscal Controls and Accounting Procedures ✓ Cost Principles <ul style="list-style-type: none"> – Cost reasonableness – Cost allowability – Cost allocation – Indirect costs ✓ Standards for Financial Management Systems <ul style="list-style-type: none"> – Internal controls – Budget controls – Accounting controls – Cash management ✓ Audits <ul style="list-style-type: none"> – Type/level of audit required – Scope of audits – Auditor selection/procurement – Audit costs – Audit review and resolution
Statutory Citations	<ul style="list-style-type: none"> ✓ 24 CFR 570.489
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ 24 CFR Part 85 ✓ OMB Circular A-87 ✓ OMB Circular A-133 ✓ State Audit Requirements Memo http://www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/CDBG-memo-single-audit-act-reqts.pdf ✓ CDBG – Toolkit on Crosscutting Issues http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm

- ✓ The CDBG regulations require that states and UGLG that are governmental entities or public agencies adhere to certain administrative requirements. These requirements include: OMB Circular A-87 “Cost Principles for State, Local and Indian Tribal Governments”—This circular establishes principles and standards for determining allowable costs under Federal grants.
- ✓ Non-profits are required to comply with the following uniform administrative requirements: OMB Circular A-122 “Cost Principles for Non-Profit Organizations” or, for institutions of



higher education, OMB Circular A-21 “Cost Principles for Educational Institutions”—This circular establishes principles for determining allowable costs under grants, contracts and other agreements with nonprofit organizations.

- ✓ In addition, local governments and nonprofit organizations are required to comply with OMB Circular A-133 “Audits of Institutions of States, Local Governments and Nonprofit Institutions”.

16.10.1 Fiscal Controls and Accounting Procedures

- ✓ The CDBG regulations also prescribe the fiscal controls and accounting procedure requirements for states and UGLGs. How these controls and procedures are implemented is primarily state choice, with HUD-specified minimum standards and options. Minimum Standards for expending and accounting for funds must be available for inspection, and adequate to ensure that State CDBG funds are:
 - Used in compliance with statute and regulations,
 - Only spent for reasonable and necessary costs of operating eligible programs, and
 - NOT used to carry out other responsibilities of state and local governments.
- ✓ State Options – States may choose from these fiscal and administrative requirements:
 - The State's own existing requirements,
 - Adopting new ones, or
 - Applying 24 CFR part 85.

16.10.2 Cost Principles

Cost Allowability

- ✓ OMB Circulars A-87 (state and local governments) and A-122 (nonprofits) provide basic guidelines for determining whether a cost is allowable.
- ✓ To be allowable under CDBG (and other federal programs), cost must meet the following general criteria:
 - Be necessary and reasonable for proper and efficient performance and administration of the federal award;
 - Be allocable to the federal award under the provisions of the OMB circulars (see below);
 - Be authorized or not prohibited under state or local laws or regulations;
 - Conform to any limitations or exclusions set forth in the OMB circulars, federal laws, terms and conditions of the federal award, or other governing regulations as to types or amounts of cost items;
 - Be consistent with policies, regulations and procedures that apply uniformly to both federal awards and other activities of the governmental unit;



- Be accorded consistent treatment; a cost may not be assigned to the CDBG program as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the program as an indirect cost;
 - Be determined in accordance with generally accepted accounting principles;
 - Not be included as a cost or used to meet cost sharing or matching requirements of any other federal award in either the current or a prior period, except as specifically provided by federal law or regulation;
 - Be the net of applicable credits (that is, any credits such as discounts or price adjustments must be deducted from the total costs charged); and
 - Be adequately documented.
- ✓ The OMB circulars also contain a “selected” list of costs that are allowable or unallowable. However, the fact that an item of cost is not included does not mean it’s unallowable. Rather the cost’s allowability is determined by reference to the basic guidelines.

Cost Allocation

- ✓ As mentioned previously, costs charged to CDBG must also be allocable to the CDBG program. A cost is allocable if it:
- Is treated consistently with other costs incurred for the same purpose in like circumstances (i.e., states/UGLG must treat costs consistently for all grant programs); and
 - Is incurred specifically for the CDBG program;
 - Benefits both the CDBG program and other work and can be distributed in reasonable proportion to the benefits received; or
 - Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.
- ✓ Any costs allocable to a particular federal award or cost objective (such as CDBG) may not be charged to other federal awards to overcome funding deficiencies, to avoid restrictions imposed by law or the terms of the federal award, or for other reasons.

Indirect Costs - OMB Circular A-87 (State and Local Governments)

- ✓ OMB Circular A-87 requires that governmental entities support indirect costs with a cost allocation plan or an indirect cost proposal prepared in accordance with the circular. Indirect costs should be allocated in a manner which will result in the grant program bearing its fair share of total indirect costs.
- A **central service cost allocation plan** is required if the local government has indirect costs resulting from centralized services that will be charged to federal awards.
 - A central service cost allocation plan, for the purposes of local governments, refers to a description of a process whereby services provided on a centralized basis (e.g., motor pools, computer centers, purchasing and accounting services) can be identified and assigned to benefited departments/agencies (e.g., the department/agency administering the CDBG program) on a reasonable and consistent basis.



- Refer to Attachment C of OMB Circular A-87 for additional information.
- An **indirect cost proposal** is required if the local government has indirect costs resulting from centralized services that will be charged to federal awards and other indirect costs originating in various departments/agencies carrying out federal awards.
 - An indirect cost proposal is the documentation prepared by a governmental entity to substantiate its request for the establishment of an indirect cost rate. This rate, expressed in percentage terms, is applied to direct costs in order to determine the amount of reimbursement a state can obtain for indirect costs.
 - For instructions on preparing indirect cost proposals, refer to Attachment E of OMB Circular A-87.

Indirect Costs - OMB Circular A-122 (Nonprofits)

- ✓ Under OMB Circular A-122, there are three methods nonprofits are required to utilize for allocating indirect costs. Each method is applicable to certain specific circumstances.
 - Simplified allocation method:
 - Used when a nonprofit organization has only one major function, or where all its major functions benefit from its indirect costs to approximately the same degree.
 - The indirect cost rate is calculated by separating the organization's total costs for the base period (e.g., fiscal year) as either direct or indirect, and dividing the total allowable indirect costs by an equitable distribution base (total direct costs, direct salaries or other equitable distribution base).
 - Multiple allocation base method:
 - Used when major functions benefit in varying degrees from indirect costs.
 - Costs are separated into distinct groupings, and each grouping is then allocated to benefiting functions by means of a base which best measures relative benefits. An indirect cost rate must be developed for each grouping.
 - Direct allocation method:
 - This method may be used for those nonprofits that treat all costs as direct costs *except* general administration and general expenses.
 - These joint costs are prorated individually as direct costs to cost objectives using a base most appropriate to the particular cost being prorated. The base must be established in accordance with reasonable criteria and must be supported by current data.
- ✓ Indirect cost rates determined through one of the three prescribed methods must be submitted to and approved by the federal agency that provides the largest dollar value of funds to the nonprofit.
- ✓ A written agreement is executed between the nonprofit and the approving federal agency signifying the approval of the proposed indirect cost rate.



16.10.3 Standards for Financial Management Systems

- ✓ States and UGLGs must have financial management systems in place to comply with the following standards:
 - Provide effective control over and accountability for all funds, property and other assets;
 - Identify the source and application of funds for federally-sponsored activities, including records and reports that:
 - Verify the “reasonableness, allowability and allocability” of costs; and
 - Verify that funds have not been used in violation of any of the restrictions or prohibitions that apply to the federal assistance (through the use of budget controls and adequate accounting records).
 - Permit the accurate, complete and timely disclosure of financial results in accordance with HUD reporting requirements or, for UGLG, state reporting requirements.
 - Minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the state or UGLG.
- ✓ States may follow Part 85 or they may develop their own systems and standards that ensure similar accountability.

Internal Controls

- ✓ Internal controls are the combination of policies, procedures, job responsibilities, personnel and records that together create accountability in an organization’s financial system and safeguard its cash, property and other assets.
- ✓ Through its system of internal controls, an organization can ensure that:
 - Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations and policies;
 - Resources are protected against waste, mismanagement or loss; and
 - Information on the source, amount and use of funds are reliable, secured and up-to-date and that this information is disclosed in the appropriate reports and records.
- ✓ The basic elements of an internal control system include:
 - An organizational chart setting forth the actual lines of responsibility of personnel involved in financial transactions.
 - Written definition and delineation of duties among key personnel involved in financial transactions.
 - An accounting policy and procedures manual that includes:
 - Specific approval authority for financial transactions and guidelines for controlling expenditures;
 - A set of written procedures for recording of transactions; and
 - A chart of accounts.



- Adequate separation of duties so that no one individual has authority over a financial transaction from beginning to end. In other words, one person should not have responsibility for *more than one* of the following functions:
 - Authorization to execute a transaction.
 - Recording of the transaction.
 - Custody of the assets involved in the transaction.
- Hiring policies ensuring that staff qualifications are commensurate with job responsibilities.
- Control over assets, blank forms and confidential documents so that these types of documents are limited to authorized personnel only.
- Periodic comparisons of financial records to actual assets and liabilities (i.e., reconciliation). In cases where discrepancies are found, corrective action must be taken to resolve such discrepancies.

Budget Controls

- ✓ Recipients and UGLG of CDBG funds must have procedures in place to compare and control expenditures against approved budgets for CDBG-funded activities.
- ✓ A state or UGLG should:
 - Maintain in its accounting records (see below) the amounts budgeted for eligible activities;
 - Periodically compare actual obligations and expenditures to date against planned obligations and expenditures, and against projected accomplishments for such outlays; and
 - Report deviations from budget and program plans, and request approval for budget and program plan revisions.

Accounting Records

- ✓ States and UGLGs are required to have accounting records that sufficiently identify the source and application of CDBG funds provided to them.
- ✓ To meet this requirement, an organization's accounting system should include at least the following elements:
 - **Chart of accounts** - This is a list of account names and the numbers assigned to each of the account names. The names provide a description of the type of transactions that will be recorded in each account (e.g., an account titled "cash" denotes that only transactions affecting cash should be recorded in that account). The account number is required by most accounting software programs and is assigned to an account name to group similar types of accounts. For example, all asset accounts will begin with a "#1" and all liability accounts will begin with a "#2". A typical chart of accounts will generally include the following categories: assets, liabilities, net assets/fund balance, revenues and expenses.
 - **Cash receipts journal** - A cash receipts journal documents, in chronological order, when funds were received, in what amounts and from what sources.



- **Cash disbursements journal** - A cash disbursements journal documents, in chronological order, when an expense was incurred, for what purpose, how much was paid and to whom it was paid.
 - **Payroll journal** - A payroll journal documents payroll and payroll related benefit expenses on salaries and benefits, including distinguishing between categories for regulatory purposes.
 - **General ledger** - A general ledger summarizes, in chronological order, the activity and financial status of all the accounts of an organization. Information is transferred to the general ledger after it is entered into the appropriate journal. Entries transferred to the general ledger should be cross-referenced to the applicable journal to permit the tracing of any financial transaction.
- ✓ All journal entries must be properly approved and supported by source documentation. Documentation must show that costs charged against CDBG were:
- Incurred during the effective period of the agreement with HUD or, for UGLGs, with the state;
 - Actually paid out (or properly accrued);
 - Expended on eligible items; and
 - Approved by the appropriate official(s) within the organization.
- ✓ Source documentation must explain the basis of the costs incurred and the actual dates of the expenditure. For example:
- Source documentation for payroll would include employment letters, authorizations for rates of pay and benefits and time and attendance records.
 - Source documentation on supplies would include purchase orders or purchase requisition forms, invoices from vendors, canceled checks made to vendors, information on where the supplies are stored and the purpose for which they are being used.
- ✓ States and UGLGs must ensure that their accounting records include reliable, up-to-date information on the sources and uses of CDBG funds, including:
- Amount of federal funds received;
 - Current authorization of funds;
 - Obligations of funds;
 - Unobligated balances;
 - Assets and liabilities;
 - Program income; and
 - Actual expenditures broken down by the grant program and year for which the funds are derived and the activity on which the funds were used.

Cash Management

- ✓ States and UGLG should have procedures in place to minimize the amount of time that elapses between receipt of CDBG funds and the actual disbursement of those funds.



- ✓ This will curtail unnecessary drawdowns of CDBG funds and minimize the cost of financing the CDBG program by the federal government.
 - Advances to the UGLG to meet the UGLG's actual cash disbursement.
- ✓ Requirements concerning cash management include the following:
 - States (and UGLG) must include accurate information in drawdown requests.
 - Funds drawn down erroneously must be returned. (This includes funds drawn down under the cash advance method where the expenditure of funds is delayed.)
 - Disbursement of funds must occur in a timely manner. While there is no explicit time period, the general rule is that payment must take place within three business days of deposit of CDBG funds. If payment takes longer than three business days, written justification should be maintained in the files.
 - If grant advances are placed in an interest-bearing account, interest income must be remitted to the U.S. Treasury. (However, interest amounts up to \$100 per year may be retained by the state for administrative expenses.)
 - Program income (other than program income deposited in a revolving fund) must be disbursed prior to the draw down of additional funds from the Treasury (or, in the case of UGLG, from the state).
 - Program income in a revolving fund must be disbursed for the activity for which the fund was established before additional requests are made for new CDBG funds.

16.10.4 Audit Requirements

Type/Level of Audit Required

- ✓ States, local government and nonprofit organizations are required to comply with **OMB Circular A-133** "Audits of States, Local Governments and Non-profit Organizations".
- ✓ The type/level of audit required by the OMB circulars is based on the amount of federal financial assistance expended by an organization in any given year.
 - States and UGLG that expend \$500,000 or more in a year in Federal awards must have an audit conducted in accordance with **OMB Circular A-133** except when they elect to have a program-specific audit conducted
 - A **program audit** is an audit of one federal program (such as CDBG). A program-specific audit is allowed when the state or UGLG expends federal awards under only one federal program.
 - A **single audit** is an audit that includes both an entity's financial statements and its federal awards (from all applicable federal programs).
 - If a state or UGLG expends less than \$500,000 a year in federal awards, it is exempt from the audit requirements for that year; however, records must be available for review or audit by appropriate officials of the federal agency, pass-through entity and the Government Accountability Office.
- ✓ States are required to establish a system to track the receipt of annual single audit reports submitted by UGLGs. The following may be involved in tracking these audits:



- Audit information has been received; and
- Audit reports containing findings are being tracked until all issues are successfully resolved.
- ✓ States may consider sending a “Notification of Annual Single Audit” to their UGLGs to determine if they meet the threshold to submit a single audit.
- ✓ A sample tracking template is attached to the September 22, 2008 State Audit Requirements Memo referenced above.

Scope of Audits

- ✓ Audits performed for states and UGLG of federal funds must be performed by an independent auditor in accordance with Government Auditing Standards and must be conducted in accordance with the OMB circulars.
- ✓ Specifically, the audit will cover three areas:
 - Financial statements’
 - Internal control; and
 - Compliance with applicable laws and regulations.

Audit Reports

- ✓ Following the completion of the audit, an audit report must be prepared. The audit report must contain at least the following:
 - An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole;
 - A report on internal control related to the financial statements and major programs. This report shall describe the scope of testing of internal control and the results of the tests, and, where applicable, refer to the separate schedule of findings and questioned costs;
 - A report on compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements. This report shall also include an opinion (or disclaimer of opinion) as to whether the state or UGLG complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on each major program, and, where applicable, refer to the separate schedule of findings and questioned costs; and
 - A schedule of findings and questioned costs that includes a summary of the auditor’s results, findings relating to the financial statements which are required to be reported in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States, and findings and questioned costs for Federal awards.
- ✓ The audit must be completed and report submitted to the Federal clearinghouse designated by OMB within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after



the end of the audit period. The state or UGLG shall make copies available for public inspection.

- ✓ Copies of audit reports must be kept on file for a minimum of three years from the date of submission to the Federal clearinghouse designated by OMB.
- ✓ The auditor shall retain working papers and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the state or UGLG, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, or pass-through entity to extend the retention period.
 - If there are unresolved audit issues at the end of this three-year period, the state or UGLG should notify the auditor in writing to extend the retention period.

Auditor Selection/Procurement

- ✓ In arranging for audit services, states and UGLGs must follow the state's procurement standards, as applicable.
- ✓ Whenever possible, states and UGLGs shall make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services. In requesting proposals for audit services, the objectives and scope of the audit should be made clear. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price.

Audit Costs

- ✓ The costs of audits made in accordance with the applicable regulations are allowable charges to federal assistance programs.
- ✓ These charges can be treated as either a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars.
- ✓ The cost of any audit under OMB Circular A-133 not conducted in accordance with this part is unallowable. The cost of auditing a non-Federal entity which has Federal awards expended of less than \$500,000 per year and is thereby exempted from having an audit conducted under this part is also not allowable. However, this does not prohibit a CDBG state from charging Federal awards for the cost of limited scope audits to monitor its UGLGs, provided the UGLG does not have a single audit. For purposes of this part, limited scope audits only include agreed-upon procedures engagements conducted in accordance with either the AICPA's generally accepted auditing standards or attestation standards, that are paid for and arranged by the CDBG state and address only one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching, level of effort, earmarking; and, reporting.

Pass-through Responsibilities

- ✓ The state, as a "pass-through entity" under OMB Circular A-133, must perform the following actions with respect to its UGLGs:
 - Identify Federal awards made by informing each UGLG of CFDA title and number, award name and number, award year, and name of Federal agency. When some of this



information is not available, state shall provide the best information available to describe the Federal award.

- Advise UGLGs of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the state.
- Monitor the activities of UGLGs as necessary to ensure that CDBG funds are used for authorized purposes in compliance with laws, regulations, and the provisions of the UGLG agreement and performance goals are achieved.
- Ensure that a UGLG expending \$500,000 or more in Federal awards during the UGLG's fiscal year has met the audit requirements of OMB Circular A-133 for that fiscal year.
- Issue a management decision on audit findings within six months after receipt of the UGLG's audit report and ensure that the UGLG takes appropriate and timely corrective action.
- Consider whether UGLG audits necessitate adjustment of the pass-through entity's own records.
- Require each UGLG to permit the pass-through entity and auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with this part.

16.11 Procurement and Conflict of Interest

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Procurement ✓ Conflict of Interest
Statutory Citations	24 CFR 570.489(g) and (h)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ CPD Notice 96-05 ✓ CDBG – Toolkit on Crosscutting Issues http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm

16.11.1 Procurement

- ✓ Procurement is primarily dictated by state choice, with HUD-specified minimum standards. Procurements by the state follow the state's own procurement policies. The state must also establish procurement requirements for units of local government. The state can also adopt the procurement requirements in 24 CFR Part 85; however, this is not a requirement.
- ✓ Minimum standards must involve the following:
 - Promote full and open competition.
 - Specify applicable methods of procurement (small purchase, bids, etc.) Cost plus percentage of costs and percentage of construction cost methods are NOT ALLOWABLE.



- Include standards of conduct for employees engaged in award or administration of state CDBG-funded contracts.
- Must ensure that all purchase orders and contracts include all applicable references to statutes, regulations, Executive Orders.
- ✓ Please note that subrecipient arrangements and awarding CDBG funds to another governmental entity (e.g. a council of governments (COG)) is not subject to procurement, but is subject to the state's method of distribution (MOD).

16.11.2 Conflict of Interest

- ✓ Conflict of interest requirements are specified by HUD; however, these will also be dictated by state and local law. States must ensure compliance by reviewing local government situations and determining if the decision-making process was followed appropriately to ensure HUD as well as state and local standards are followed.
- ✓ A state's standards of conduct apply to all procurement activities.
- ✓ All non-procurement activities (acquisition and disposition of property, direct assistance to individuals, businesses) are subject to the HUD requirements described in 570.489(h).
- ✓ The general rule is persons acting on behalf of state or local government in a State CDBG decision making role or who are in a position to gain inside information (and their family members) cannot obtain a financial interest or benefit from State CDBG funded activities.
 - Prohibition ends 1 year after the decision-making person has left their position.
- ✓ HUD evaluates and decides the outcome of a state's request for exception for state employees or agents.
- ✓ The state evaluates and decides the outcome of a UGLG or other recipient on behalf of their employees or agents.
- ✓ The regulations contain a list of factors to be included in requests, and considered when evaluating them.
 - Whether the exception would provide a significant cost-benefit or essential degree of expertise that would otherwise be missing;
 - Whether an opportunity was provided for open competitive bidding;
 - Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries, and the exception will allow the person to receive the same benefits as other members of the class;
 - Whether the person has withdrawn from the role of decision- maker;
 - Whether the interest or benefit was present before the affected person became an (h)(3) covered person;
 - Whether undue hardship will result to the State, UGLG or affected person when weighed against the public interest;
 - Any other relevant considerations; and/or
 - Request for exception must include public disclosure & attorney opinion that exception does not violate state or local law.



16.12 Change of Use

Key Topics in This Section	✓ Change of use requirements
Statutory Citations	Regulations at 570.489(j)
Other Reference Materials on This Topic	

- ✓ The standards described in this section apply to real property within the state or UGLG's control that was acquired or improved, in whole or in part, using CDBG funds in excess of \$100,000. These standards shall apply from the date CDBG funds are first spent for the property until five years after final close-out of the grant from which assistance to the property was provided.
- ✓ A state or UGLG may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made, unless the state and UGLG provide affected citizens with reasonable notice of and opportunity to comment on any proposed change, and either:
 - The new use of the property qualifies as meeting one of the national objectives and is not a building for the general conduct of government; or
 - The state and UGLG determine, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify as meeting a National Objective, it may retain or dispose of the property for the changed use if the state's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.
 - Following the reimbursement of the CDBG program, the property no longer will be subject to any CDBG requirements.



Attachment 16-1: Program Income Case Studies

The State of XYZ

The State of XYZ's CDBG program includes a variety of program income generating activities. XYZ's measurement period for determining program income is the same as its program year, which runs April 1 – March 31. Program income earned on the state-level regional fund activities is returned to the State.

XYZ also requires the return of the CDBG portion of proceeds from the sale of property acquired with or improved by the use of CDBG funds if these assets are disposed of prior to the final closeout of XYZ's grant to the unit of general local government *unless* the property sale and reuse of income by the jurisdiction were integral parts of the project in the jurisdiction's application as originally submitted and approved by the State.

During the most recent measurement year, the following income items were received by, or returned to, the State of XYZ –

- \$142,000 in principal and interest payments on economic development loans eligible under the state-established Eastern ED Revolving Fund.
- \$28,000 in principal and interest payments on economic development loans eligible under the state-established Western ED Revolving Fund.
- \$20,000 proceeds from property sale returned by the Town of Whyknot. The Town determined subsequent to their application and land purchase that a portion of the land acquired could be sold as an excess lot without negatively affecting the project. This represented the *only* income generated by Whyknot's activities during the year.

Mosquito Junction

Mosquito Junction received funding from the State of XYZ's CDBG program for two homeowner rehabilitation projects. In the first case, the city set up a homeowner rehabilitation revolving loan fund. In the second case, deferred loans were subject to 100% repayment for a 20-year period. During the most recently completed year, the following income items were received and retained by Mosquito Junction –

- \$100,000 repayment of a loan made from Mosquito Junction's revolving loan fund, awarded during the State's FY 2003 cycle. While the project was awarded in 2003, due to unanticipated project difficulties, the rehabilitation work on the 5 homes was not completed until late 2006. A new developer purchased all 5 homes in order to obtain land for a Superstore parking lot (not a CDBG- eligible or assisted project). The original owners made significant profits on their properties, but also triggered the CDBG repayment requirements.
- \$17,000 repayment of a non-RLF deferred rehabilitation loan from Mosquito Junction's FY 2004 activity. This homeowner was transferred to a job in Metropolis, and sold the home at fair market value to an unrelated purchaser.



Pumpkinsmash County

Pumpkinsmash County has received and successfully administered several State CDBG grants and other CPD funding since 2005. The County had one open grant during the measurement year, for Phase II of its regional water and sewer system. This activity is in the early engineering and design stage. Both water and sewer projects were 100% CDBG-funded. During the most recently completed year, the following income items were received and retained by Pumpkinsmash County and its “subrecipients” –

- \$24,000 in tap fees collected from 24 non-LMI households served by Phase I of the regional water and sewer system.
- \$2,000 received by the County as repayment of an original \$20,000 deferred rehabilitation loan. The County’s program reduces a homeowner’s repayment liability by 10% a year over a 10-year period.
- \$100 in interest earned on the County’s revolving rehabilitation loan fund account.
- \$10,000 received by Pumpkinsmash CDC, a nonprofit development organization, for activities eligible under 105(a)(15) of the HCDA Act.

Part A – Answer the following questions relating to income received by or returned to the State of XYZ:

1. What is the total amount of program income directly received by and/or returned to XYZ during the year?
2. XYZ has received and approved a \$200,000 request from Possum Kingdom to fund an activity eligible under the Western ED revolving fund criteria. This is the sole reimbursement request in for processing at this time. Assuming the program income amounts listed above are on hand at the time of the request, how much of the request will be provided by –
 - Eastern ED fund program income?
 - Western ED fund program income?
 - Town of Whyknot program income?
 - Additional CDBG funds drawn from the Treasury?
3. What other questions or special considerations, if any, could state staff or HUD monitors raise related to the Town of Whyknot’s income?



Part B – Answer the following questions relating to income received and retained by Mosquito Junction:

1. What is the total amount of program income received and retained by Mosquito Junction during the year?
2. What information do state staff and/or HUD monitors need to have in order to determine if income was potentially generated by a homeowner rehabilitation project?

Part C – Answer the following questions relating to income received and retained by Pumpkinsmash County:

1. What is the total amount of program income received by Pumpkinsmash County and its “subrecipients” during the year?
2. What information might state staff and/or HUD monitors need to have in order to make final determinations about whether the income received by the CDC and the Artisan’s Market is potential program income?
3. How many years after rehabilitation did the homeowner occupy his home?
4. BONUS QUESTION – Why is the interest earned considered program income, rather than being required to be returned to the Treasury?

CHAPTER 17: IDIS ONLINE AND CDBG



CHAPTER PURPOSE & CONTENTS

This chapter summarizes the key objectives, functions, data entry, and reporting requirements of the Integrated Disbursement and Information System (IDIS) Online. This chapter will not cover in detail all of the requirements of IDIS Online, but is meant to be an overview of various areas related to compliance and accurate reporting of accomplishments.

SECTION	TOPIC
17.1	Overview of IDIS Online
17.2	Data Entry
17.3	Reporting

17.1 Overview of IDIS Online

- ✓ The Integrated Disbursement and Information System (IDIS) Online is the management information system used for all four CPD formula programs: CDBG, the HOME Investment Partnerships program, Emergency Shelter Grants (ESG), and Housing Opportunities for Persons with AIDS (HOPWA). The system is accessed through the HUD website and is secured by HUD-issued IDs and passwords. The information entered into IDIS Online is instantly available to HUD. HUD aggregates the data at the national level to demonstrate program results and benefits of the four CPD formula grant programs. The 2012 rule mandates the annual entry of data to show accomplishments for each program year.
- ✓ The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none">✓ Objectives of IDIS Online✓ Use of IDIS Online Throughout the Program Year
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ IDIS Online website:<ul style="list-style-type: none">♦ http://www.hud.gov/offices/cpd/systems/idis/index.cfm✓ IDIS Online for CDBG Entitlement Communities Training Manual<ul style="list-style-type: none">♦ http://www.comcon.org/programs/idis/4%20Training%20Manual/States%20Entitlement%20Manual_3302010.pdf

17.1.1 Objectives of IDIS Online

- ✓ There are two key objectives of the Integrated Disbursement and Information System (IDIS) Online:



- First, it enables states to draw down CDBG funds.
- Second, IDIS Online is a data collection and reporting tool states use to record the results of CDBG-funded activities. IDIS Online is the tool used to report CDBG accomplishments to HUD, including the CPD Performance Measurement data elements.
- ✓ States use IDIS Online to request disbursements from their CDBG grant funds. CDBG funds are held by the U.S. Treasury until the state is ready to expend the funds. When the state is ready to spend the grant funds, they use IDIS Online to request a drawdown of their funds. Once the request is processed, the funds are wire-transferred, or disbursed, to the state's bank account. It is important to note that IDIS Online is a reporting system and not an accounting system. Local accounting systems must be used in addition to IDIS Online to ensure proper management of funds.
- ✓ IDIS Online also provides states with a mechanism to describe activities assisted with CDBG funds. The information captured by IDIS Online helps demonstrate to HUD that each funded activity was eligible and met a national objective. The system also collects accomplishment and performance measurement data and, therefore, plays an important role in the CPD Performance Measurement Initiative. By having all states use the system, the data is collected in a standard format that enables HUD to easily aggregate the data at a national level. IDIS Online collects, consolidates, and reports data on the results of CDBG-funded activities.

17.1.2 Use of IDIS Online throughout the Program Year

- ✓ The annual planning cycle can be divided into a planning phase at the start of the program year, a delivery phase, and a reporting phase at the end of the program year. At each phase, the state will perform different tasks in IDIS Online. While the tasks listed below are not exclusive to any phase, this is the order they are usually encountered.
 - Start of the Program Year: Once a state has submitted its Action Plan to HUD and signed its grant agreement with HUD, it will use its Method of Distribution to make awards to Units of General Local Government (UGLG). The state will enter data for these awards as “projects” and “activities” into IDIS Online. Once HUD loads the new grant amount into IDIS, the state can commit funding to each activity.
 - Program Year – Implementation: Throughout the program year the state will incur expenses and use IDIS Online to request drawdowns from their grant funds to pay for these expenses. The state will also use IDIS Online to report the receipt and use of program income. It is strongly recommended that accomplishment data is entered into the system throughout the program year. If the state waits until the end of the year to enter data, not only will the workload be heavy at that point, but also there is an increased chance of errors in data entry due to the passage of time. Updating more frequently also provides HUD with more current data it can use to respond to various requests from stakeholders.
 - End of the Program Year – Reporting: At the end of the program year, the state will use IDIS Online to enter accomplishment data and performance measures and indicate which activities have been completed. Once the information is entered, the state can use IDIS Online to print out standardized reports that contain information that must be included in their annual report. **States are required to use IDIS to report on benefits realized during the program year before the submission of their annual PER to HUD.** It is



unacceptable to wait until a project is completed and closed out to report beneficiary information in IDIS.

17.2 Data Entry

- ✓ Data entry tasks can be organized into the following tasks: adding projects and activities, funding activities, creating and approving drawdown requests, receipting income, and reporting accomplishment data. Consistency of reporting on IDIS Online activities is crucial, and policies and procedures must be incorporated into day-to-day program management. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Data Entry ✓ Key Data Fields ✓ Common IDIS Online Errors to Avoid
Regulatory/Statutory Citations	§570.483
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ IDIS Online Quick Tips User Guide: www.hud.gov/offices/cpd/systems/idis/IDIS_Online_Quick_Tips_User_Guide_v3.pdf ✓ How to Run Reports in IDIS Online: www.hud.gov/offices/cpd/systems/idis/reengineering/idis_reports_guide_1_4.pdf ✓ Technical Assistance Unit: 877-483-8282 ✓ CDBG Data Cleanup Spreadsheets: www.hud.gov/offices/cpd/communitydevelopment/cleanup/

17.2.1 Data Entry

- ✓ States must enter data on several different levels within IDIS Online.
 - **Adding Projects:** Projects mainly serve an organizational purpose and do not capture detailed information; detailed data is captured at the activity level. IDIS projects help states organize their activity-level data into groups or categories. Many states choose to add a project for each UGLG. Others add a project for each type of eligible activity (i.e. “Housing” and “Economic Development”). HUD allows states to choose how they will organize the data at the project level.
 - **Adding Activities:** States also must enter data at the IDIS activity level. Activities are the basic building blocks in IDIS Online. All funds are expended and all program accomplishments are reported at the activity level. At the activity level, the State must provide enough information to show that the use of CDBG funds is eligible and met a national objective. In some cases, the state may need to add multiple activities to report on an award to an UGLG. For example, an economic development loan program must demonstrate that each business assisted with CDBG met a national objective on its own. In this case, each loan should be reported as a separate activity in IDIS Online. The data entry for each activity is divided into Setup Details and Accomplishment data. When adding activities, the state only needs to provide the Setup Details.



- **Funding Activities:** Once the Setup Details are entered for an activity, the state can commit CDBG funds to the activity. This commitment process ensures that a state does not budget more money than what is available. Once funds are committed to an activity, those funds are shown as unavailable for all other activities. **For states, it is extremely important to indicate the correct Grant Year or Allocation Year from which the activity is funded.**
- **Drawing Funds:** When eligible CDBG expenses for an activity, the state will create and approve a drawdown for the activity. This serves two purposes. First, it reports to HUD that the expenses were used for an eligible CDBG activity. Second, the drawdown acts as a request for HUD to wire-transfer the requested amount to the state in two to three business days.
- **Receipting Income:** When CDBG activities generate program income expenses for an activity, the state will create a receipt to report that availability of the income. The state will report the use of program income through the drawdown process. All CDBG program income, as defined by the CDBG regulations at 24 CFR 570.489(e), must be reported in IDIS, regardless of whether the income was received by the state, a unit of general local government or a subrecipient of a unit of general local government. Program income retained by a unit of general local government to continue an activity must also be reported in IDIS.
- **Reporting Accomplishments:** At the end of the program year, the state will use IDIS Online to enter accomplishment data and performance measures for each activity that was open or completed within the program year. States are required to use IDIS to report on benefits realized during the program year before the submission of their annual PER to HUD. It is unacceptable to wait until a project is completed and closed out to report beneficiary information in IDIS.

17.2.2 Key Data Fields

- ✓ The combination of an activity's matrix code and national objective play a key role in determining the type of accomplishment data required for the activity. It is important to note that not all combinations are allowed. The reference document entitled "Guidance for Reporting CDBG Accomplishments in IDIS" provides guidance on what combinations are allowed. An updated version of this document based upon IDIS Online is at the end of the chapter as Exhibit 17-1.

IDIS matrix code examples:

- ✓ 03A - Senior Centers
- ✓ 03C - Homeless Facilities (not operating costs)
- ✓ 14A - Rehab single unit residential
- ✓ 18C – Micro-enterprise assistance

Matrix Codes

- ✓ The matrix code indicates how the activity is eligible under CDBG regulations. It is an important data element that states must know at the beginning of the program year. The matrix code generally identifies the purpose for which assistance was provided.
- ✓ Assigning correct matrix codes and national objectives to activities is important, not only in recording the eligibility of activities, but also in accurately reporting accomplishment data.



- ✓ When HUD aggregates accomplishment data to the national level to fulfill reporting requirements to Congress or provide requested information, data in IDIS Online are generally aggregated by matrix code. Therefore, states across the country must be consistent in uniformly applying matrix codes to activities.
- ✓ States should choose the most specific code that relates to the activity they are funding. States should avoid using general matrix codes when more specific codes have been provided, such as public services as 05, versus 05U for housing counseling (please note that this is a relatively new code).
- ✓ One of the most common errors in the use of matrix codes in IDIS Online is to use the matrix codes for Homeownership Assistance, 13 and 05R, for activities that solely provide housing counseling. Homeownership Assistance activities provide financial assistance to homebuyers and may provide housing counseling services for those homebuyers. However, the accomplishment data required for these activities are the number of households receiving financial assistance, not the number receiving housing counseling. In the Accomplishment Detail screens for these activities, HUD asks, of those homebuyers receiving assistance, how many received housing counseling, but that is the only place the number of households receiving housing counseling is reported for Homeownership Assistance Activities.
- ✓ States should check with HUD if they are unsure about the choosing the most appropriate IDIS matrix code.
- ✓ IDIS Online has two new matrix codes specifically for state use:
 - **State Planning Only (20A)** should be used for awards to units of general local government for which planning is the only activity, or in which planning activities are unrelated to any other activity funded as part of the grant. These are often referred to as “planning-only grants” or “planning-only activities.” For more information , refer to 570.483(b)(5) and 570.483(c)(3).
 - **State Administration (21J)** should be used for costs incurred by the state to administer the CDBG program.
- ✓ A copy of the current IDIS matrix codes is attached to this chapter.

National Objectives

- ✓ All CDBG-assisted activities, except for planning and administrative activities subject to the state’s administrative cap, must meet a national objective. One of the key functions of IDIS Online is to demonstrate how each funded activity meets a national objective. It is important to note each national objective will require different types of data to demonstrate compliance. Therefore, the IDIS Online data collection screens will change depending on the national objective selected. States are encouraged to preview all of the data collection screens for the selected national objective at the beginning of the year to understand what type of data is required.
- ✓ There are three national objectives under CDBG, including:
 - Benefit to LMI persons (e.g., area benefit, limited clientele, jobs, and housing).
 - Prevent or eliminate slums and blight on an area or spot basis (note that the Urban Renewal approach to Slums and Blight is used by entitlements but is not applicable to the state program).



- Meet an urgent need.
- ✓ In addition, a minimum of 70% of the state's CDBG program expenditures must meet the LMI benefit national objective.

Grant Year

- ✓ When funding an activity, the state must indicate the Grant Year from which the activity was funded. Correct use of this field will ensure the activity is included correctly in the PER report.

Report Year / Program Year

- ✓ All accomplishment data reported in IDIS Online is assigned to a specific Program Year. Accomplishments must be reported by the Program Year in which they are realized (as opposed to Grant Year from which the activity was funded).
- ✓ When a CDBG activity is open for more than one program year, the state must add a new program year on CDBG Accomplishment Detail (Page 1) by clicking the "Add New Accomplishment Year" button. All of the data reported on Accomplishment Detail (Page 1) and Accomplishment Detail (Page 2) refer to a specific program year.
- ✓ To the extent possible, the system will verify the accuracy of accomplishment information. For example, the system will compare the total beneficiaries reported in the Race/Ethnicity section to the total beneficiaries reported in the Income Levels section. If they do not equal, the system will display an error and will not allow the user to save the data until the error is corrected.

Activity

Edit CDBG Accomplishment Detail (Page 1)

05M - Health Services

<input type="button" value="Save"/> <input type="button" value="Save and Continue"/> <input type="button" value="Cancel"/> <input type="button" value="Delete"/>
<input type="button" value="View Totals All Years"/> <input type="button" value="Add New Accomplishment Year"/>

Add New Accomplishment Year

*** Indicates Required Field**

Grantee/PJ Activity ID: 12345678 IDIS Activity ID: 664 National Objective: LMC	Activity Name: Angels for Sight Activity Owner:
--	---

Accomplishments for Program Year: 2009 Accomplishment Narrative: (maximum 4000 ch	Select Another Year: <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;">2009</div> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;">2010</div> <div style="border: 1px solid black; padding: 2px;">2009</div> </div> <input type="button" value="Edit Selected Year"/>
--	--

Select Accomplishment Year



17.2.3 Common IDIS Online Errors to Avoid

- ✓ HUD has published guidance for States which addresses the types of common errors encountered and identifies the steps that should be taken to correct them – or prevent them in the first place. An updated version of this document, *Guidance for Improving the Quality of CDBG Accomplishment Data in IDIS Online*, may be found at the end of this chapter.
- ✓ In general, states should avoid the following common IDIS Online errors:
 - **Data entry is late and data is inconsistent across activities.**
 - **Information is incomplete.** It is important to note that missing, inaccurate, and incorrect data result in reports that present a misleading—and sometimes negative—picture of program accomplishments. Incorrect IDIS Online data reflect unfavorably on the CDBG program because HUD cannot accurately report on program performance. Incomplete data results in an undercounting of CDBG achievements which results in minimizing the program contributions to meeting the community development needs of LMI persons.
 - **Accomplishment Information is duplicated.** States should ensure that accomplishment information is not duplicated across multiple activities.
 - **Leveraged funds data is missing or inaccurate.** Ensure that all leveraged funds are entered on the *correct* line on CDBG Setup Detail (Page 2). The CDBG amount on this screen is a protected field. Several states, unable to enter their CDBG funds on this line, have entered their CDBG funding amount on the Section 108 line, even though they do not have a 108 loan guarantee. This has resulted in inaccurate leveraging data for the CDBG program.
 - **Beneficiary income data is inaccurate.** Some states, solely to minimize data entry, report the income level of all the beneficiaries of an activity as “moderate.” This practice conveys the impression in reports that CDBG State grantees are ignoring the program’s legislative mandate to assist extremely low- and low-income persons and households. Report income level data in the appropriate categories, including extremely low, low, moderate, and non-low/moderate on CDBG Accomplishment Detail (Page 1).
 - **Income level data for presumed benefit activities is missing.** The Income Levels data on CDBG Accomplishment Detail (Page 1) must be completed for presumed benefit activities, even though states are not required to obtain income records for those beneficiaries. The CDBG program has provided guidance for reporting Income categories that should be used for presumed benefit groups (Page 17-14). Unless there is reason to believe that another income level is more appropriate for a presumed benefit group, states should use the income levels suggested by HUD.
 - **Counts of jobs created/retained are inaccurate.** In a given program year, do not report the same jobs under more than one activity. Do not report the same jobs in multiple program years. In other words, only report one job, one time. Report all the jobs created/retained; do not report only the LMI jobs or the total population of a jurisdiction.
 - **Accomplishment data is missing for activities tracking activity delivery costs.** Ensure that accomplishments are reported for Economic Development activities (18*) tracking only activity delivery costs and Rehabilitation Administration (14H) activities



where CDBG funds are used only to run loan or grant programs and funds other than CDBG are used to actually carry out the activity.

- **For reasons of privacy, states should not use the names of persons/households receiving assistance in the Activity Name field.** This problem most often occurs in housing rehabilitation activities.
- **Enter the correct address.** When entering an address for an activity, except for administrative activities, specify the activity's physical location, not P.O. boxes or the address of the government agency administering the activity, in the Address/Location field. For administrative activities, enter the address of the organization administering the activity. For activities that serve an area rather than a specific address use the fields available to provide a description of the area or "community-wide".
- **States should report on only one assisted business for each activity that provides direct financial assistance to businesses.** Set up a separate activity for each business receiving direct economic development assistance under matrix code 18A or 18C. If more than one business is reported in a single activity, the CDBG program cannot determine whether each business has met a national objective.

17.3 Reporting

- ✓ The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ IDIS Online Reports ✓ Generating the PER from IDIS ✓ Additional Reports on the HUD Website
Regulatory/Statutory Citations	§570.491
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guidance on Reporting CDBG Accomplishments in IDIS Online/Sample Accomplishment Reports: http://www.hud.gov/offices/cpd/communitydevelopment/cleanup/guidance/ http://www.hud.gov/offices/cpd/communitydevelopment/library/accomplishments/ ✓ CDBG Performance Profiles: http://www.hud.gov/offices/cpd/communitydevelopment/library/performanceprofiles/ ✓ CDBG Data Clean up Spreadsheets: http://www.hud.gov/offices/cpd/communitydevelopment/cleanup/

17.3.1 IDIS Online Reports

- ✓ States can run a variety of reports in IDIS Online to ensure data is accurate and complete for their activities. IDIS Online includes a new, more intuitive reporting module that allows the user to quickly generate readable reports.



- ✓ States should review the following key CDBG reports at least annually and more often as possible. Please note the first three may also be used for the PER submission.
 - **The PR28: CDBG State PER Financial Summary** provides information on the CDBG resources available and expenditures incurred for a specified grant allocation. The expenditures are summarized to determine the percent expended for LMI, planning/administration, and public service activities. The Financial Summary needs to be generated for each Grant Year that was open during the program year.
 - **The PR28: CDBG State PER Activity Summary** provides comprehensive information about each CDBG activity which was open or had draws during a program year. The Activity Summary includes activities from all Grant Years open during the program year and does not need to be generated separately for each Grant Year.
 - **The PR23: Summary of Accomplishments** presents data on CDBG activity counts and disbursements. It also contains data on CDBG accomplishments. This report satisfies the specific CDBG public participation requirements to show the number of persons served for public services and the number of public facilities and improvement projects assisted and completed.
- ✓ In addition there are new performance measurement reports now available within IDIS Online.
 - **The PR83: CDBG Performance Measures Report** displays all CDBG performance data by objective and outcome for public facilities/improvements, public service, housing, homeless, and economic development activities for a particular program year.
 - **The PR84: CDBG Strategy Area, CDFI, and Local Target Area Report** displays CDBG performance measurement data for these areas.
 - **The PR85: Housing Performance Report** displays a summary of Housing Units rehabbed and Dollars expended by Objective and Outcome. These data are for activities completed during a selected program year.

17.3.2 Generating the PER from IDIS

- ✓ States will need to generate the PR28 CDBG State PER Financial Summary for each Grant Year that was open during the program year. Please note that HUD does not recommend using the IDIS Online version for Grant Years before 2007. States only need to generate one PR28 State PER Activity Summary Report.
- ✓ Once logged into IDIS Online, click on the Reports Tab located at top right corner of the IDIS Online screen. The system will display the Report Parameters Screen.
- ✓ Click on the Add-Edit link for the CDBG State PER Report. The system will open the report parameters screen for the Financial Summary portion of the PER.

Report Number	Report Name	
C04PR26	CDBG Financial Summary Report	Add-Edit
C04PR28	CDBG State PER Report	Add-Edit
C04PR84	CDBG Strategy Area, CDFI and Local Target Area Report	Add-Edit

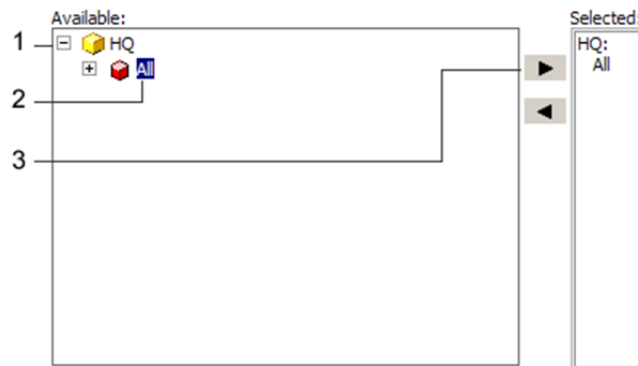


- ✓ Complete the parameters screen for the Grant Year for which you want the report. The screen will default to the last Grant Year entered. To select a different year, either select it from the “Select another year” dropdown list and click Edit Selected Year or click the Add Another Year button. A full version of the parameters screen is included in Exhibit 17-2. After making all necessary adjustments, make sure to save the changes by clicking the Save button.

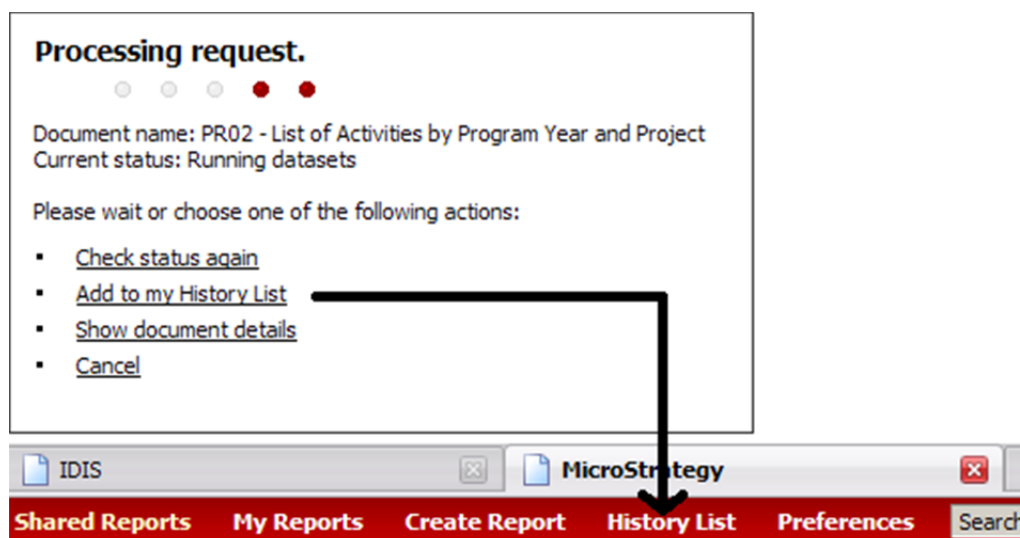
Report Parameters for Grant Year: 2008 Select another year: (tip) 2008 ▼	
<input type="button" value="Add Another Year"/> <input type="button" value="Edit Selected Year"/>	

Line Number/Parameter	Value (tip)
04. Adjustment to compute total program income	0.00
06. Section 108 Loan Funds	0.00
10. Adjustment to compute total obligated to recipients	0.00
13. Adjustment to compute total set aside for State Administration	0.00

- ✓ Back on the Report Selection Page, click on the View Reports link located on the Reports menu along the left side of the IDIS Online screen. The system will open a new browser window or tab containing the MicroStrategy reports module (Please note that you are still logged into IDIS Online and if there is no activity within the IDIS Online window for twenty minutes, you will be logged out of both IDIS Online and MicroStrategy. To stay logged in, click back to the IDIS Online window and click on any link to stay active).
- ✓ Click on the IDIS folder.
- ✓ Click on the Shared Reports folder.
- ✓ You will see a folder for each available report. Click on the folder labeled “PR 28 - CDBG State PER”. The folder will open and display two reports, the PR 28 - Activity Summary and the PR 28 - PER Financial Summary. Click on the report that you would like to generate. Alternatively, you can click on the Export or PDF link to export the report directly to a Microsoft Excel format or Adobe Acrobat format.
- ✓ The system will display the parameters page. This page allows you to limit the data to be included on the report. For all reports, you must navigate through the Grantee Hierarchy to select your grantee.
 - In Internet Explorer (see graphic below):
 - Click on the plus sign to the left of HQ.
 - A second level will appear labeled All. Click on the word “All”.
 - Click the right arrow button.



- In Firefox, All is listed as the default selection. Simply click the right arrow button to move All to the right column.
- ✓ The system will also display a parameter for the program year. When running the Financial Summary Report, enter the Grant Year of the report you want to generate. When running the Activity Summary Report, enter the Program Year to generate a report that includes all activities that were active during the Program Year, regardless of the Grant Year.
- ✓ At the bottom of the screen, click the Export button. At this point, the system will begin to process the report. The process can take several minutes. You have the option of adding the report to your History List (see graphic below). Once the report is added to the History List, you can retrieve it at a later time by clicking on the History List link in the MicroStrategy menu located at the top of the window.



- ✓ Once the report is ready, the system will display the report based on the options selected in the steps above (MicroStrategy, Excel, or PDF).



17.3.3 Additional Reports on the HUD Website

- ✓ In addition to reports that states can download from IDIS Online, there are several reports that are available on the HUD website. It is important that all accomplishment data is entered in IDIS Online and that all data is accurate because these reports reflect the progress of your CDBG program, are used by various government entities to evaluate the effectiveness of the CDBG program, and are on the web for all to see.
- ✓ **The first of these are Performance Profiles.** These profiles significantly increase the amount of information that is available about the performance of CDBG State grantees. The data available in this report helps ensure accountability and assist in assessing the progress of each state's program. These profiles also assist states in measuring their contributions toward meeting the housing and community developments needs of LMI persons in their communities and in analyzing the effectiveness and efficiency of their program.
 - The profiles include the following information for each CDBG State program by program year: available program funds, including program income, expenditures by major eligible activity categories, information on program targeting, including the use of CRSAs and CDFIs, and information on activities that provide direct benefits to individuals.
 - Information on expenditures is provided both numerically on the left hand side of the page as well as in a pie chart on the right hand side of the page.
 - The second page of this report covers the following additional pieces of information: the number of beneficiaries served by race/ethnicity group, number of beneficiaries by income level, and accomplishments achieved during the program year.
 - Information on the number of beneficiaries by income level is provided numerically on the left hand side of the page as well as in a bar chart on the right hand side of the page.
- ✓ **The second example is Expenditure Reports.** The CDBG Program has developed reports that show how each state expended CDBG funds during its most recently completed program year. These reports provide information on state expenditures by the type of activity carried out. Since CDBG funds may be used for a wide variety of housing, community and economic development activities, the use of those funds may be identified in these profiles by as many as 90 different categories or matrix codes depending on how a state has chosen to use its funds.
- ✓ **Another of the reports appearing on the web are the Selected CDBG Accomplishment Reports.** These reports display accomplishments for selected housing, economic development, public improvement, and public service activities for each state by program year.
- ✓ All of these reports ensure that the most up-to-date information is available to states, their clients, and public officials seeking specific information on CDBG accomplishments and performance. HUD uses these reports and other IDIS Online data to provide information to the many entities that review and evaluate the CDBG program including Congress, the General Accounting Office, the Office of Management and Budget, and the Inspector General. Data from IDIS Online is also aggregated nationally to demonstrate the effectiveness of the CDBG program in meeting HUD goals and strategies.



Attachment 17-1: Guidance for Improving the Quality of CDBG Accomplishment Data in IDIS Online

HUD uses IDIS Online data on a regular and ad hoc basis to report to entities that evaluate and fund the CDBG Program, including Congress, the Office of Management and Budget, the General Accounting Office, the Office of the Inspector General, as well as other stakeholders. Missing, inaccurate, and incorrect data result in reports that present a misleading—and sometimes negative—picture of program accomplishments. Incorrect IDIS Online data reflect unfavorably on the CDBG program because HUD cannot accurately report on program performance accomplishments.

While many data errors can be prevented by system edits, others cannot. As an example, consider CDBG matrix codes. IDIS Online can ensure that a valid code is entered (e.g., an entry of 55X is rejected), but cannot require users to input the correct code (e.g., 03D instead of 03 for the construction of a youth center).

This guidance addresses the types of errors that edits cannot prevent and identifies the steps that should be taken to correct them – or prevent them in the first place.

Problem	Solution
<p>Timely reporting of accomplishment data.</p> <p>When accomplishment data are not entered on a regular basis, the CDBG program does not have up-to-date information on what has been achieved. This results in undercounting the program's accomplishments. This is due, in part, to the infrequent entry of data in IDIS Online by some states.</p>	<p>Enter accomplishment data as frequently as possible.</p> <p>Annual reporting is required and HUD has encouraged states to enter accomplishments on a quarterly basis, but the value of more frequently reporting of accomplishments cannot be overemphasized. The only exception to quarterly/annual reporting is public facilities, which should not be reported until the facility is complete.</p>
<p>Unresolved errors on Data Cleanup worksheets</p>	<p>Ensure that all errors on the CDBG Data Cleanup spreadsheets are corrected.</p> <p>The spreadsheets identify activities that have (1) missing accomplishment data, (2) incorrect matrix code/national objective combinations, (3) inaccurate or inconsistent accomplishment data, and (4) missing organization names. The URL for the spreadsheets is: http://www.hud.gov/offices/cpd/communitydevelopment/cleanup/index.cfm</p>
<p>Incorrect matrix codes</p> <p>When CDBG aggregates IDIS Online data to the national level, it is</p>	<p>States should review all matrix codes to ensure they are accurate. However, the most common problems when selecting the matrix code for an activity are:</p> <ul style="list-style-type: none"> ◆ Codes 03 and 05: Avoid these “general” public facility and



<p>generally by matrix code. Therefore, States across the country must be consistent in uniformly applying matrix codes to activities.</p>	<p>public service matrix codes. Use the most specific 03* or 05* code that accurately describes how CDBG funds are being used.</p> <ul style="list-style-type: none"> ◆ Code 05U, Housing Counseling: Use this new matrix code for housing counseling provided as an independent public service (i.e., not as part of another eligible housing activity). ◆ Code 05R, Homeownership Assistance (not direct): Use this matrix code when down payment assistance is provided as a public service. If housing counseling is provided to those applying for down payment assistance, the counseling is considered part of the homeownership program. Note that under the low/mod national objective, assistance under this category must meet the housing national objective. Therefore, unless the assistance is provided by a CBDO or 105(a)(15) in a NRSA/CRSA, it is subject to the public service cap and only low/mod income households may be assisted. But if provided by a CBDO in a NRSA, housing units for which CDBG funds are obligated in a program year may be aggregated and treated as a single structure for purposes of meeting the housing national objective (i.e., only 51% must be occupied by low/mod households). ◆ Code 13, Direct Homeownership Assistance: Use this matrix code when low- and moderate-income households are provided homeownership assistance as authorized under 105(a)(24). Types of homeownership assistance eligible under this category: subsidize interest rates and mortgage principal; finance acquisition of housing occupied by low/mod households; acquire mortgage guarantees; provide up to 50% of down payment; and pay reasonable closing costs. If housing counseling is provided to households receiving homeownership assistance, the counseling is considered part of the homeownership program. ◆ Code 14H, Rehab Administration: This code is to be used for the costs of running a rehab program — i.e., activity delivery costs associated with actual rehabilitation activities. It is <i>not</i> to be used for costs unrelated to running a rehab program, such as tenant/landlord counseling, planning and development of research studies on foreclosures, etc. (Note: if costs under this matrix code are for a housing rehab program, the correct low/mod national objective is LMH, <i>not</i> LMA.)
<p>Missing or inaccurate leveraged funds data</p>	<p>Ensure that all leveraged funds are entered on the <i>correct</i> line in the Funding Sources on the CDBG Setup Detail (Page 2).</p> <p>The CDBG Funds field is protected from input because it is populated by the system once CDBG funds are committed through the Activity Funding option. Do not enter the amount of</p>



	CDBG funds in the Section 108 Loan Guarantee field on the CDBG Setup Detail. States should delete CDBG amounts that have been entered in the Section 108 field <i>unless</i> the amount entered does represent Section 108 loan proceeds received for the activity.
<p>Inaccurate beneficiary income data on the Accomplishment Detail screen on (Page 1).</p> <p>Some states, solely to minimize data entry, report the income level of all the beneficiaries of an activity as “moderate.” This practice conveys the impression in reports that CDBG States are ignoring the program’s legislative mandate to assist extremely low- and low-income persons and households.</p>	Report income level data in the appropriate categories (extremely low, low, moderate, and non-low/moderate) on the Accomplishment Detail screen on (Page 1).
<p>Inaccurate counts of jobs created and retained</p> <p>Analysis of the jobs data indicates that some States are reporting the same jobs multiple times.</p>	<p>Follow these guidelines to avoid over-counting/duplication of jobs:</p> <ul style="list-style-type: none"> • In a given program year, do not report the same jobs under more than one activity. This type of double-counting often occurs when activity delivery costs are tracked in a separate activity. When this is the case, the job creation and retention information should not be completed for the activity tracking the activity delivery costs. States should instead associate this activity to the activity where the jobs are reported by entering “Y” in the “Will accomplishments be reported at another activity?” field on the CDBG Setup Detail (Page 1) screen. • Do not report the same jobs in multiple program years. • Report only the number of jobs created/retained; do not report on the LMI population or the total population of a jurisdiction.
Missing or incomplete Performance Measurement (PM) data	<p>Ensure that PM data is reported for all activities open on or after October 1, 2006. In addition to completing the Accomplishment Detail screens, be sure to fill in the applicable special attributes fields (e.g., Colonia, Brownfield Activity, Historic Preservation Area, Strategy Area) the on the CDBG Setup Detail (Page 1) screen.</p> <p>Review the PR83, PR84, and PR85 reports to determine the general level of Performance Measurement data that has been input.</p>
Activity name on the Add/Edit	For reasons of privacy, states should not use the names of



<p>Activity screen and Address data on the CDBG Setup Detail (Page 1) screen.</p>	<p>assisted persons/households as the Activity Name.</p> <p>Except for administrative activities, specify the activity's physical location (no P.O. boxes) in the Address field. For administrative activities, enter the address of the organization administering the activity.</p>																		
<p>Missing income level data for presumed benefit activities</p> <p>The Income Levels data on the CDBG Accomplishment Detail (Page 1) screen must be completed for presumed benefit activities, even though states are not required to obtain income information for those beneficiaries.</p>	<p>Report the number of persons benefiting under the following income categories unless there is information to support reporting them under a different income category:</p> <table border="0"> <tr> <td>Abused children</td><td>Extremely low income</td></tr> <tr> <td>Battered spouses</td><td>Low income</td></tr> <tr> <td>Severely disabled adults</td><td>Low income</td></tr> <tr> <td>Homeless persons</td><td>Extremely low income</td></tr> <tr> <td>Illiterate adults</td><td>Low income</td></tr> <tr> <td>Persons with AIDS</td><td>Low income</td></tr> <tr> <td>Migrant farm workers</td><td>Low income</td></tr> <tr> <td>Elderly</td><td>If assistance is to acquire, construct, convert, and/or rehabilitate a senior center or to pay for providing center-based senior services, report the beneficiaries as moderate income</td></tr> <tr> <td></td><td>If assistance is for other services (not center-based), report the elderly beneficiaries as low income</td></tr> </table> <p>If an activity serves a combination of these groups, identify the number in each group and report those numbers under the appropriate income levels.</p>	Abused children	Extremely low income	Battered spouses	Low income	Severely disabled adults	Low income	Homeless persons	Extremely low income	Illiterate adults	Low income	Persons with AIDS	Low income	Migrant farm workers	Low income	Elderly	If assistance is to acquire, construct, convert, and/or rehabilitate a senior center or to pay for providing center-based senior services, report the beneficiaries as moderate income		If assistance is for other services (not center-based), report the elderly beneficiaries as low income
Abused children	Extremely low income																		
Battered spouses	Low income																		
Severely disabled adults	Low income																		
Homeless persons	Extremely low income																		
Illiterate adults	Low income																		
Persons with AIDS	Low income																		
Migrant farm workers	Low income																		
Elderly	If assistance is to acquire, construct, convert, and/or rehabilitate a senior center or to pay for providing center-based senior services, report the beneficiaries as moderate income																		
	If assistance is for other services (not center-based), report the elderly beneficiaries as low income																		
<p>Economic Development (18*) activities reporting more than one business assisted</p> <p>The fact that the "Assistance to Businesses" fields allows states to report more than one business assisted does not mean that assistance to individual businesses</p>	<p>Set up a separate activity for each business receiving direct economic development assistance under matrix code 18A or 18C.</p>																		



<p>under 105(a)(17) [matrix code 18A] and 105(a)(22) [matrix code 18C] may be aggregated in one activity. Unless the assisted activity is one identified at 570.483(b)(4)(vi) for which job aggregation is allowed, each business assisted under matrix code 18A and 18C must be reported separately.</p>	
<p>Missing accomplishment data for activity delivery cost activities with a matrix code of 18* or 14H</p>	<p>Ensure that accomplishments are reported for Economic Development (18*) and Rehab. Admin (14H) activity delivery cost activities, i.e., activities where CDBG funds are used to run loan/grant programs, <i>if</i> CDBG is not used to make the loans/grants. (If CDBG is also used to make the rehab or economic development loans/grants, states should answer “Y” in the “Will accomplishments be reported at another activity?” field on the CDBG Setup Detail (Page 1) screen.)</p>



Appendix 17-2: CDBG State PER Financial Summary Parameters

Line Number/Parameter (IDIS PR28)	Value		
04. Adjustment to compute total program income			
06. Section 108 Loan Funds			
10. Adjustment to compute total obligated to recipients			
13. Adjustment to compute total set aside for State Administration			
16. Adjustment to compute total set aside for Technical Assistance			
18. State funds set aside for State Administration match			
21. Adjustment to compute total redistributed			
24. Adjustment to compute total not yet redistributed			
27. Adjustment to compute total retained			
30. Adjustment to amount drawn for State Administration			
33. Adjustment to amount drawn for Technical Assistance			
36. Adjustment to amount drawn for Section 108 Repayments			
39. Adjustment to amount drawn for all other activities			
42. Adjustment to compute total disbursed for PS			
47. Adjustment to compute total subject to PS cap			
51. Adjustment to compute total disbursed for P/A			
56. Adjustment to compute total subject to P/A Cap			
59. Period specified for benefit: grant years			
60. Final PER for compliance with the overall benefit test:	Yes or No		
	Grant Year 1	Grant Year 2	Grant Year 3
62. Benefit LMI, 108 activities			
63. Benefit LMI, other adjustments			
66. Prevent Slum/Blight, 108 activities			
69. Meet Urgent Needs, 108 activities			

CHAPTER 18: PERFORMANCE MEASUREMENT, REPORTING, RECORDKEEPING AND MONITORING



CHAPTER PURPOSE & CONTENTS

This chapter provides states with an overview of three primary aspects of ensuring and documenting compliance with program rules and requirements—performance measurement, reporting, recordkeeping, monitoring, and closeout requirements.

SECTION	TOPIC
18.1	Performance Measurement
18.2	Reporting Requirements
18.3	Recordkeeping Requirements
18.4	Monitoring of Program Performance
18.5	Closeout Requirements

18.1 Performance Measurement

The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none">✓ Objectives✓ Outcomes✓ Indicators
Statutory Citations	Section 104(b)(4), Section 104(e)
Other Reference Materials on This Topic	<ul style="list-style-type: none">✓ Federal Register Notice, March 7, 2006✓ Performance Measurement website: http://www.hud.gov/offices/cpd/about/performance/✓ CPD Notice 12-04

18.1.1 Background Overview

Performance measurement is an organized process for gathering information to determine how well programs and activities are meeting established needs and goals.

- ✓ The performance measurement system was developed to enable HUD and CPD states to use a standardized methodology and system to measure the outcomes of CDBG and the other CPD formula grant programs, HOME, ESG and HOPWA.
- ✓ For states, the system provides a framework for classifying activities in their Consolidated Plans and for reporting specific data elements. The information provided by states will enable HUD to report on the outcomes of the four CPD formula grant programs nationally.



- ✓ There are three main components to the CPD Outcome Performance Measurement System:
 - Objectives;
 - Outcomes; and
 - Indicators.

18.1.2 Objectives

Objectives closely mirror the statutory objectives of each program. The objectives are framed broadly to capture the range of community impacts that occur as a result of program activities. The CPD Outcome Performance Measurement System offers three possible objectives for each activity.

- ✓ **Creating Suitable Living Environments** relates to activities that are designed to benefit communities, families, or individuals by addressing issues in their living environment. This objective relates to activities that are intended to address a wide range of issues faced by LMI persons, from physical problems with their environment, such as poor quality infrastructure, to social issues such as crime prevention, literacy, or elderly health services.
- ✓ **Providing Decent Housing** covers the wide range of housing activities that could be undertaken with CDBG funds. This objective focuses on housing activities where the purpose is to meet individual family or community housing needs. It does not include programs where housing is an element of a larger effort to make community-wide improvements, since such programs would be more appropriately reported under Suitable Living Environments.
- ✓ **Creating Economic Opportunities** applies to activities related to economic development, commercial revitalization, or job creation.

18.1.3 Outcomes

The program outcome helps further refine the state and UGLG's objective and is designed to capture the nature of the change or the expected result of the objective that a state seeks to achieve. Outcomes correspond to the question "What is the **type** of change the UGLG is seeking? Or what is the expected result of the activity?" The CPD Outcome Performance Measurement System provides three outcomes:

- ✓ **Availability/Accessibility** applies to activities that make services, infrastructure, public services, public facilities, housing, or shelter available or accessible to LMI people, including persons with disabilities. In this category, accessibility does not refer only to physical barriers, but also to making the basics of daily living available and accessible to LMI people where they live.
- ✓ **Affordability** applies to activities that provide affordability in a variety of ways to LMI people. It can include the creation or maintenance of affordable housing, basic infrastructure hook-ups, or services such as transportation or day care. Affordability is an appropriate objective whenever an activity is lowering the cost, improving the quality, or increasing the affordability of a product or service to benefit a low-income household.
 - **Example #1:** A low interest loan program might make loans available to LMI microenterprise businesses at 1% interest, which is far below the market rate. This



program lowers the cost of the loan, enabling entrepreneurs to start businesses. As a result, the program makes financing more affordable.

- **Example #2:** A subsidized day care program that provides services to LMI persons/families at lower cost than unsubsidized day care.
- ✓ **Sustainability** applies to activities that are aimed at improving communities or neighborhoods, helping to make them livable or viable by providing benefit to persons of LMI or by removing or eliminating slums or blighted areas, through multiple activities or services that sustain communities or neighborhoods.

18.1.4 Indicators

There are four common indicators that are relevant for most activities. The system requires the state to report on these data elements for nearly all program activities.

- ✓ Amount of money leveraged from other Federal, state, local, and private sources, per activity.
- ✓ Number of persons, households, businesses, units or beds assisted, as appropriate.
- ✓ Income levels of persons or households by: 30 percent, 50 percent or 80 percent of area median income.
 - For CDBG activities that benefit an area, the data reported for that activity will need to show the total number of persons served and the percentage of LMI individuals served.
- ✓ Race, ethnicity, and disability data for activities that currently report these data elements.
 - Under CDBG, race/ethnicity data is required only when the activity is specifically undertaken to directly benefit persons or households, such as job creation activities or housing rehabilitation. Race and ethnicity data is **not** required for activities under the CDBG LMI area benefit, slum/blight, or urgent need national objectives.

In addition to the common indicators that are used for all program activities, there are 18 major activity-specific indicator categories as shown in Exhibit 18-1 at the end of this chapter.

18.1.5 Performance Measurement Wrap Up

To ensure compliance, states and their UGLGs have action steps they will need to take when using CPD Outcome Performance Measurement System:

- ✓ Determine the intent (or goals) of their program activities;
- ✓ Include objectives and outcomes in Consolidated Plans, Action Plans and performance reports;
- ✓ Select objectives and outcomes;
- ✓ Collect applicable data on objectives and outcomes;
- ✓ Record objectives and outcomes in IDIS;
- ✓ Collect indicator data from internal program administration staff and UGLGs; and
- ✓ Report on indicators in IDIS.



Data must be reported at least annually within IDIS, but states are encouraged to report as often as possible.

Performance Measurement indicator data that must be reported in IDIS is collected depending upon the matrix code and national objective chosen. IDIS screens ask all the pertinent information that states need to collect and provide within the system. **Complete and accurate data reporting is critical to the success of the CDBG program. Missing and or incorrect information from states results in national data that is flawed.**

In addition there are new performance measurement reports now available within IDIS.

- ✓ **The PR83: CDBG Performance Measures Report** displays all CDBG performance data by objective and outcome for public facilities/improvements, public service, housing, homeless, and economic development activities. The state and field office versions of this report display all performance measurement data entered for a particular program year.
- ✓ **The PR84: CDBG Strategy Area, CDFI, and Local Target Area Report** displays CDBG activity performance data by CDBG Strategy Area, CDFI, and Local Target Area.
- ✓ **The PR85: Housing Performance Report** covers data for activities completed during a selected program year.

States can use these IDIS reports to track their progress toward meeting performance measurement requirements.

- ✓ Assess what data is complete where collection of data is occurring with the right level of detail and determine where additional data must be collected and from which UGLGs; and
- ✓ Amend applications, procedures, and guidelines to better address performance measurement requirements.

See the chapter on IDIS for further information.

18.2 Reporting Requirements

The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ PER Requirements ✓ PER Submission and Review
Statutory Citations	Section 104(e)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Memorandum from CPD Assistant Secretary, February 18, 1998 ✓ Consolidated Plan website: http://www.hud.gov/offices/cpd/about/conplan/index.cfm#guidelines

18.2.1 Background and Overview

- ✓ The CDBG regulations require states to submit an Annual Performance Report to HUD within 90 days of the close of a state's program year. This is in accordance with the Consolidated Plan regulations at 24 CFR Part 91 (provided in the Appendix).



- Prior to the 1996 Consolidated Plan program year, states submitted a State Performance Report (GPR). The report is called the Performance and Evaluation Report (PER).
- The Performance Report incorporates not only the old GPR, but also the reporting requirements for the CDBG Program, HOME, Housing Opportunities for Persons with AIDS (HOPWA) and Emergency Shelter Grants (ESG) programs. Requirements discussed below apply to **all** of these programs, except where noted as CDBG-specific requirements.
- ✓ Annual reports are used to meet three basic purposes:
 - Provide HUD with necessary information to assess each state's ability to carry out its programs in compliance with applicable regulations and requirements;
 - Provide information necessary for HUD to report to Congress; and
 - Provide states with an opportunity to describe its program achievements with their citizens.

18.2.2 PER Requirements

- ✓ States will use the Integrated Disbursement and Information System (IDIS) to comply with some of the current reporting requirements.
 - To initiate annual reporting, states should update all current activities in IDIS to include all required financial and performance information.
 - The IDIS report, PR06, Summary of Consolidated Plan Projects, should be used to inform the narrative component below. This report summarizes commitment and disbursements by Action Plan projects.
- ✓ Each state's PER must include narrative statements that address the following:
 - Progress in carrying out Annual Plan Activities;
 - Description of available resources, investment and accomplishments;
 - Geographic distribution of investment;
 - Families and persons assisted (numbers and race/ethnicity);
 - Actions taken to affirmatively further fair housing.
- ✓ In addition, CDBG states must submit a narrative statement addressing the following issues:
 - The relationship of the use of CDBG funds to priorities, needs, goals and specific objectives identified in the Consolidated Plan;
 - Nature and reasons for any changes in program objectives;
 - A self evaluation of progress made during the last year in addressing identified priority needs and objectives;
 - Number of extremely low, low and moderate income persons served by each activity, where this data is required for the national objective. Note that this is the PER information.

18.2.3 PER Submission and Review

- ✓ Prior to submitting a PER, states must make the report available to the public for examination and comment for a period of at least 15 days.



- ✓ PERs must be received by the HUD Field Office no later than 90 days after the close of the state's Consolidated Plan program year.
- ✓ HUD will review the state's Performance Reports and determine if they are satisfactory. If a satisfactory report is not submitted, HUD may:
 - Suspend funding until a satisfactory report is submitted; or
 - Withdraw and reallocate funding if HUD determines, after notice and opportunity to comment, that the state will not submit a satisfactory report.
- ✓ Following submission, states must make copies of the report submitted to HUD available for examination by the public upon request. The copies made available must include a summary of comments received as a result of the public participation process.

18.3 Recordkeeping Requirements

The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ General Administrative ✓ Financial ✓ Project/Activity ✓ National Objectives ✓ Determining and Documenting Income ✓ Records on UGLGs ✓ Record Retention ✓ Access to Records
Statutory Citations	Section 104(e); (a)(2)(D) and (a)(3)(b)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Guide to National Objectives and Eligible Activities for States - Chapter 2, Chapter 3 ✓ Managing CDBG: A Guidebook for CDBG States on UGLG Oversight

18.3.1 Overview

- ✓ Accurate recordkeeping is crucial to the successful management of CDBG-funded activities. Insufficient documentation is likely to lead to monitoring findings, and these findings will be more difficult to resolve if records are missing, inadequate or inaccurate.
- ✓ To assess strengths and weaknesses in this area, states should think about the following:
 - Is there a clearly defined process for acquiring, organizing, storing, retrieving, and reporting information about CDBG-funded activities?
 - How can the documentation and reporting systems be strengthened to meet the HUD requirements?
 - Who is responsible for the majority of the recordkeeping and reporting tasks, and are they properly trained and supported?



- How can standardized procedures and the removal of duplicative records streamline the recordkeeping and reporting process?
- What types of records and reports could be automated (i.e., computerized) that are not now?
- ✓ States are required to keep records documenting their compliance and that of the UGLG. However, HUD is charged with negotiating the recordkeeping requirements with states. The following records are suggested types of records that a state and/or its UGLG may keep.

18.3.2 General Administrative

- ✓ States must maintain files and records that relate to the overall administration of the CDBG program. These records may include the following:
 - Consolidated Plan submission to HUD, which includes the application, program descriptions, certifications, etc.;
 - Executed grant agreement;
 - Description, geographic location and budget of each funded activity;
 - Eligibility and national objective determinations for each activity;
 - Personnel files;
 - Property management files;
 - HUD monitoring correspondence;
 - Citizen participation compliance documentation;
 - Fair Housing and Equal Opportunity records;
 - Lump sum agreements;
 - Environmental review records; and
 - Documentation of compliance with other Federal requirements (e.g., Davis-Bacon, Uniform Relocation Act, and Lead-Based Paint).

18.3.3 Financial

- ✓ Financial recordkeeping is one of the primary areas subject to HUD reviews and one in which inadequate recordkeeping can lead to serious problems.
- ✓ Financial records to be maintained may include:
 - Chart of accounts;
 - Manual on accounting procedures;
 - Accounting journals and ledgers;
 - Source documentation (purchase orders, invoices, canceled checks, etc.);
 - Procurement files (including bids, contracts, etc.);
 - Real property inventory;
 - Bank account records (including revolving loan fund records, if applicable);



- Draw down requests;
 - Payroll records and reports;
 - Financial reports;
 - Audit files; and
 - Relevant financial correspondence.
- ✓ Oftentimes, the financial functions of state CDBG program operations are often handled by staff with accounting skills, but not necessarily with a CDBG program background, or are shared with staff from other departments outside of the administering agency.
- ✓ To ensure proper financial recordkeeping and reporting, states should help their financial staff understand:
- What information needs to be kept and why;
 - When that information should be collected and how often;
 - How the information should be acquired, organized and stored;
 - How the information should be reported; and
 - How long the records must be kept.

18.3.4 Project/Activity

- ✓ For each type of activity undertaken, the state should determine what data must be maintained in individual case files and establish UGLG requirements for ensuring that every file contains the necessary information.
- ✓ The list will vary from activity to activity, but each project/activity file should include the following types of documentation:
- Eligibility of the activity;
 - Evidence of having met a national objective (see below);
 - If applicable, UGLG agreement;
 - Any bids or contracts;
 - Characteristics and location of the beneficiaries;
 - Compliance with special program requirements, including environmental review records;
 - Budget and expenditure information (including draw requests); and
 - The status of the project/activity.

18.3.5 National Objectives

LMI Area Benefit

- ✓ States should maintain the following records regarding LMI areas qualifying under the area benefit national objective:
- Boundaries of the service area; and



- Income characteristics of residents of the entire service area.
- ✓ An attachment follows this chapter provides a shortened version of what records to maintain depending upon national objective chosen.

LMI Limited Clientele

- ✓ The state and/or UGLG should maintain the following records regarding limited clientele activities:
 - Documentation showing that the activity is designed for and used by a segment of the population presumed by HUD to be LMI persons; or
 - Documentation describing how the nature and, if applicable, the location of the activity establishes that it is used predominantly by LMI persons; or
 - Data showing the size and annual income of the family of each person receiving the benefit and that at least 51% of those served are LMI; or
 - Data showing that the activity is a special project removing accessibility barriers in the limited cases described above.

LMI Housing

- ✓ States or UGLG must maintain the following records on housing activities:
 - A copy of the written agreement with each landlord or developer receiving CDBG assistance indicating the total number of dwelling units in each multi-unit structure assisted and the number of those units which will be occupied by LMI households after assistance;
 - The total cost of the activity, including both CDBG and non-CDBG funds; and
 - For each unit occupied by a LMI household, the size, ethnicity and income of the household.
 - For rental housing only:
 - Rent charged (or to be charged) after assistance for each dwelling unit in each structure assisted; and
 - Information as necessary to show the affordability of units occupied (or to be occupied) by LMI households pursuant to criteria established and made public by the state.
 - For each property acquired on which there are no structures, evidence of commitments ensuring that the criteria in §570.483(a)(3) will be met when the structures are built.
 - Where applicable, records documenting that the activity qualified under the exception criteria for new construction of non-elderly, multi-unit housing.

LMI Job Creation/Retention

- ✓ Records to be maintained for job creation activities are differentiated by whether the state and UGLG will document whether the jobs will be **available** to LMI persons or whether LMI persons will hold the jobs.



- ✓ Where the state or UGLG chooses to document that at least 51 percent of the jobs will be **available** to LMI persons, documentation for each assisted business shall include a copy of a written agreement, containing:
 - A commitment by the business that it will make at least 51 percent of the full-time equivalent (FTE) jobs available to LMI persons and will provide training for any of those jobs requiring special skills or education;
 - A listing by job title of the permanent jobs to be created, indicating which jobs will be available to LMI persons, which jobs require special skills or education, and which jobs are part-time;
 - A description of the actions to be taken by the state and business to ensure that LMI persons receive first consideration for these jobs; and
 - A listing by job title of the permanent jobs filled, which jobs were available to LMI persons, as well as a description of how first consideration was given to such persons for these jobs. The description should include what type of hiring process was used; names of LMI persons interviewed for a particular job; and which LMI interviewees were hired.
- ✓ Where the state or UGLG chooses to document that at least 51 percent of the jobs will be **held by** LMI persons, documentation for each assisted business should include a copy of a written agreement, containing:
 - A commitment by the business that at least 51 percent of the permanent jobs on a full-time equivalent (FTE) basis will be held by LMI persons;
 - A listing by job title of the permanent jobs to be created (identifying which are part-time, if any);
 - A listing by job title of the permanent jobs filled and which jobs were initially held by LMI persons; and
 - For each LMI person hired, information on the size and annual income of the person's family prior to the time the person was hired for the job, or evidence the person qualifies as presumed to be LMI based upon location of the business or the person's residence.
- ✓ For benefit based on job retention, the following documentation should be kept:
 - Evidence that, in the absence of CDBG assistance, the jobs would be lost;
 - For each business assisted, a listing by job title of permanent jobs retained, indicating which of those jobs are part-time and (where it is known) which are held by LMI persons at the time the assistance is provided;
 - Where applicable, identification of any of the retained jobs (other than those known to be held by LMI persons) which are projected to become available to LMI persons through job turnover within two years of the time CDBG assistance is provided, and information on how the turnover projections were calculated;
 - For each retained job claimed to be held by a LMI person, information on the size and annual income of the person's family or evidence that the person may be presumed to be LMI based on the location of the business or the person's residence; and
 - For jobs claimed to be available to LMI persons based on job turnover: a description covering the items required for "available to" jobs identified above; a listing of each job that has turned over to date, indicating which of those jobs were either taken by, or made



available to LMI persons; and a description of how "first consideration" was given to LMI persons for those jobs.

Slum/Blight Area Basis

- ✓ Records to be maintained for area-wide slum and blight activities include:
 - Boundaries of the area.
 - Description of the conditions that qualified the area at the time of its designation in sufficient detail to demonstrate how the area met the qualifying criteria (i.e. the area meets a definition of a slum, blighted, deteriorated or deteriorating area under state or local law).
 - How the assisted activity addressed one or more of the conditions that contributed to the deterioration of the area.
 - For each residential rehabilitation activity:
 - Local definition of "substandard" that must be at least as stringent as the Housing Quality Standards (HQS) used in the Section 8 Housing Assistance Payment Program—Existing Housing;
 - Pre-rehabilitation inspection report describing the deficiencies in each structure to be rehabilitated; and
 - Details and scope of CDBG-assisted rehabilitation, by structure.

Slum/Blight Spot Basis

- ✓ Records to be maintained for spot elimination of slum and blight:
 - A description of the specific condition of blight or physical decay treated; and
 - For rehabilitation carried out under this category, a description of the structure, including:
 - The specific conditions detrimental to public health and safety that were identified; and
 - Details and scope of the CDBG-assisted rehabilitation, by structure.

Urgent Need

- ✓ Records to be maintained for urgent need activities include:
 - Documentation concerning the nature and degree of seriousness of the condition requiring assistance;
 - Evidence that the state certified that the CDBG activity was designed to address the urgent need;
 - Information on the timing of the development of the serious condition; and
 - Evidence confirming that other financial resources to alleviate the need were not available.

18.3.6 Determining and Documenting Income

- ✓ Under the CDBG program, states are provided flexibility to develop and choose an income definition. To calculate annual income, the states often choose among three HUD definitions of income, listed below. States may also develop their own definition.



- Annual income as defined under the Section 8 Housing Assistance Payments Program (24 CFR 5.609);
- Adjusted gross income as defined for purposes of reporting under IRS Form 1040 (long form) for Federal individual income tax purposes; and
- Annual income as defined for reporting under the Census/American Community Survey long form for the most recent available decennial Census/American Community Survey.
- ✓ States must determine annual income for a person, family or a household only for direct benefit activities only. Direct benefit activities include activities such as homeownership assistance or receipt of public services. Please note that income documentation should be collected for these activities, but it is not a requirement that third party verification (e.g., verification of employment) be obtained; however, this method may be a best practice. Income verification forms may be used to document income.
 - Family: states need documentation for all national objectives except for LMI housing.
 - Household: states need documentation necessary for LMI housing.
- ✓ States do not need to determine income eligibility for the following national objectives: area benefit, presumed limited clientele, slum/blight, or urgent need.
- ✓ States must ensure that applicants to their programs and activities are treated equitably. For this reason, the same income definition should be used within a particular program or activity.
 - For example, if a state decides to use the Section 8 definition of annual income for its homebuyer program, it must use this definition for all applicants to the homebuyer program. It may not use the Census/American Community Survey definition for one applicant and the Section 8 definition for another applicant.
- ✓ To determine if program applicants are income-eligible, states have several options, including options such as:
 - Obtain evidence that the household/person assisted qualified under another program having income qualification criteria at least as restrictive as that used in the definitions of LMI household/person, such as Job Training Partnership Act (JTPA) and welfare programs; or
 - Obtain evidence that the assisted person is homeless; or
 - Obtain a verifiable certification from the assisted person that his/her family income does not exceed the applicable income limit; or
 - Obtain a referral from a state, county or local employment agency or other entity that agrees to refer individuals it determines to be LMI persons based on HUD's criteria and agrees to maintain documentation supporting these determinations.

18.3.7 Records on UGLG

- ✓ As discussed previously, states are responsible for ensuring that UGLG activities are carried out in compliance with all applicable program requirements and that the performance of UGLG is on track with objectives set forth by the state. The following is an overview of the types of records that must be maintained by states for each funded UGLG activity:
 - Application;



- Written agreement;
 - Financial statements and records;
 - Audits;
 - Progress reports;
 - Draw down requests (with source documentation, including invoices, purchaser orders, etc.); and
 - Monitoring reports and correspondence.
- ✓ While states maintain certain records pertaining to UGLG activities, UGLGs must also maintain detailed records on its organization, financial and administrative systems and the specific CDBG-funded project or activity.

18.3.8 Records: States v. UGLGs

- ✓ States and HUD will jointly agree on required state records sufficient to enable HUD to carry out our annual review responsibilities, and states will establish and maintain such records.
- ✓ States will establish recordkeeping requirements for UGLGs sufficient to allow HUD and the State to carry out review responsibilities.
- ✓ States and UGLGs must also keep Financial Management records.
- ✓ Cross-cutting records that must be kept by both the State and UGLGs.
 - Civil Rights
 - Labor Standards
 - Relocation, Replacement Housing and Real Property
 - Acquisition
 - Environment
- ✓ Records kept by the State and UGLG must specifically include data on the racial, ethnic, and gender characteristics of applicants, participants, and beneficiaries of the program.

18.3.9 Record Retention Period

- ✓ Under the uniform administrative requirements of the CDBG regulations, states and UGLG are required to retain CDBG records for a period of not less than five years after the fiscal year of their grant or three years after the closeout of the grant from HUD, whichever is longer.

18.3.10 Access to Records

- ✓ HUD and the Comptroller General of the United States, or their authorized representatives, have the right to access state and UGLG program records. This right is not limited to the retention period (discussed above).
- ✓ Requirements regarding public access to records include:



- CDBG states are required to provide citizens with reasonable access to records regarding the past use of CDBG funds, consistent with applicable state and local laws regarding privacy and confidentiality; and
- The Consolidated Plan regulations require that states provide citizens, public agencies and other interested parties with reasonable and timely access to information and records relating to the jurisdiction's Consolidated Plan and the use of assistance under the programs covered by the Consolidated Plan. (NOTE: This requirement must be made a part of state's Citizen Participation Plans.)

18.4 Monitoring of Program Performance

Monitoring of program performance is a key element of CDBG state management and oversight responsibilities. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Program Monitoring ✓ Project Monitoring ✓ Corrective Actions
Statutory Citations	Section 105(a)(12)(B)(v)
Other Reference Materials on This Topic	<ul style="list-style-type: none"> ✓ Managing CDBG: A Guidebook for CDBG States on UGLG Oversight ✓ CPD Notice 07-07: Implementing Risk Analyses for Monitoring Community Planning and Development Grant Programs in FY 2008

18.4.1 Overview

- ✓ States are responsible for managing the day-to-day operations of their CDBG Program and ensuring that CDBG funds are used in keeping with program requirements. Implementation of CDBG activities by other entities (UGLG, nonprofit development organizations, CDFIs, etc.) does not relieve states of this responsibility.
- ✓ Monitoring is the primary tool that CDBG states use to ensure that CDBG projects are being carried out in accordance with program requirements. Monitoring is a review of program or project performance and compliance. There are several types of monitoring:
 - **Administrative and Financial monitoring** ensures that the state and UGLGs are administering the program properly (i.e., using funds from authorized sources, tracking funds, using proper methods of recordkeeping, and managing finances appropriately).
 - **Program monitoring** ensures the operations and management of UGLG for efficiency, effectiveness, compliance, etc. This kind of monitoring focuses on overall program performance of UGLGs.
 - **Project monitoring** ensures that projects are in compliance with CDBG and other Federal standards. This kind of monitoring focuses on the compliance of an individual project.
- ✓ The three primary goals of monitoring are to:
 - Ensure production and accountability;
 - Ensure compliance with CDBG and other federal requirements; and



- Evaluate organizational and project performance.
- ✓ The performance of each UGLG receiving CDBG funds should be reviewed by states at least annually. Good practice suggests that:
 - Any entity receiving CDBG funds for an eligible project must be monitored to ensure compliance with applicable program requirements.
 - More frequent reviews may be appropriate based on the length and complexity of the activity being undertaken and the experience and capacity of the UGLG.

18.4.2 Monitoring Plans and Risk Assessments

- ✓ Monitoring should not be a “one-time event.” To be an effective tool for avoiding problems and improving performance, monitoring must involve an on-going process of planning, implementation, communication, and follow-up.
- ✓ States should develop a monitoring plan at least annually at the beginning of each program year. This allows states to match their available resources for monitoring with the needs and capacity of UGLG. A monitoring plan may include the following:
 - Objectives of the monitoring plan;
 - Standardized procedures for reporting by UGLG;
 - Standardized procedures for review and monitoring;
 - How risk areas will be identified and addressed;
 - Frequency of meetings, monitoring reviews and inspections;
 - Pre-monitoring preparation;
 - Use and scheduling of staff and other resources for monitoring;
 - CDBG program and project portfolio;
 - Monitoring “checklists”; and
 - Sample monitoring letters.
- ✓ Since states do not have enough staff to monitor all their UGLGs as frequently and thoroughly as they would like every year, they need to decide which UGLGs are most likely to have the most serious problems and ensure they devote extra attention to them. States should ensure the monitoring plan is appropriate to their performance tracking capabilities and rotate the UGLGs selected for in-depth monitoring.
- ✓ For programs and projects, states should perform a risk assessment to identify which UGLGs require comprehensive monitoring. High-risk UGLG include those that are:
 - New to the CDBG program;
 - Experiencing turnover in key staff positions or a change in goals or direction;
 - Encountering complaints and/or bad press;
 - Previous compliance or performance problems including failure to meet schedules, submit timely reports, or clear monitoring or audit findings;
 - Carrying out high risk activities (e.g., economic development); and



- Undertaking multiple CDBG-funded activities for the first time.
- ✓ A sample set of risk indicators and assessment areas are presented in Exhibit 18-3. This can be used to develop a risk assessment protocol where states can award points to various assessment areas to make priorities within their monitoring system.
- ✓ For experienced UGLGs that are successfully carrying out activities, states could plan a more narrowly focused monitoring effort to examine areas where the regulations have changed, new activities that are being undertaken, or program aspects that led to problems in the past.
- ✓ However, comprehensive monitoring reviews should be conducted periodically, even for UGLGs with strong past performance. Even the most effective and efficient UGLGs can neglect their responsibilities if states do not hold them accountable.
- ✓ States may find the CPD notice 07-07 helpful. This notice indicates that monitoring should be grantee focused, but that high risk programs should also be monitored, even if the grantee itself is not high risk.

18.4.3 Administrative and Financial Monitoring

States must monitor UGLG on administrative and financial requirements for accounting standards, cost principles, and procurement.

- ✓ **Accounting Standards:** The UGLG adheres to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
- ✓ **Cost Principles:** Ensure compliance with OMB Circulars A-87. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.
- ✓ **Procurement:** Ensure compliance with the current state policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein.

18.4.4 Program Monitoring

- ✓ Program monitoring encompasses two different areas of review. First, states must monitor compliance with their CDBG funded programs to ensure they meet program eligibility, objectives, and goals. Often this type of monitoring is done in the following manner:
 - Compare state programs funded to the Consolidated Plan. Check to see if programs are listed among the state's strategies to address community development needs.
 - Compare programs funded to the national objectives and eligible activities of the CDBG program.
 - If program is not listed or is ineligible, the state must modify its consolidated plan and/or stop funding the program (if it is ineligible).
- ✓ In addition, there are several reports that are available on the HUD website that states can use to evaluate their performance as well as performance of their UGLG. States can use reports to assess local/state CDBG program performance. These reports ensure that the most up-to-date information is available to states, their clients, and public officials (see specific information on the CDBG accomplishments and performance).



- **Community Performance Profiles:** These profiles share information about the performance of CDBG states. This information is important to our states, stakeholders, and citizens so they will be able to access information about the performance of each local CDBG program.
- **Expenditure Reports:** As part of HUD's continuing effort to provide states and citizens with program information on the status of our programs, the Office of Community Planning and Development has developed expenditure profiles that show how each grantee expended their CDBG funds during its most recently completed program year. The profiles depict expenditures by activity.
- **Selected CDBG Accomplishment Reports.** As part of HUD's continuing effort to provide states and citizens with information on the status of our programs, the Office of Community Planning and Development has developed profiles that display accomplishments for selected housing, economic development, public improvement, and public service activities. The profiles contain accomplishments by program year, and by states.
- ✓ The second area that states must monitor is program implementation by their UGLG.
 - Review program descriptions of UGLGs to ensure they meet program eligibility goals, state objectives, and overall performance.
- ✓ There are two ways to conduct program monitoring reviews. The first is to conduct what is referred to as a “desk review.” The second, more intensive way to monitor CDBG-funded programs and organizations is to conduct an “on-site monitoring review”. Both options are discussed below.

18.4.5 Project Monitoring

- ✓ For individual projects, monitoring begins when activities are selected for CDBG funding and continues through project completion.
- ✓ For example, once construction has started, states should:
 - Require progress reports (weekly, monthly, quarterly or with each draw request) that flag any pending or anticipated problems;
 - Hold regular meetings to discuss issues and provide any technical assistance needed; and
 - Make periodic site visits to evaluate progress.
- ✓ Other general areas for project monitoring include:
 - Project schedule:
 - Is the project on schedule and have all major milestones been met?
 - Project accomplishments:
 - Is the project meeting standards established in the written agreement?
 - Are costs on target?
 - Is the number of units proposed being produced?
 - If applicable, is the quality of the construction/rehabilitation acceptable?



- If the project is finished, have the CDBG-assisted units been rented/sold to income-eligible households?
- ✓ There are two ways to conduct project monitoring reviews which may be done in conjunction with program monitoring. The first is to conduct what is referred to as a “desk review.” The second, more intensive way to monitor CDBG-funded programs and organizations is to conduct an “on-site monitoring review”. Both options are discussed below.

18.4.6 Desk Reviews

- ✓ Desk reviews are a key component of basic monitoring activities. They involve examining information and materials provided to states by UGLGs as a means to track performance and identify potential problem areas.
 - Staff performing desk reviews should examine progress reports, compliance reports, and financial information to adequately assess performance and look for indicators of performance or compliance problems.
- ✓ A typical state is likely to request three kinds of reports from its UGLGs: information on drawdown requests, regular progress reports, and PER data.
 - **Drawdown requests** involve the following:
 - Funds budgeted;
 - Funds received in drawdowns to date;
 - Funds obligated in most recent period and to date;
 - Funds expended in most recent period and to date;
 - Cash on hand (including program income identified as such); and
 - Previous drawdowns requested but not yet received.
 - **Regular progress reports** (either monthly or quarterly) involve the following:
 - Track actual project accomplishments;
 - Obligations; and
 - Spending patterns against planned operations and accomplishments.
 - **PER data** collection involves the following:
 - The activity’s name, matrix code, description, and location;
 - The national objective being met;
 - The amount expended during the program year;
 - The total cost of each multi-unit housing and economic development activity;
 - The amount of unliquidated obligations for each public service and planning and administration activity if CDBG funds are not disbursed during the 90 days after the end of the state’s program year; and
 - Activity status and specific units of accomplishments, including compliance with the applicable national objective, during each program year.



- ✓ If questions or concerns arise from the desk review, staff should gather additional information through telephone calls, additional documents, or other written materials.

18.4.7 On-Site Reviews

- ✓ On-site reviews typically involve monitoring of the UGLG's overall program administration as well as individual beneficiary or project files, depending upon the activity undertaken.
- ✓ The following steps provide states with the basic framework to follow when conducting on-site program monitoring reviews, including reviews of UGLGs.
- ✓ **Step 1: Prepare for the Monitoring Visit**—Before the monitoring visit, states should make sure staff is adequately trained for the task. Staff should be thoroughly familiar with the applicable program rules and the established monitoring protocol. In addition, staff should review the following types of in-house data prior to the visit:
 - Application for funding;
 - Written agreement;
 - Progress reports;
 - Draw-down requests;
 - Integrated Disbursement and information System (IDIS) reports;
 - Correspondence;
 - Previous monitoring reviews; and
 - Copies of audits.
- ✓ **Step 2: Conduct the Monitoring Visit**—There are four basic elements to conducting an on-site monitoring visit: notification, entrance conference or meeting, data collection and analysis, and exit conference or meeting. These steps are described briefly below.
 - **Notification:** States should begin the monitoring process by calling UGLGs to explain the purpose of the visit and to agree upon dates for the visit. A formal notification letter should follow at least several weeks before the planned visit and should include:
 - Confirmation of the dates for the review,
 - Scope of the monitoring,
 - Information needed for review during the visit, and
 - Staff needed for interviews or other assistance during the review.
 - **Entrance conference:** Entrance conferences are held at the beginning of monitoring visits, usually with the executive director or other top official of the organization, to make sure the UGLG has a clear understanding of the purpose, scope, and schedule for the monitoring.
 - **Documentation, data gathering, and analysis:** States should keep a clear record of information reviewed and conversations held with UGLG staff during the monitoring visit. The most efficient and effective way to review all of the necessary documentation and data is with a checklist. Checklists should be based on the CDBG Program requirements for each type of project. The information gathered will serve as the basis for conclusions



to be included in the monitoring report and follow-up letter. UGLGs may request identification of sources if any of the conclusions are disputed.

- **Exit conference:** At the end of the monitoring visit, the reviewers should meet again with key representatives of the UGLG organization to:
 - Present preliminary results of the monitoring,
 - Provide an opportunity for the UGLG to correct any misconceptions or misunderstandings,
 - Secure additional information to clarify or support their position, and
 - If applicable, provide an opportunity for the UGLG to report on steps the organization may already be taking to address areas of noncompliance or nonperformance.
- ✓ **Step 3: Follow-Up**—At the end of the process, the state should provide the UGLG with formal written notification of the results of the monitoring review. This letter should both point out problem areas **and** recognize successes.
 - The follow-up letter creates a permanent written record of what was found during the review.
 - Standardized language set forth in the monitoring procedures often helps states to develop standardized monitoring letters in a reasonable time frame and with consistency from UGLG to UGLG.
 - The letter should outline concerns and findings (see above), and set deadlines for a written response and corrective actions.
 - Follow-up procedures are discussed below under “Corrective Actions.”

18.4.8 Corrective Action and Training/Technical Assistance

Corrective Actions

- ✓ States are responsible for taking appropriate actions when performance problems arise. Written agreements should be the primary mechanism for enforcement in situations of noncompliance.
- ✓ There are three increasingly serious stages of intervention. States should start at Stage I, then move through Stages 2 and 3 as the situation requires. A state’s response to monitoring findings will depend upon the seriousness of the state’s problems.
 - **Stage 1: Low-level Intervention**—At this stage, states should do one or more of the following:
 - Clearly identify problem areas and required corrective actions;
 - Plan a strategy with the UGLG that includes any training or technical assistance that may help to address identified problems;
 - Require more frequent or more thorough reporting by the UGLG or other organization carrying out the activity; or
 - Conduct more frequent monitoring reviews.



- **Stage 2: Moderate-level Intervention**—After attempting the low-level intervention steps, states may need to take increasingly tougher steps, such as:
 - Restrict payment requests,
 - Disallow certain expenses or require repayment of funding provided for certain expenses, or
 - Impose probationary status.
- **Stage 3: High-level Intervention**—At this point, states must take the most serious actions to put an end to noncompliance problems. Suggested steps include:
 - Temporarily suspend the organization from participation in the CDBG Program,
 - Do not renew the organization or the activity for the next program year,
 - Terminate the organization or activity for the current program year, or
 - Initiate legal action.

Incorporating Training and Technical Assistance

- ✓ Monitoring should not be a “one-time” event. To be an effective tool for avoiding problems and improving performance, monitoring must be an ongoing process of planning, implementation and follow-up.
- ✓ In fact, in order to avoid future problems with UGLGs, training and technical assistance should be an ongoing feature of state CDBG programs. There are three basic approaches, that together, focus on enhancing performance and reducing common problems among UGLGs:
 - **Orientation Sessions**
 - Typically held at the beginning of a funding cycle. (Some states hold these types of sessions prior to applications).
 - Provides a forum for discussing basic requirements and procedures, and to discuss expectations about performance.
 - **Training**
 - Training is typically aimed at larger audiences.
 - This type of workshop focuses on specific issues, and provides sufficient technical detail necessary for UGLGs to understand and implement program requirements.
 - Training should be held throughout the year, and should enhance performance and long-term capacity of UGLGs.
 - **Technical Assistance**
 - Typically provided in a one-on-one or small group setting on site.
 - Technical assistance should be designed to correct a specific weakness, or to improve the quality or performance of a specific program or project already underway.



18.5 Closeout Requirements

States must ensure that statutory and regulatory requirements that govern the State CDBG program have been met prior to closing out a State CDBG program grant. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ General closeout criteria ✓ Financial reviews and reports
Statutory Citations	Section 104(e)(2)
Other Reference Materials on This Topic	CPD Notice 12-04

18.5.1 General Closeout Requirements

- ✓ HUD can close out a State CDBG grant when the following criteria have been met:
 - The state has disbursed to recipient UGLGs all CDBG funds included in the Method of Distribution for the fiscal year whose grants are to be closed out, except funds remaining for state administrative expenses and audit;
 - The state has distributed its CDBG funds to UGLGs in a timely manner and in conformance with the method of distribution in its statement, and that the state has carried out its certifications in compliance with HCDA statutory requirements of the HCDA and other applicable laws.
 - The state is required to make such reviews and audits of UGLGs as may be necessary and appropriate to determine whether they have satisfied the applicable performance criteria and ensure that all CDBG-funded activities are eligible and meet a national objective; and
 - The audit(s) of the state covers all funds in the allocation to be closed; there should be no outstanding monitoring and/or audit findings. Where costs have been incurred since the most recent audit, the state may enter into a written agreement which will require the state to submit to HUD the amount of any costs not allowed by subsequent audits or CPD Field Office reviews.

18.5.2 Financial Reviews and Reports

- ✓ CPD Field Office must confirm that the state CDBG funds were spent within the following caps:
 - 15% public services cap;
 - 20% planning and administration cap are not exceeded;
 - Administrative costs and technical assistance (TA) do not exceed the 3% combined threshold and that the state has met the required match for administration;



- Program income system was in place and all funds were accounted for and managed successfully throughout the grant process; and
- Program income held by UGLGs, whether received before or after closeout of the grant, PI is treated as additional CDBG funds & subject to requirements of the Act (unless it totals less than \$25,000 in a single year).
- ✓ The state completes the Financial Status Report and it is sent to HUD within 30 days after the state has satisfied the criteria for closeout of the grant.
- ✓ CPD Notice 12-04 includes:
 - A format that enables states to close out CDBG program grants from Fiscal Year (FY) 1982 to FY 2005.
 - Streamlined procedures for closing out grants where the criteria for closeout have been met for grants awarded beginning in FY 2006.
 - The format includes a verification process and a certification that state CDBG funds have been properly spent and that all other aspects of the program have been completed in a timely manner.



Attachment 18-1

Performance Measurement Indicators for CDBG Projects

Indicator	Performance Measurement Data to be Collected
Public facility or infrastructure	<ul style="list-style-type: none"> ✓ Number of persons that have been assisted by public facility or infrastructure activities that provide individuals with new or improved access to the facility or infrastructure. ✓ If the activity was used to meet a quality standard or to measurably improve quality, then this indicator will report the number of household units that no longer have access to a substandard service.
Public service	<ul style="list-style-type: none"> ✓ Number of persons that have been assisted with new or improved access to a service. ✓ If the activity was used to meet a quality standard or to measurably improve quality, then this indicator will report the number of persons that no longer have access to a substandard service.
Targeted revitalization	<ul style="list-style-type: none"> ✓ This indicator shows a range of outcomes such as jobs created and retained, businesses assisted, LMI persons and households served, slum/blight demolition, number of acres of brownfields remediated, etc. in a targeted area.
Commercial façade treatments or business building rehabilitation	<ul style="list-style-type: none"> ✓ Number of commercial façade treatments undertaken and the number of business buildings that were rehabilitated.
Brownfields remediated	<ul style="list-style-type: none"> ✓ Number of acres of brownfields that were remediated.
Rental units constructed	<ul style="list-style-type: none"> ✓ Number of affordable rental units created, ✓ Number of years of affordability, ✓ Number of units occupied by the elderly, and ✓ Units designated for chronically homeless persons and persons with HIV/AIDS.
Rental units rehabilitated	<ul style="list-style-type: none"> ✓ Number of affordable rental units rehabilitated, ✓ Number of years of affordability, ✓ Number of units occupied by the elderly, ✓ Units for chronically homeless persons, and persons with HIV/AIDS.
Homeownership units constructed or acquired with rehabilitation	<ul style="list-style-type: none"> ✓ Number of homeownership units constructed, acquired, and/or acquired with rehabilitation per activity. ✓ Number of affordable units, number of years of affordability, ✓ Energy Star qualified units, section 504 accessible units, and number of households previously living in subsidized housing. ✓ Number of units occupied by the elderly, number of units designated for persons with HIV/AIDS, and ✓ Number of units for the chronically homeless.



Indicator	Performance Measurement Data to be Collected
Owner occupied units rehabilitated	<ul style="list-style-type: none"> ✓ Number of owner occupied units rehabilitated, including the number of these units occupied by the elderly, ✓ Number of units designated for persons with HIV/AIDS, and ✓ Number of units for the chronically homeless.
Direct financial assistance to homebuyers	<ul style="list-style-type: none"> ✓ Number of homebuyers receiving direct financial assistance, housing counseling, and downpayment assistance/closing costs.
Tenant Based Assistance	<ul style="list-style-type: none"> ✓ Number of households receiving TBA, ✓ Number with short-term rental assistance (less than 12 months), ✓ Number of homeless and chronically homeless households assisted.
Homeless shelters	<ul style="list-style-type: none"> ✓ Number of homeless persons given overnight shelter.
Emergency housing	<ul style="list-style-type: none"> ✓ Number of beds created in an overnight shelter or other emergency housing.
Tenant Based Assistance	<ul style="list-style-type: none"> ✓ This indicator shows the total number of households receiving TBA, ✓ Number with short-term rental assistance (less than 12 months), ✓ Number of homeless and chronically homeless households assisted.
Emergency housing	<ul style="list-style-type: none"> ✓ Number of beds created in an overnight shelter or other emergency housing.
Homeless prevention	<ul style="list-style-type: none"> ✓ Number of households that received emergency financial assistance to prevent homelessness and emergency legal assistance to prevent homelessness.
Jobs created/retained	<ul style="list-style-type: none"> ✓ Of the total number of jobs created, this indicator shows the number of jobs that have employee-sponsored health care, ✓ The types of jobs created [using Economic Development Administration (EDA) classifications], and ✓ Number or persons unemployed before taking the job (created only)
Business assistance	<ul style="list-style-type: none"> ✓ Number of new businesses, existing businesses, and the DUNS number of each business so that HUD can track the number of new businesses that remain operational for three years after assistance.
Businesses providing goods or services	<ul style="list-style-type: none"> ✓ This indicator shows whether an assisted business provides goods or services to meet the needs of the service area, neighborhood, or community, as determined by the state.



Attachment 18-2

National Objective Recordkeeping

National Objective Criteria	Suggested Records to be Maintained
LMI— Area Benefit	<ul style="list-style-type: none"> ✓ Boundaries of the service area ✓ Income data of residents and percent LMI
LMI— Limited Clientele	<ul style="list-style-type: none"> ✓ Documentation that facility/service designed for or used exclusively by one of the eligible "presumptive" groups ✓ Documentation of nature and location of the facility/service such that it can be presumed to service LMI <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> ✓ Data on household size and income of each person receiving the benefit
LMI— Housing	<ul style="list-style-type: none"> ✓ Copy of written agreement with landlord/developer with total no. of units and no. to be occupied by LMI persons ✓ Total cost of project (CDBG and non-CDBG funds) ✓ Income and household size data for occupants/purchasers ✓ Rent charged (rental housing only)
LMI— Job Creation	<ul style="list-style-type: none"> ✓ If qualifying under "jobs available to LMI": <ul style="list-style-type: none"> – Copy of written agreement with required provisions – Listing by job title of permanent jobs filled, which were available to LMI and evidence of first consideration to LMI ✓ If qualifying under "jobs held by LMI": <ul style="list-style-type: none"> – Copy of written agreement with required provisions – Listing by job title of permanent jobs filled and which were initially held by LMI – For each LMI person hired, household size and annual income prior to hiring
LMI— Job Retention	<ul style="list-style-type: none"> ✓ Evidence that without CDBG, jobs will be lost ✓ Listing by job title of permanent jobs retained (include part-time and those held by LMIs) ✓ Information on job turnover, including jobs to be available to and filled by LMI persons ✓ For each job retained and held by a LMI person, family size and income
Slum/Blight— Area Basis	<ul style="list-style-type: none"> ✓ Boundaries of the area ✓ Description of the conditions which qualified the area ✓ For residential rehab— <ul style="list-style-type: none"> ✓ Local definition of substandard ✓ Pre-rehab inspection report with noted deficiencies ✓ Details of CDBG-funded rehab



National Objective Criteria	Suggested Records to be Maintained
Slum/Blight— Spot Basis	<ul style="list-style-type: none"> ✓ Description of the specific condition of blight or decay treated ✓ Description of specific conditions detrimental to public health and safety (rehab only) ✓ Details of CDBG-funded rehab (rehab only)
Urgent Need	<ul style="list-style-type: none"> ✓ Nature and degree of seriousness of condition requiring assistance ✓ Certification that CDBG activity designed to address the need ✓ Timing of development of the serious condition ✓ Evidence that other financial resources were not available



Attachment 18-3

Risk Assessment Matrix

Risk Area	Assessment Areas
<u>Project Complexity</u>	<ul style="list-style-type: none"> ✓ Size of dollar amount requested ✓ Use of funds: <ul style="list-style-type: none"> *For construction or rehab *For operation of facility *For program only
<u>Type of Organization Requesting Funding</u>	<ul style="list-style-type: none"> ✓ Non-profit ✓ Governmental Agency
<u>Complexity of Housing Project</u>	<ul style="list-style-type: none"> ✓ New construction ✓ Rehabilitation ✓ Single unit/multi-unit ✓ Number of units ✓ UGLG's prior experience with this size and type project
<u>Economic Development</u>	<ul style="list-style-type: none"> ✓ Complexity of project ✓ Number of jobs to be created or retained ✓ Area benefit ✓ Providing direct grants and loans ✓ Providing technical assistance ✓ UGLG's prior experience
<u>Potential Environmental Concerns</u>	<ul style="list-style-type: none"> ✓ Degree of complexity ✓ E.I.S. needed
<u>Other Type of Project</u>	<ul style="list-style-type: none"> ✓ Degree of experience carrying out similar type project
<u>Funding</u>	<ul style="list-style-type: none"> ✓ Other sources of funds indicated, but not committed ✓ Other funds committed ✓ CDBG funds only
<u>Type of Assistance</u>	<ul style="list-style-type: none"> ✓ Grant ✓ Loan
<u>Float Loan</u>	<ul style="list-style-type: none"> ✓ Ability to repay within necessary time frame
<u>Program Income</u>	<ul style="list-style-type: none"> ✓ To be retained to continue with the same activity ✓ To be retained for a different activity



Risk Area	Assessment Areas
	✓ To be returned to state
<u>UGLG Organization</u>	<ul style="list-style-type: none">✓ Newly created entity✓ Well established, but no prior CDBG or Federal experience✓ Prior experience with CDBG or other Federal programs✓ No independent source of funding, i.e., general fundraising
<u>UGLG History, If Previously Funded</u>	<ul style="list-style-type: none">✓ Ability to deliver project within budget and on schedule✓ Ability to anticipate and overcome past problems✓ Any past monitoring issues raised✓ Any special contract conditions needed
<u>Staffing</u>	<ul style="list-style-type: none">✓ Staff experienced with this type activity✓ Have sufficient staff to carry out project or must hire✓ Entity has significant staff turnover
<u>Recent Problems</u>	<ul style="list-style-type: none">✓ Unresolved monitoring findings✓ Citizen complaints

CHAPTER 19: THE NSP PROGRAM



CHAPTER PURPOSE & CONTENTS

This chapter provides a general overview of the Neighborhood Stabilization Program, including a brief synopsis of the history of the program, a summary of the objectives of the program, the rules and requirements of the program and a summary of the process for implementing NSP activities.

SECTION	TOPIC
19.1	Program History & Primary Objective
19.2	NSP Regulations
19.3	Deadlines
19.4	Areas of Greatest Need
19.5	Key Definitions
19.6	Eligible Activities
19.7	Ineligible Activities
19.8	LMMI National Objective and Beneficiary Requirements
19.9	Long Term Affordability
19.10	Other Requirements Under NSP
19.11	NSP Resources

19.1 Program History & Primary Objective

✓ This section explains the history of the NSP program and its goals.

Key Topics in This Section	<ul style="list-style-type: none">✓ Reason NSP was established✓ NSP primary objective
Regulatory/Statutory Citations	Title III of Division B of the Housing and Economic Recovery Act, 2008 (Pub. L. 110-289) Division A, Title XII of the American Recovery and Reinvestment Act of 2009 – Community Development Fund (Pub. L. 111-5) Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act: Additional Assistance for Neighborhood Stabilization (Pub. L. 111-203)
Other Reference Materials on This Topic	Not applicable



- ✓ The Neighborhood Stabilization Program (NSP) is authorized under three appropriations by Congress.
 - The NSP program was enacted in 2008 under the Housing and Economic Recovery Act or HERA and is referred to as NSP1. This appropriation provided \$3.92 billion to local and state governments hardest hit by the foreclosure crisis nationwide on a formula basis.
 - The second round of funding or NSP2 for \$2 billion was appropriated under the American Recovery and Reinvestment Act (ARRA). NSP2 funding was competitively awarded to qualifying nonprofits and government agencies.
 - The third round of funding or NSP3 was appropriated under the Dodd-Frank Economic Reform and Consumer Protection Act of 2010. Like NSP1, the \$1 billion appropriation was allocated on a formula basis to local and state governments hardest hit by the foreclosure crisis.
- ✓ Each funding round provided as supplemental CDBG appropriation
- ✓ Congress created the Neighborhood Stabilization Program to help cities, counties and states deal with community problems that are the result of the mortgage foreclosure crisis in the nation.
- ✓ Neighborhood revitalization in areas hardest hit by the foreclosure crisis is achieved through NSP by providing funding to communities to buy up and rehabilitate or redevelop abandoned, foreclosed, and vacant properties.
- ✓ The NSP regulations set forth eligible activities and the national objectives that each activity must meet. As recipients of NSP funds, grantees are charged with ensuring that these requirements are met.

19.2 NSP Regulations

- ✓ This section provides an overview of the NSP regulations.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Regulatory basis for NSP ✓ Key regulatory requirements
Regulatory/Statutory Citations	<p>Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008 – October 6, 2008 (FR-5255-N-01)</p> <p>Notice of HUD's Fiscal Year (FY) 2009 Notice of Funding Availability (NOFA); Policy Requirements and General Section to HUD's FY2009 NOFAs for Discretionary Programs – December 29, 2008 (FR-5300-N-01)</p> <p>Notice of Fund Availability (NOFA) for the Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act, 2009 – May 4, 2009 (FR-5321-N-01)</p> <p>Notice of Fund Availability (NO FA) for Fiscal Year 2009 Neighborhood Stabilization Program 2 under the American Recovery</p>



	<p>and Reinvestment Act of 2009 – Correction June 11, 2009 (FR-5321-C-02)_</p> <p>Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008; Revisions to Neighborhood Stabilization Program (NSP) and Technical Corrections – June 19, 2009 (FR-5255-N-02)</p> <p>Notice of Fund Availability (NOF A) for Fiscal Year 2009 Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009; Correction – November 9, 2011 (FR-5321-C-03)</p> <p>Notice of Fund Availability (NOF A) for Fiscal Year 2009 Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009; Correction – January 21, 2010 (FR-5321-C-04)</p> <p>Notice of Definition Revision to Notice of Fund Availability (NOFA) for Fiscal Year 2009: Neighborhood Stabilization Program 2 (NSP2) under the American Recovery and Reinvestment Act of 2009; Change in Definitions – April 2, 2010 (FR-5321-N-04)</p> <p>Notice of Change in Definitions and Modification to Neighborhood Stabilization Program (NSP) – April 9, 2010 (FR-5321-N-03)</p> <p>Notice of Neighborhood Stabilization Program Reallocation Process Changes – August 23, 2010 (FR-5435-N-01)</p> <p>Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants – October 19, 2010 (FR-5447-N-01)</p>
Other Reference Materials on This Topic	Not applicable

- ✓ CDBG forms the regulatory basis for NSP. Except where otherwise stated in NSP statutes and regulations, NSP follows CDBG rules and requirements.
- ✓ The regulations implementing NSP can be found in a number of notices published for each of the three rounds of NSP including:
 - **NSP1:**
 - NSP1 Federal Register Notice – October 6, 2008
 - NSP1 Federal Register Bridge Notice – June 19, 2009
 - Notice of NSP Relocation Process Changes – August 23, 2010
 - **NSP2:**
 - NSP2 Notice of Funding Availability – May 4, 2009
 - NSP2 Notice of Funding Availability (NOFA) Correction – November 9, 2009
 - NSP2 Notice of Funding Availability (NOFA) Correction – January 21, 2010



- Notice of Definition Revision to NSP2 NOFA for FY2009 – April 2, 2010
- **NSP3:** NSP3 Federal Register Notice – October 19, 2010
- **NSP1, NSP2, and NSP3:** Notice of Change in Definitions and Modification to NSP – April 9, 2010
- ✓ A copy of the NSP regulations and statutes can be found at:
<http://www.hudnsphelp.info/index.cfm?do=viewLawsandNotices>.

19.3 Deadlines

- ✓ This section goes over the key deadlines for obligating and expending NSP funds.

Key Topics in This Section	✓ Applicable deadlines for obligating and expending NSP funding
Regulatory/Statutory Citations	<p>Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008 – October 6, 2008 (FR-5255-N-01)</p> <p>Notice of Fund Availability (NOFA) for the Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act, 2009 – May 4, 2009 (FR-5321-N-01)</p> <p>Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants – October 19, 2010 (FR-5447-N-01)</p>
Other Reference Materials on This Topic	<p>NSP Policy Alert: Guidance for Tracking and Reporting the Use of NSP Funds: Obligations for Specific Activities – April, 23, 2010</p> <p>NSP Policy Alert: Guidance on the NSP1 Recapture and Reallocation Notice – August 26, 2010</p> <p>NSP Policy Alert: Guidance on Developers, Subrecipients, and Contractors – August 27, 2010</p> <p>NSP Policy Alert: Guidance on NSP Loan Loss Reserves – December 7, 2010</p>

- ✓ Different deadlines apply to NSP1 versus NSP2 and NSP3.
 - NSP1 included an 18 month obligation deadline requiring grantees to “use” 100 percent of their funds within 18 months following execution of their grant agreement with HUD. HUD defined “use” to mean that a contract was signed for a project.
 - NSP1 grantees are required to expend 100 percent of their allocation within four years following execution of their grant agreement with HUD.
 - Under NSP2 and NSP3, grantees are required to expend 50 percent of their total allocation within two years and 100 percent in three years from the date their grant agreement is signed with HUD.
- ✓ HUD recovers funds if not committed or expended within these timeframes.
- ✓ Program income expenditures count towards the overall expenditure goals.



19.4 Areas of Greatest Need

Key Topics in This Section	✓ Areas of Greatest Need (Target Areas)
Regulatory/Statutory Citations	<p>Title III of Division B of the Housing and Economic Recovery Act, 2008 (Pub. L. 110-289)</p> <p>Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008 – October 6, 2008 (FR-5255-N-01)</p> <p>Notice of Fund Availability (NOFA) for the Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act, 2009 – May 4, 2009 (FR-5321-N-01)</p> <p>Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants – October 19, 2010 (FR-5447-N-01)</p>
Other Reference Materials on This Topic	Not applicable

- ✓ NSP requires that grantees define areas of greatest need in their NSP Action Plan and invest NSP funding in those areas.
- ✓ Areas of greatest need are also called target areas.
- ✓ The methodology for determining target areas can take into account some local factors and must take into account all of the following:
 - Percentage of home foreclosures
 - Number of homes with sub-prime loans
 - Areas likely to see rise in rate of foreclosures
- ✓ All NSP funded activities must be located in the areas of greatest need defined in each grantee's HUD approved NSP Action Plan.
- ✓ An eligible non-housing assisted NSP activity undertaken in a target area must document how the activity supports NSP efforts and neighborhood revitalization in the area.
- ✓ Target areas can be changed if needed through a Substantial Amendment to the Action Plan.



19.5 Key Definitions

- ✓ This section provides definitions of key NSP topics and terms.
- ✓ The definitions included below are in addition to the Key Definitions found in 1.3.

Key Topics in This Section	✓ Key definitions needed for NSP
Regulatory/Statutory Citations	<p>Notice of Change in Definitions and Modification to Neighborhood Stabilization Program (NSP) – April 9, 2010 (FR-5321-N-03)</p> <p>Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008 – October 6, 2008 (FR-5255-N-01)</p> <p>Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008; Revisions to Neighborhood Stabilization Program (NSP) and Technical Corrections – June 19, 2009 (FR-5255-N-02)</p> <p>Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants – October 19, 2010 (FR-5447-N-01)</p> <p>24 CFR Part 92 HOME Investment Partnerships Program Final Rule</p>
Other Reference Materials on This Topic	Not applicable

Affordability: The requirements of the NSP Program that relate to the cost of housing both at initial occupancy and over established timeframes, as prescribed in the NSP statute and HOME Final Rule. Affordability requirements vary depending upon the nature of the NSP assisted activity (i.e. homeownership or rental housing).

Abandoned: A property is considered abandoned if one of the following is true:

- ✓ Mortgage/tax/tribal leasehold no payments 90 days
- ✓ Code inspection determines not habitable and no corrective action within 90 days
- ✓ Subject to court-ordered receivership/nuisance abatement or state definition of abandoned
 - When property meets both foreclosed & either abandoned or vacant definitions, grantee must treat as foreclosed

Blighted: A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

Foreclosed: A property is considered abandoned if one of the following is true:

- ✓ Property is 60 days delinquent under Mortgage Bankers of America delinquency calculations and the owner has been notified
- ✓ Property owner is 90 days or more delinquent on tax payments



- ✓ Foreclosure proceedings have been initiated or completed
- ✓ Foreclosure proceedings are complete and the title has transferred to an intermediary that is NOT an NSP grantee, sub, contractor, developer, or end user

Home: A permanent residential unit.

Land Bank: Public or non-profit entity created for a single purpose: to acquire, manage, maintain, and repurpose foreclosed properties.

Low, Moderate and Middle Income: Low, moderate and middle income (also referred to in this manual as LMMI) means a family or household with an annual income less than 120 percent of the area median income based on the Section 8 Low Income Limit as established by HUD.

Middle-Income Household/Family: A household/family having an income equal to or less than 120% of area median income based on the Section 8 Low Income limit established by HUD, but greater than the Section 8 Moderate Income limit (80 percent of area median income) established by HUD.

Residential Property: Homes and any vacant residential land and multifamily properties located on the property.

Substantial Amendment: A Substantial Amendment to a grantee's annual action plan and/or consolidated plan as described at 24 CFR 91.505. Circumstances under which a Substantial Amendment is required include changes: in scope, location, beneficiaries, or activities. As a supplemental CDBG appropriation and new program, NSP Action Plans are considered Substantial Amendments.

Total Development Cost: The total cost invested by a grantee or partner to acquire and rehabilitate or redevelop a residential property.

Vacant: Unoccupied or demolished structures or vacant land that was previously developed.

19.6 Eligible Activities

- ✓ This section describes the range of activities that are eligible under NSP.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Five eligible activities under NSP ✓ Types of properties eligible under each activity ✓ Typical methods for undertaking NSP eligible activities
Regulatory/Statutory Citations	<p>Title III of Division B of the Housing and Economic Recovery Act, 2008 (Pub. L. 110-289)</p> <p>Division A, Title XII of the American Recovery and Reinvestment Act of 2009 – Community Development Fund (Pub. L. 111-5)</p> <p>Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act: Additional Assistance for Neighborhood Stabilization (Pub. L 111-203)</p> <p>24 CFR 570.202 (b)</p> <p>24 CFR 570.205</p>



	24 CFR §570.201(d)
Other Reference Materials on This Topic	Guidance on NSP-Eligible Acquisition & Rehabilitation Activities – December 11, 2009 Guidance on Property Types Under Each Eligible Use – December 3, 2009

- ✓ There are five eligible activities or uses under NSP:
 - Eligible Use A: Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties
 - Eligible Use B: Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon
 - Eligible Use C: Establish and operate land banks for homes and residential properties that have been foreclosed upon
 - Eligible Use D: Demolish blighted structures
 - Eligible Use E: Redevelop demolished or vacant properties
- ✓ The regulations and statutes place certain requirements and stipulations on eligible uses and not others. For example, the regulations and statutes under NSP2 and NSP3 cap the amount of funds that can be used on demolition activities. Additionally, the eligible use may dictate the costs that are eligible, the national objective under which the activity falls, and the rules that are triggered.
- ✓ Only three possible property types can be acquired or rehabbed under NSP:
 - Foreclosed
 - Abandoned
 - Vacant
- ✓ All uses can include direct and related activity delivery costs
- ✓ Please refer to the NSP regulations for a more complete description of each of these eligible activities and for an overview of how and when each eligible activity may be undertaken.

19.6.1. **Eligible Use A: Financing Mechanisms**

- ✓ Eligible Use A: Financing Mechanisms, allows grantees to provide financing mechanisms for the purchase and redevelopment of foreclosed upon homes and residential properties.
- ✓ Grantees can provide financial assistance to a household to purchase a property or a developer to buy or redevelop homeowner or rental property.
- ✓ Some examples of financing mechanisms eligible under Eligible Use A include:
 - Soft second loans
 - Loan loss reserve
 - Equity sharing.



- Housing counseling for households that are purchasing an NSP, CDBG, or HOME funded home
- ✓ Assistance must be provided as a loan, not in the form of a grant.
- ✓ In many cases, eligible activities under Eligible Use A can be done under Eligible Use B or E but there are some cases when Eligible Use A is necessary, for example if a grantee wants to establish a revolving loan fund.

19.6.2. Eligible Use B: Acquisition and Rehabilitation

- ✓ Eligible Use B is for the purchase and rehabilitation of homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties.
- ✓ The property can be owner or rental housing.
- ✓ Eligible activities under Use B include:
 - Acquisition
 - Disposition
 - Relocation
 - Direct homeownership assistance
 - Rehabilitation
 - Housing counseling for participants
- ✓ Demolition of a structure on a property as part of reconstruction is Eligible Use B and is not considered under Eligible Use D.

19.6.3. Eligible Use C: Land Banking

- ✓ Eligible Use C is intended for land banking homes and residential properties that have been foreclosed upon.
- ✓ In order to land bank a property, the property must be a specific, defined area.
- ✓ By definition, land banks must be operated by a public or nonprofit agency.
- ✓ The property cannot be land banked for more than 10 years.
- ✓ At the end of the holding period, there must be a plan for the re-use of the property and the re-use must be eligible under NSP and meet the LMMI national objective.

19.6.4. Eligible Use D: Demolition

- ✓ Under Eligible Use D: Demolition the demolition of blighted structures is an eligible activity.
- ✓ Prior to demolition, the property can be any type of property including residential, commercial, or industrial.
- ✓ Demolition can include:
 - Demolition of buildings and improvements



- Removal of demolition products (rubble) and other debris
 - Physical removal of environmental contaminants or treatment of such contaminants to render them harmless
 - Movement of structures to other sites
 - Leveling and seeding the site and/or stake surveys where local codes require it
- ✓ Under NSP2 and NSP3, only 10 percent of the grantee's total funding allocation can be used on Eligible Use D unless otherwise authorized by HUD.
- ✓ Demolition may be an end use and therefore qualify as an activity under Eligible Use D or, when involving acquisition of the property, it may be done in coordination with Eligible Use B or E and qualify under that activity as described in the table below:

<i>Demolition: Meeting eligibility requirements and national objectives</i>			
		Eligibility	National Objective
Demolition as End Use	Blighted property	D - Demolish <u>blighted</u> properties	LMMA
	Concentrated neighborhood demolition strategy or plan	D - Demolish <u>blighted</u> properties	LMMA
Demolition as Preliminary Use	Land banked Properties	D - Demolish <u>blighted</u> properties	LMMA
	Reconstruction (Rehabilitate housing)	B - Purchase and rehabilitate homes and residential properties that have been <u>abandoned or foreclosed upon</u> in order to sell, rent, or redevelop such homes and properties	LMMH
	Redevelopment (New construction of housing)	E - Redevelop <u>demolished or vacant</u> properties as housing	LMMH
Demolition for Subsequent Uses	Public Facilities (community gardens, parks, etc...)	NSP1 Eligible under E - Redevelop <u>demolished or vacant</u> properties D – Demolish <u>blighted</u> properties	LMMA
	Side Lots (Give to LMMI neighbor or an easement if not LMMI)	D – Demolish <u>blighted</u> properties	LMMA

- ✓ If a blighted structure is demolished, the lot can be made available to any adjacent residential property



- If owner of adjacent property qualifies as LMMI, the lot can be donated as a side yard under LMMA
- If owner does not qualify as LMMI, grantee should continue to own the lot but grant an easement to neighbor to use and maintain it

19.6.5. **Eligible Use E: Redevelopment**

- ✓ Under Eligible Use E, grantees can redevelop demolished or vacant properties.
- ✓ Prior to redevelopment, the property can be any type of property including residential, commercial, or industrial.
- ✓ Redevelopment may include:
 - Acquisition
 - Disposition
 - Public facilities
 - Public services for housing counseling for prospective tenants/owners
 - Relocation
 - Direct homeownership
 - CBDO, new housing construction
 - Rehabilitation
- ✓ Under NSP1, redevelopment activities can include public facilities but under NSP2 and NSP3, all redevelopment activities must relate to housing.
- ✓ Demolition of a structure on a property as an integral part of a redevelopment activity is Eligible Use E and is not considered under Eligible Use D.

19.6.6. **Eligible Uses by Property Type**

Eligible Uses		Foreclosed Homes and Residential Properties	Abandoned Homes and Residential Properties	Blighted Structures	Demolished Properties	Other Vacant Properties
A	Financing Mechanisms	Yes	No	Only if Foreclosed	N/A	Only if Foreclosed
B	Acquisition and Rehabilitation	Yes	Yes	If Foreclosed or Abandoned	N/A	No
C	Land banks	Yes (Homes only)	No (Foreclosed only)	Foreclosed home or residential property	No	No
D	Demolition	Only if Blighted	Only if Blighted	Yes	N/A	Only if Blighted
E	Redevelopment	Only if Vacant	Only if Vacant	Only if Vacant	Yes	Yes



19.6.7. Planning and Administration

- ✓ NSP funds may be used for planning activities (§ 570.205). Such activities might include:
 - Comprehensive plans;
 - Community development plans (including the Consolidated Plan);
 - Functional plans (for housing; land use and urban environmental design; economic development; open space and recreation; energy use and conservation; floodplain and wetlands management; transportation; utilities; historic preservation; etc.);
 - Other plans and studies (e.g., small area and neighborhood plans; capital improvements program plans; individual project plans; general environmental; urban environmental design; historic preservation studies; etc.); and
 - Policy planning, management, and capacity building activities.
- ✓ Grantees may also use NSP funds for program administration activities (§ 570.206). Such activities may include:
 - General management, oversight and coordination;
 - Public information;
 - Fair Housing activities;
 - Indirect costs;
 - Submission of applications for Federal programs; and
 - Costs to pursue Section 17 of the United States Housing Act of 1937.
- ✓ Planning and administration activities are capped at 10 percent of the grantee's total funding allocation.

19.7 Ineligible Activities

- ✓ This section describes activities that are not eligible under NSP.

Key Topics in This Section	✓ Ineligible activities under NSP
Regulatory/Statutory Citations	Title III of Division B of the Housing and Economic Recovery Act, 2008 (Pub. L. 110-289) Division A, Title XII of the American Recovery and Reinvestment Act of 2009 – Community Development Fund (Pub. L. 111-5) Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act: Additional Assistance for Neighborhood Stabilization (Pub. L. 111-203) 24 CFR Part 570.207
Other Reference Materials on This Topic	Not applicable



- ✓ The general rule is that any activity not specifically authorized under the CDBG program or NSP regulations and statutes is ineligible to be assisted with NSP funds.
- ✓ Unless specifically cited as an eligible activity in the NSP regulations, if an activity is ineligible under the CDBG program, the activity is also ineligible under NSP.
- ✓ The eligibility differences between NSP and CDBG are covered in detail in this and the three subsequent NSP chapters.
- ✓ Some examples of activities that are ineligible under NSP:
 - Foreclosure prevention
 - Demolition of non-blighted structures;
 - Acquisition of property or structures that are not abandoned, foreclosed or vacant
- ✓ The Housing and Community Development Act states that no more than 50 percent of the down payment required by the private lender can be provided as down payment assistance to a homebuyer. Closing cost assistance and other financial assistance is not capped.

19.8 LMMI National Objective and Beneficiary Requirements

- ✓ This section describes the national objective requirements all NSP funded activities must meet and the requirement to ensure that a certain percentage of funds serve low income households.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ LMMI National Objective ✓ 25% Low Income Set Aside
Regulatory/Statutory Citations	<p>Title III of Division B of the Housing and Economic Recovery Act, 2008 (Pub. L. 110-289)</p> <p>Division A, Title XII of the American Recovery and Reinvestment Act of 2009 – Community Development Fund (Pub. L. 111-5)</p> <p>Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act: Additional Assistance for Neighborhood Stabilization (Pub. L. 111-203)</p> <p>Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008 – October 6, 2008 (FR-5255-N-01)</p> <p>Notice of Fund Availability (NOFA) for the Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act, 2009 – May 4, 2009 (FR-5321-N-01)</p> <p>Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants – October 19, 2010 (FR-5447-N-01)</p>
Other Reference Materials on This Topic	Chapter 3: National Objectives



19.8.1. LMMI National Objective

- ✓ 100% of NSP funds must meet the low/moderate/middle income (LMMI) National Objective as defined under NSP
 - LMMI is a person or household with an annual income less than 120 percent of the area median income based on the Section 8 Low Income Limit as established by HUD.
 - The LMMI National Objective requires NSP grantees to expend 100% of NSP funds on activities that benefit LMMI persons.
- ✓ The LMMI National Objective follows the same rules and requirements as the LMI National Objective under CDBG.
- ✓ “Low/mod job creation”, “slum/blight” and “urgent need” National Objectives are not applicable or allowed
- ✓ There are three categories that can be used to meet the LMMI national objective:
 - Housing activities
 - Area benefit activities; or
 - Limited clientele activities;
 - Job creation or retention activities are NOT eligible under NSP
- ✓ The housing category of LMMI benefit national objective qualifies activities that are undertaken for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by LMMI households. LMMH is the most common national objective under NSP.
- ✓ The area benefit category or LMMA is one that benefits all residents in a particular area, where at least 51 percent of the residents are LMMI persons. The activity must serve all the residents in a primarily residential area and may include a park or other public facility.
- ✓ Under the limited clientele category, 51 percent of the beneficiaries of an activity have to be LMMI persons. This category is used for special needs project and shelters and does not count toward the 25% low income targeting requirement described in the next section.
- ✓ Further information regarding how to document compliance with the LMMI national objective can be found in Chapter 3: National Objectives.

19.8.2. 25 Percent Low Income Set Aside

- ✓ NSP statute requires that no less than 25 percent of each grantee's total NSP allocation be used for the purchase and redevelopment of abandoned, foreclosed upon, vacant or demolished properties to house individuals or families whose incomes do not exceed 50 percent of area median income.
- ✓ In order to qualify for the 25 percent low income set aside, the activity:
 - Must be a housing activity, as defined by CDBG; and
 - Occupants must be at or below 50 percent area median income.
- ✓ The following Eligible Uses may count toward the 25 percent set aside requirement provided that the end use is housing and the occupant beneficiary is low income:



- *Eligible Use A: Financing Mechanisms*
- *Eligible Use B: Purchase and Rehabilitation*
- *Eligible Use C: Land Banks* only if operated as permanent rental housing for low income
- *Eligible Use E: Redevelopment*
- ✓ Non-residential property may be used towards the 25 percent set aside if the project is completed under Eligible Use E: Redevelopment and is turned into affordable housing.
- ✓ The 25 percent set aside applies to the overall grant allocation, not to the number of units created.
- ✓ Program income resulting from NSP1 and NSP3 activities is subject to the 25 percent set aside. HUD must publish a Notice to require that program income generated under NSP2 is subject to the 25 percent set aside; HUD expects to publish this Notice shortly and grantees should plan for it.

19.9 Long Term Affordability

- ✓ This section describes the rules and requirements to ensure long term affordability for NSP funded homeowner and rental projects if NSP grantees adopt the HOME long term affordability rules.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Long term affordability requirements for NSP rental and homebuyer projects ✓ HOME program rules for ensuring long term affordability
Regulatory/Statutory Citations	<p>Title III of Division B of the Housing and Economic Recovery Act, 2008 (Pub. L. 110-289)</p> <p>Division A, Title XII of the American Recovery and Reinvestment Act of 2009 – Community Development Fund (Pub. L. 111-5)</p> <p>Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act: Additional Assistance for Neighborhood Stabilization (Pub. L. 111-203)</p> <p>Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008 – October 6, 2008 (FR-5255-N-01)</p> <p>Notice of Fund Availability (NOFA) for the Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act, 2009 – May 4, 2009 (FR-5321-N-01)</p> <p>Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants – October 19, 2010 (FR-5447-N-01)</p>
Other Reference Materials on This Topic	<p>Basically HOME: Chapter 2: General Program Rules</p> <p>NSP Homebuyer Programs: Financing and Long Term Affordability</p>



- ✓ Under NSP, grantees are required to define how they will ensure long term affordability for all NSP funded housing projects.
- ✓ NSP grantees may adopt the HOME program long term affordability rules as a safe harbor or, with HUD approval the NSP grantee may impose more stringent standards. Most NSP grantees have elected to adopt the HOME rules for determining and tracking long-term affordability.
- ✓ If an NSP grantee adopts the HOME rules for long term affordability, the length of the affordability period is dictated by the amount of NSP investment per unit as described in the table below:

NSP Investment per Unit	Length of the Affordability Period
Less than \$15,000	5 years
\$15,000 to \$40,000	10 years
More than \$40,000	15 years
New construction of rental housing	20 years
Refinancing of rental housing	15 years

- ✓ The amount of investment per unit and therefore the length of the affordability period under the HOME rules depend on whether the project is a rental or a homebuyer project.

19.9.1. Rental Projects

- ✓ Under NSP, grantees are required to define 'affordable rents' in their NSP Action Plan. Rents must continue to remain "affordable" as defined by the NSP grantee in their NSP Action Plan for the entire affordability period.
- ✓ NSP assisted rental units must be occupied by LMHI households. Income eligibility is determined when the rental household occupies the property and must be verified again if and when an LMHI household leaves the unit and it is during the affordability period.
- ✓ If a unit is counted toward the 25% low income set aside, the unit must remain available to households \leq 50% AMI

19.9.2. Homebuyer Projects

- ✓ For NSP grantees that adopt the HOME long term affordability requirements, the grantee must select whether the homebuyer program is subject to resale or recapture requirements.
- ✓ Under the resale approach, the affordability period is based on the total HOME investment in the property and must include the total amount of NSP assistance to the homebuyer as well as the total amount of NSP funds provided to the developer.
- ✓ Under the recapture approach, the affordability period is based on the total amount of NSP assistance to the homebuyer. This is also known as the 'direct subsidy' and may include



down payment assistance, mortgage assistance, homeowner or title insurance, closing cost assistance, or assistance that reduces the purchase price for the homebuyer below market value.

- ✓ If there is no “direct subsidy” to the homebuyer than the grantee must select the resale requirement.

19.10 Other Requirements under NSP

- ✓ This section describes some other requirements under NSP including property standards; property purchase discounts, caps on the sales price for homebuyer units and tenant protection requirements.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Property standards under NSP ✓ Property purchase discount under NSP ✓ Caps on the sales price of homebuyer units ✓ Tenant protection requirements
Regulatory/Statutory Citations	<p>Title III of Division B of the Housing and Economic Recovery Act, 2008 (Pub. L. 110-289)</p> <p>Division A, Title XII of the American Recovery and Reinvestment Act of 2009 – Community Development Fund (Pub. L. 111-5)</p> <p>Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act: Additional Assistance for Neighborhood Stabilization (Pub. L. 111-203)</p> <p>Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008 – October 6, 2008 (FR-5255-N-01)</p> <p>Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008; Revisions to Neighborhood Stabilization Program (NSP) and Technical Corrections – June 19, 2009 (FR-5255-N-02)</p> <p>Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants – October 19, 2010 (FR-5447-N-01)</p>
Other Reference Materials on This Topic	<p>Guidance on NSP Tenant Protection Requirements Under the Recovery Act – Updated August 12, 2010</p> <p>Guidance on Allocating Real Estate Development Costs in NSP, January 13, 2011</p>



- ✓ *Tenant Protection Requirements:* Tenant protection requirements instated under ARRA require that all NSP grantees ensure that “bona fide” tenants in occupancy when property is acquired by initial successor in interest through foreclosure (usually lender) receive proper notification. The lender must provide 90 day notice to vacate to “bona fide” tenant occupants.
- ✓ *Appraisals:* Appraisals are required for purchases of foreclosed homes and properties and must be conducted within 60 days prior to final offer.
- ✓ *Purchase Discount:* Foreclosed properties acquired with NSP funding must be purchased at a 1% discount below the current appraised value of the property. The appraisal must be conducted within 60 days prior to the purchase of the property.
- ✓ *Property Standards:* NSP grantees must define the property standards that it will apply in its NSP Action Plan. NSP2 and NSP3 grantees are required to incorporate green building and energy efficiency improvements in their rehabilitation standards.
- ✓ *Homebuyer Counseling:* NSP-assisted homebuyers must complete at least 8 hours from HUD-approved counseling agency
- ✓ *Sales Price Cap:* The sales price of NSP assisted properties sold to eligible LMMI households cannot exceed the total development cost or the total hard and soft costs to acquire and rehabilitated the unit.

19.11 NSP Resources

The NSPTA Resource Exchange website is located at www.hudnsphelp.info and provides the following types of resources to help grantees and their partners implement NSP:

- ✓ Laws and Notices
- ✓ Policy Alerts and Guidance from HUD
- ✓ Frequently Asked Questions
- ✓ Toolkits including templates, sample forms and procedures, and guidebooks on designing NSP programs
- ✓ Ability to ask questions and submit requests for technical assistance
- ✓ Webinars including presentation, transcript, and recording
- ✓ Problem Solving Clinic presentations and handouts

Acronyms

NSP	Neighborhood Stabilization Program
NSP1	Round 1 of Neighborhood Stabilization Program Funding Authorized under Housing and Economic Recovery Act (HERA)



NSP2	Round 2 of Neighborhood Stabilization Program Funding Authorized under American Recovery and Reinvestment Act (ARRA)
NSP3	Round 3 of Neighborhood Stabilization Program Funding Authorized under Dodd-Frank Wall Street Reform and Consumer Protection Act
LMMI	Low Moderate Middle Income

CHAPTER 20: DISASTER RECOVERY (CDBG-DR)



CHAPTER PURPOSE & CONTENTS

This chapter provides a general overview of the CDBG Disaster Recovery program, including a brief synopsis of the history of the program, a summary of the objectives of the program, the rules and requirements of the program and a summary of the process for implementing Disaster Recovery activities.

SECTION	TOPIC
20.1	Program History & Primary Objective
20.2	CDBG-DR Regulations and Implementation
20.3	National Objective
20.4	Eligibility
20.5	Ineligible Activities
20.6	Duplication of Benefits
20.7	Waivers
20.8	Other Federal Requirements
20.9	Program Reporting and DRGR
20.10	Disaster Recovery Enhancement Fund (DREF)
20.11	Disaster Recovery Resources
20.12	Previous Appropriations
20.13	CDBG-DR Public Laws (Supplemental Appropriations) and Related Waivers

20.1 Program History & Primary Objective

✓ This section explains the history of the Disaster Recovery program and its goals.

Key Topics in This Section	<ul style="list-style-type: none">✓ Reason CDBG Disaster Recovery program was established✓ Program history and objectives
Regulatory/Statutory Citations	Public Law 93-288, as amended, 42 U.S.C. 5121-5207
Other Reference Materials on This Topic	Not applicable



- ✓ The CDBG Disaster Recovery program or CDBG-DR helps cities, counties, and States recover from Presidentially-declared disasters, especially in low-income areas.
- ✓ CDBG-DR funding is appropriated by Congress as a special CDBG appropriation in response to a disaster. The statutory authority for CDBG-DR funding is via individual supplemental appropriations to address specific disasters.
- ✓ Primary statutory authority permitting HUD & other federal agencies to assist State & local governments with their response and recovery responsibilities following major disasters and emergencies is provided as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.
- ✓ CDBG can fund a broad range of recovery activities and help communities and neighborhoods that otherwise might not recover due to limited resources.
- ✓ Currently, there are 45 active CDBG-DR grantees including 31 states and 14 local governments receiving a combined total of \$30.2 billion.
- ✓ Under CDBG-DR, HUD Headquarters has oversight responsibilities for large awards, while smaller grants are managed by the respective HUD CPD Field Office.
- ✓ CDBG-DR awards are noncompetitive and nonrecurring.
- ✓ To determine awards, HUD uses a formula that considers damage estimates and disaster recovery needs unmet by other Federal disaster assistance programs. This information is generally compiled by the Small Business Administration (SBA) and the Federal Emergency Management Agency (FEMA).

20.2 CDBG-DR Regulations and Implementation

- ✓ This section provides an overview of the CDBG-DR regulations and how they are implemented.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Regulatory basis for CDBG-DR ✓ Key regulatory requirements
Regulatory/Statutory Citations	See 21.13
Other Reference Materials on This Topic	Not applicable

- ✓ After Congress appropriates Disaster Recovery funding, HUD determines the awards and contacts the grantees to discuss their recovery plans and determine what, if any, waivers are required.
- ✓ HUD publishes the allocations, waivers, and any alternative requirements in a Federal Register Notice. Typically, most State CDBG regulations apply to state grantees; most Entitlement regulations apply to units of general local government receiving a direct award.
- ✓ Grantees draft and submit a disaster recovery action plan to HUD. Grantees generally use one of two methods (or a combination thereof) to administer CDBG-DR funding:
 - The grantee distributes funding to communities based on damage estimates and/or unmet needs; each community determines what types of activities to pursue in compliance with the Notice; or



- The grantee designs and administers the program directly.
- ✓ Most CDBG rules and principles apply—e.g., activities must be CDBG eligible (or allowed via the Notice) and meet a national objective. In addition, all activities must be located in a Presidentially-declared county and respond to a disaster-related impact.

20.3 National Objective

- ✓ This section describes the national objective requirements all CDBG-DR funded activities must meet.

Key Topics in This Section	✓ Three national program national objectives
Regulatory/Statutory Citations	Section 101(c), Section 104(b)(3), 105(c) §570.208
Other Reference Materials on This Topic	Chapter 3: National Objectives

- ✓ The authorizing statute of the CDBG program requires that each activity funded, except for program administration and planning activities, must meet one of three national objectives. This requirement also applies to CDBG-DR funding. The three national objectives are:
 - Benefit to low- and moderate- income (LMI) persons;
 - Aid in the prevention or elimination of slums or blight; and
 - Meet a need having a particular urgency (referred to as urgent need).
- ✓ For more detailed information regarding the national objectives of the program and selecting and documenting the appropriate national objective for activities funded by grantees, refer to Chapter 3 of this manual.

20.4 Eligibility

- ✓ This section describes the range of eligible grantees, beneficiaries and activities under CDBG-DR.

Key Topics in This Section	<ul style="list-style-type: none"> ✓ Eligible grantees under CDBG-DR ✓ Eligible beneficiaries under CDBG-DR ✓ Eligible activities under CDBG-DR ✓ Typical methods for undertaking CDBG-DR eligible activities
Regulatory/Statutory Citations	Public Law 93-288, as amended, 42 U.S.C. 5121-5207 24 CFR 570.482
Other Reference Materials on This Topic	Not applicable

20.4.1. Eligible Grantees

- ✓ Under most CDBG-DR appropriations, funds may be made available to States, units of general local government, Indian tribes, or insular areas.



- ✓ Grantees must have significant unmet recovery needs and the capacity to carry out a disaster recovery program.
- ✓ Supplemental appropriations may restrict funding to certain timeframes, or within certain localities.

20.4.2. Eligible Beneficiaries

- ✓ CDBG-DR funds can be used to assist many types of beneficiaries in a variety of ways. Funds can be provided to:
 - Families with housing needs,
 - Non-profits providing public services,
 - Businesses with economic development or revitalization needs, and
 - Local governments with planning or infrastructure needs.
- ✓ Generally, grantees must use 50 percent of their CDBG-DR award for activities that benefit low- and moderate-income persons.

20.4.3. Eligible Activities

- ✓ Most CDBG-DR appropriations require funds to be used for: “...*necessary expenses for activities...related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas...*”.)
- ✓ Thus, each activity must:
 - be CDBG eligible (or allowed via a waiver),
 - address a disaster-related impact in a Presidentially-declared county, and
 - meet a national objective.
- ✓ Disaster-related activities are those that demonstrate (1) a logical connection to the disaster, and (2) how the activity will contribute to long-term recovery.
 - Grantees must determine what documentation is sufficient and reasonable to show how activities respond to a disaster-related impact.
- ✓ Activities generally fall into one of the following categories:
 - Housing. E.g., activities that restore and/or improve the housing stock such as new construction (typically allowed via a waiver) or rehabilitation/reconstruction. This includes activities for single family or multifamily housing, either owner-occupied or rental.
 - Restoration of infrastructure. E.g., activities that rebuild or replace affected public facilities or improvements. Typical activities include the rehabilitation of schools, health care centers, water or wastewater facilities, drainage improvements, etc.
 - Economic Revitalization. E.g., activities that address job losses, and negative effects to tax revenues or businesses. This may include job training and workforce development, loans and grants to businesses, or improvements to commercial/retail districts.
- ✓ Eligible activities include, but are not limited to:
 - Constructing new housing for residents located in a floodplain;



- Buying severely damaged structures and relocating the affected household or business out of harm's way;
- Debris removal (not covered by another source, such as FEMA);
- Rehabilitation of homes or buildings damaged by the disaster;
- Constructing or rehabilitating public facilities or improvements (e.g., streets, neighborhood centers, and water/sewer/drainage systems);
- Code enforcement;
- Homeownership assistance (e.g., down payment assistance, interest rate subsidies, and loan guarantees);
- Public services (generally limited to no more than 15 percent of the grant);
- Helping businesses retain or create jobs; and
- Planning and administration activities (limited to no more than 20 percent of the grant).

20.5 Ineligible Activities

✓ This section describes activities that are not eligible under CDBG-DR.

Key Topics in This Section	✓ Ineligible activities under CDBG-DR
Regulatory/Statutory Citations	Public Law 93-288, as amended, 42 U.S.C. 5121-5207
Other Reference Materials on This Topic	Not applicable

✓ An activity is ineligible if it meets any one of the following criteria:

- Is not located in a Presidentially-declared county;
- Does not respond to a disaster-related impact;
- Is explicitly prohibited by the appropriation law;
- Is ineligible under the applicable CDBG regulations (and a waiver has not been granted); or
- Fails to meet a national objective.

✓ Activities that are *solely* for mitigation or preparedness are typically ineligible (e.g., construction of new shelters where none previously existed). While these activities may help communities during future disasters, they often fail to demonstrate a connection to the disaster for which funding was appropriated (as required by the CDBG-DR appropriation laws). In addition, other Federal agencies provide funds specifically for mitigation and preparedness (e.g., FEMA's Hazard Mitigation Grant Program).

- CDBG-DR grantees *are* encouraged to incorporate preparedness and mitigation into their rebuilding practices to ensure structures are safer and stronger.

✓ Purchasing equipment is typically ineligible.



- The following equipment is typically ineligible under CDBG-DR: mobile command centers, radios, or portable lights.
- Some equipment may be eligible. This includes:
 - Fire protection equipment considered to be an integral part of a public facility,
 - Equipment that constitutes all or part of a public service, or
 - Equipment that is attached to a structure and becomes an integral fixture.

20.6 Duplication of Benefits

- ✓ This section describes the duplication of benefits rules that apply to CDBG-DR under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Key Topics in This Section	✓ Duplication of benefits under CDBG-DR
Regulatory/Statutory Citations	§ 312 [42 U.S.C. § 5155]
Other Reference Materials on This Topic	Duplication of Benefits Notice 76 FR 71060

- ✓ CDBG-DR funding is subject to the rules of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the “Stafford Act”), including rules related to duplication of benefits (DOB).
- ✓ The Stafford Act seeks to guard against fraud and ineligible use of taxpayer funding; it also is designed to ensure that federal assistance (and specifically, CDBG-DR funds) is the last source of recovery funding—made available after all other forms of disaster assistance have been exhausted.
- ✓ The Stafford Act prohibits any person, business, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which he has received financial assistance under any other program or from insurance or any other source.
 - Grantees must ensure that activities provide assistance only to the extent that a disaster recovery need has not been fully met.
 - Disaster assistance may come in the form of donations, insurance proceeds, volunteer work, and state or local funds. It also includes assistance received from FEMA, the SBA, or the U.S. Army Corps of Engineers.
- ✓ Examples
 - Assume the cost to rehabilitate a home following a disaster is \$50,000 and the homeowner receives \$50,000 from private insurance. Any CDBG-DR funding provided to the homeowner for rehabilitation would be considered a DOB because the homeowner had already received sufficient assistance to meet the need.
 - Assume FEMA provides \$500 for debris removal but the actual cost is \$850, CDBG-DR funds may be used to cover the difference.



- ✓ Assistance is duplicative when two sources exceed need for the same recovery item. Assistance is *not* duplicative when two sources contribute to the same need, but the total assistance did not exceed the total need. Even if a grantee attempts to design disaster relief programs to avoid all potential DOB issues, the grantee cannot deem any recipients categorically exempt from DOB calculations. The grantee must perform case-by-case examinations of available benefits.
- ✓ Grantees may determine the best method for avoiding or identifying potential DOB issues. Grantees should have a process in place to check for all assistance applied for and/or previously received as well as a process for re-examining benefits that may be received over time (e.g. insurance proceeds). Typically, a grantee will require the following information from an applicant:
 - All assistance sought or received, including insurance, loans and grants,
 - A signed affidavit that indicates (1) the applicant acknowledges the DOB requirements and his obligation to report all funding he has received, and (2) the grantee may inquire about other assistance received (e.g. from the insurance company or FEMA), and
 - A signed subrogation agreement.
- ✓ Wherever possible, grantees should seek third party documentation of disaster needs and assistance received.
- ✓ Generally, the agency responsible for duplicating assistance is required to collect the duplication.

20.7 Waivers

- ✓ This section describes how statutory waivers may be provided by HUD.

Key Topics in This Section	✓ Statutory waivers under CDBG-DR
Regulatory/Statutory Citations	See Section 21.13
Other Reference Materials on This Topic	Not applicable

- ✓ Via the CDBG-DR appropriation laws, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers (so long as the Secretary finds that the waiver would not be inconsistent with the overall purpose of Title I of the Housing and Community Development Act of 1974).
 - The Secretary may not waive requirements related to fair housing, nondiscrimination, labor standards, or the environment.
 - Waiver requests should explain why the waiver is necessary for the grantee's recovery. Waiver requests will be reviewed on a case-by-case basis.
- ✓ As it is required by each appropriation law, HUD may not waive the requirement that funds be used for necessary expenses related to the disaster.



20.8 Other Federal Requirements

- ✓ This section describes how other federal requirements apply under CDBG-DR.

Key Topics in This Section	✓ Other Federal Requirement Waivers under CDBG-DR
Regulatory/Statutory Citations	Public Law 93-288, as amended, 42 U.S.C. 5121-5207
Other Reference Materials on This Topic	Chapter : Other Federal Requirements

20.8.1. Valuation

- ✓ Payment of pre-flood values for buyouts may be based on either pre-flood or post-flood values for the acquisition of properties located in a flood way or floodplain.
- ✓ In using CDBG disaster recovery funds for such acquisitions, the grantee must uniformly apply whichever valuation method it chooses.

20.8.2. One for one replacement waiver

- ✓ One-for-one replacement requirements are waived for low- and moderate-income dwelling units: (1) damaged by the disaster, (2) for which CDBG funds are used for demolition, and (3) which are not suitable for rehabilitation.
- ✓ This encourages recovery by easing requirements for acquiring, converting, or demolishing disaster- damaged housing.

20.8.3. Relocation Assistance Waiver

- ✓ Section 104(d) relocation assistance requirements are waived to the extent they differ from the URA and its regulations at 49 CFR 24 following waivers to buyouts and other activities covered by the URA and related to disaster recovery housing activities assisted by the funds covered by FR-5250-N-01 and included in an approved Action Plan.
- ✓ This simplifies project administration where residential relocation of low-income persons is necessary since only one replacement housing calculation is required (URA) and eliminates potential disparity between persons displaced by projects funded by other federal agencies not subject to 104(d).

20.9 Program Reporting and DRGR

Key Topics in This Section	✓ Other Federal Requirement Waivers under CDBG-DR
Regulatory/Statutory Citations	24 CFR 570.490
Other Reference Materials on This Topic	Chapter X: Other Federal Requirements

- ✓ CDBG-DR program reporting is done through the Disaster Recovery Grant Reporting (DRGR) system rather than IDIS.



- ✓ Standard CDBG reporting rules typically apply to CDBG-DR awards (e.g., grantees must retain records for 3 years following grant closeout).
- ✓ DRGR training documents, guides, and materials can be found here:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/drsg/drgrs

20.10 Disaster Recovery Enhancement Fund (DREF)

- ✓ This section provides an overview of the Disaster Recovery Enhancement Fund.

Key Topics in This Section	✓ Overview of the Disaster Recovery Enhancement Fund
Regulatory/Statutory Citations	Federal Register Notice 74 FR 41146
Other Reference Materials on This Topic	Allocation Method for CDBG Disaster Recovery Enhancement Fund (P.L. 110-329)

- ✓ Public Law (P.L.) 110-329 appropriated \$6.1 billion for CDBG-DR. After making initial awards, HUD set-aside \$311,602,923 for the Disaster Recovery Enhancement Fund (DREF).
- ✓ P.L. 110-329 grantees could receive additional funding via the DREF if they: (1) demonstrated they still had eligible, unmet disaster recovery needs, and (2) planned to undertake certain types of activities. These “DREF-eligible” activities included (and were limited to):
 - Development and adoption of a forward-thinking land-use plan;
 - Buyout programs for floodplain, critical fire, or seismic areas;
 - Individual mitigation measures to improve residential properties and make them less prone to damage; and
 - Implementation of modern disaster resistant building codes, including, but not limited to, training on new standards and code enforcement.
- ✓ Funds were allocated dollar-for-dollar for the first \$15 million budgeted for enhanced disaster recovery activities. States that budgeted more than \$15 million were eligible for more assistance based on a pro-rata calculation.
- ✓ The following grantees received DREF allocations:

State	DREF Allocation
Iowa	\$ 92,167,641
Texas	\$ 55,481,416
Louisiana	\$ 34,522,022
Florida	\$ 26,894,183
Illinois	\$ 24,508,755
Indiana	\$ 24,163,830
Wisconsin	\$ 15,286,364
California	\$ 15,000,000



Puerto Rico	\$ 12,000,000
Mississippi	\$ 5,438,712
Missouri	\$ 5,000,000
Georgia	\$ 640,000
Kentucky	\$ 500,000
Total	\$ 311,102,923

- ✓ These grantees are monitored to ensure the amount of funds they dedicated to DREF does not decrease.

20.11 Disaster Recovery Resources

The following Disaster Recovery resources are available for CDBG-DR grantees:

- ✓ CDBG Disaster Recovery website:
<http://www.hud.gov/offices/cpd/communitydevelopment/programs/drsi/index.cfm>
- ✓ Relevant Public Laws (appropriations), Federal Register Notices, and Related Resources:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/drsi/afwa
- ✓ Your peer CDBG-DR grantees
- ✓ Your HUD CPD representative

20.12 Previous Appropriations

- ✓ Congress has appropriated the following CDBG Disaster Recovery Funding:
 - **FY 1993** - \$85 million to assist with recovery from Hurricanes Andrew, Iniki, and Typhoon Omar
 - **FY 1994** - \$425 million to assist with recovery from the earthquake in Southern California and Midwest floods
 - **FY 1994** - \$180 million to assist with recovery from Tropical Storm Alberto
 - **FY 1994** - \$225 million for the Northridge Earthquake
 - **FY 1995** - \$39 million to assist with recover from the Oklahoma City bombing
 - **FY 1996** - \$50 million to assist recovery from multiple disasters
 - **FY 1997** - \$500 million to assist recovery from upper Midwest floods
 - **FY 1998** - \$130 million to assist recovery from multiple disasters
 - **FY 1999** - \$20 million to assist recovery from multiple disasters



- **FY 2001** - \$700 million to assist post-September 11th New York City's recovery efforts
- **FY 2002** - \$2.783 billion to assist post-September 11th New York City's recovery efforts
- **FY 2005** - \$150 million to assist recovery from multiple disasters
- **FY 2006** - \$16.7 billion to assist the victims of Hurricanes Katrina, Rita, and Wilma
- **FY 2008** - \$3.0 billion to supplement the Louisiana homeowner assistance program
- **FY 2008** - \$300 million to assist recovery from the Midwest floods
- **FY 2008** - \$6.1 billion to assist recovery from all 2008 disasters, including Hurricanes Ike, Gustav and Dolly
- **FY 2010** - \$100 million to assist recovery from 2010 severe storms and flooding
- **FY 2012** - \$400 million to assist recovery from multiple disasters occurring in 2011

20.13 CDBG-DR Public Laws (Supplemental Appropriations) and Related Waivers

- ✓ Public Laws (Appropriations), Federal Register Notices, and Related Resources can be found here:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/drsi/afwa

Acronyms

CDBG-DR	Community Development Block Grant Disaster Recovery Program
DOB	Duplication of Benefits
DREF	Disaster Recovery Enhancement Fund
DRGR	Disaster Recovery Grant Reporting System
FEMA	Federal Emergency Management Administration
SBA	Small Business Administration