

USING CDBG FOR PUBLIC FACILITIES IN CORONAVIRUS RESPONSE

The COVID-19 pandemic has led to economic, health, and social hardships for millions of people and a new awareness of the changes needed to reduce pandemic impacts in the future. The CDBG Coronavirus (CDBG-CV) response grants, provided as supplemental funding to CDBG grantees under the CARES act, can fund a wide range of community development activities to help communities prevent, prepare for, and respond to the direct and indirect effects of the current COVID-19 pandemic and to mitigate future risks. The CARES Act also waived certain regulatory requirements for CDBG and other Federal programs. Both CDBG and CDBG-CV funds can be used by grantees to create, expand, or enhance public facilities that may provide medical care, social services, and emergency housing in response to the current pandemic while increasing their long-term resiliency and ability to mitigate future coronavirus outbreaks. It is important to note that, with few exceptions, the expansion or enhancement of buildings for the general conduct of government is ineligible.

Existing public facility structures can be modified to prevent the transmission of the coronavirus and allow for adequate social distancing or remote access. Public infrastructure improvements can also help alleviate the immediate or long-term social, economic, and public health impacts of the current COVID-19 pandemic and prevent the coronavirus's future spread.

When deciding the best approach to respond to the coronavirus' extraordinary local impact, grantees will find an array of resources to draw upon and a diversity of approaches. Building, acquiring, or improving public facilities is one such approach.

Other Federal, state, and local resources available to acquire or improve public facilities include the CARES Act Coronavirus Relief Fund; the Coronavirus Recovery Funds in the American Rescue Plan; the Federal Emergency Management Agency (FEMA) Disaster Relief Fund; Emergency Solutions Grants (ESG); and public housing, Housing Opportunities for Persons with AIDS (HOPWA), and United States Department of Agriculture (USDA) Rural Housing Service programs. These other funding sources may not meet every need and may not be available to every community. This guide discusses how CDBG-CV funds can fill in the gaps left by other funding programs. It provides examples of how grantees may use CDBG-CV funds to improve public facilities to prevent, prepare for, and respond to the coronavirus now and in the future. It is intended to help grantees select and implement CDBG-CV-funded public facility projects.

PUBLIC FACILITY projects can include, for example:

- Medical facilities,
- Non-congregate shelters,
- Childcare facilities, and
- Day-use centers.

PUBLIC INFRASTRUCTURE projects can include, for example:

- Installation of broadband to enable remote access, and
- Redesign of public sidewalks in front of local businesses to encourage social distancing.

USING CDBG-CV FUNDS FOR PUBLIC FACILITIES

The term "public facilities" is broadly interpreted under CDBG to include publicly accessible facilities that are owned by public entities or nonprofit organizations such as libraries, community centers, and places

where people receive services. Public facilities also include places that provide temporary or specialized shelter such as emergency shelter, nonprofit or publicly owned nursing homes or residential medical facilities, or other types of short-term or transitional shelter. The public facilities activity category is generally intended to address the physical costs of improving the facility rather than provide support for operating costs or services that may be provided within the facility. Grantees may, however, also fund the operation of some public facilities as a public service using CDBG-CV or CDBG.

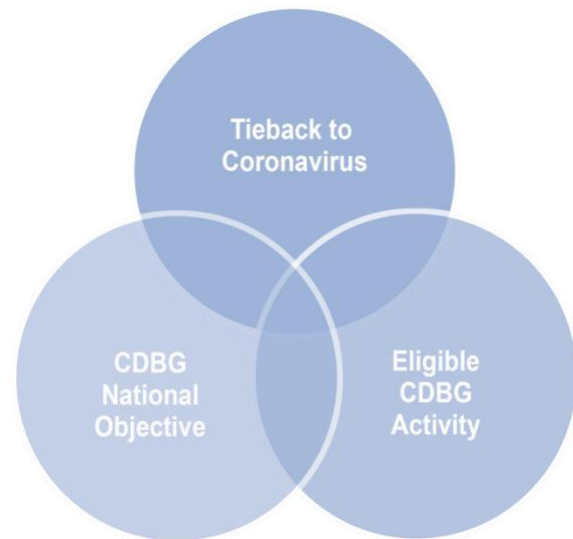
Each CDBG-CV-assisted public facility activity must meet the following three criteria. Additional CDBG-CV requirements also apply and are described in subsequent sections.

1. Eligible Costs

Acquisition, rehabilitation, construction, and reconstruction are all eligible public facility costs. Grantees may, in some cases, also support the operation of a public facility as a public service activity separate from or in concert with a capital investment. For instance, CDBG-CV funds can be used to pay the operation costs of a non-congregate homeless shelter.

Grantees must evaluate if the activity will meet duplication of benefit requirements for use of CDBG-CV funds.

Grantees must have documented policies and procedures for preventing duplication of benefits. Additional information is available below and in [CDBG Coronavirus Response Grantee Resources Related to Preventing Duplication of Benefits](#).



2. Tieback to Coronavirus

The proposed project must be designed to *prevent, prepare for, or respond to* the coronavirus. Grantees must document this relationship, often referred to as the "tieback," by documenting a logical relationship between the benefits of the assisted activity and the effects of the coronavirus. This tieback may relate to the current pandemic and may also relate to mitigating potential future coronavirus pandemic impacts. A grantee may also undertake activities to address the indirect effects of the virus, such as the economic and housing market disruptions caused by social distancing measures and stay-at-home orders implemented to prevent the spread of coronavirus.

3. CDBG National Objective

The project must meet one of the three CDBG national objectives:

- Benefit low- and moderate-income persons.
- Meet community development needs having a particular urgency (urgent need).
- Aid in the prevention or elimination of slums or blight.

Benefit low and moderate (L/M)-Income Persons: Public facilities that serve the public at large can meet the L/M income benefit national objective on an area basis (LMA). These public facilities must have:

- A service area that is primarily residential.
- At least 51 percent of households in the service area that are L/M-income.

Public facilities that serve a specific L/M-income population may meet L/M-income benefit on a limited clientele basis (LMC). These public facilities activities must either:

- Benefit a specific group presumed to be L/M income within CDBG regulations.
- Be able to document that 51 percent or more of persons they serve are L/M-income.
- Have, due to their nature and location, clientele who are primarily L/M-income.

*Urgent Need*¹: Public facility and public infrastructure improvements may qualify by meeting the Urgent Need national objective if they alleviate emergency conditions that pose a serious and immediate threat to the health or welfare of the community. Grantees must document that they are unable to finance the activity on their own and that other funding sources are not available.

Slums or Blight: The requirement that CDBG-CV funds be used to prevent, prepare for, and respond to the coronavirus makes it unlikely that a public facilities activity would also be able to meet the Slums or Blight requirement that the activity address specific conditions that lead to slums or blight.

Please see the [Guide to National Objectives and Eligible Activities for CDBG Entitlement Communities](#) for additional information on how to select an appropriate national objective.

Regardless of the national objective met, at least 70 percent of a grantee's CDBG-CV funds must be spent on activities that meet the CDBG national objective of benefitting low- and moderate-income people.

PUBLIC FACILITY AND INFRASTRUCTURE IMPROVEMENTS THAT RESPOND TO CORONAVIRUS

Grantees are encouraged to undertake public facility and infrastructure projects that both address immediate community needs and mitigate the effects of future coronavirus occurrences. Public rights-of-way and outdoor recreational facility improvements, for example, can be an effective way of addressing the immediate indirect impacts of the current COVID-19 pandemic while creating long-term spaces designed to reduce the transmission of future coronaviruses.

The following table provides examples of public facility and infrastructure projects that can be financed with CDBG-CV funds. In addition to common public-facility-eligible activity categories, the table also identifies improvements that promote remote access, which includes a range of technology improvements that promote social distancing and measures to reduce the transmission of the virus in enclosed spaces. Eligible costs under public facilities include permanent physical changes to facilities rather than temporary changes or portable equipment.

¹ The CDBG-CV notice, 85 Fed Reg 51457, provides waivers that streamline the documentation for activities that are designed to meet the urgent need national objective.

Table 1: Potential Public Facility and Infrastructure Projects

POTENTIAL PUBLIC FACILITY AND INFRASTRUCTURE PROJECTS	PREVENT	PREPARE	RESPOND	LAND ACQUISITION	BUILDING ACQUISITION	CONVERSION	CONSTRUCTION/ REHAB	SITE IMPROVEMENTS	REMOTE ACCESS
	CORONAVIRUS TIEBACK			CDBG-CV ELIGIBLE USE					
Medical Facilities and Clinics		X	X	X	X	X	X	X	X
Creation or modification of buildings to provide medical facilities for testing, treatment, recovery, or isolation; or to establish separated areas or remote access to appropriately treat people who have been diagnosed or exposed to the coronavirus. Creation or modification of residential facilities for people recovering from COVID-19.									
Emergency Shelters	X	X		X	X	X	X		
Creation, expansion, or modification of emergency shelters, auxiliary congregate shelter space, and non-congregate facilities for people experiencing homelessness to provide shelter options that allow for physical distancing within the shelter system and prevent the current and future spread of the coronavirus.									
Non-Congregate Shelter	X	X	X	X	X	X	X	X	
Acquisition and modification of underutilized structures such as motels and schools to create shelter for people experiencing homelessness and for individuals and households unable to practice social distancing due to overcrowding or shared living spaces. This model could also be used to support the development of related short-term shelter for medical workers or vulnerable populations who need to be isolated to avoid contracting the virus. Residential uses that provide permanent housing may be eligible as a CDBG housing activity rather than as a public facility activity.									
Day-Access Centers	X	X		X	X	X	X	X	
Creation, expansion, or modification of day-access centers to meet social distancing requirements and prevent the spread of the coronavirus. Such facilities include centers for people experiencing homelessness, neighborhood centers, senior centers, or other places that serve low- and moderate-income households or people who are presumed to be low-income.									
Social Service Facilities	X	X		X	X	X	X		X
Expansion or modification of social service facilities to meet social distancing requirements and to enable remote access that would make these facilities safe for both clients and employees. Examples include reconfiguration of reception areas and meeting rooms; conversion of open office spaces; improving heating, ventilation, and air conditioning (HVAC) to reduce transmission risks; and technology upgrades to provide services remotely.									

POTENTIAL PUBLIC FACILITY AND INFRASTRUCTURE PROJECTS	PREVENT	PREPARE	RESPOND	LAND ACQUISITION	BUILDING ACQUISITION	CONVERSION	CONSTRUCTION/ REHAB	SITE IMPROVEMENTS	REMOTE ACCESS
	CORONAVIRUS TIEBACK			CDBG-CV ELIGIBLE USE					
Childcare Facilities	X	X	X	X	X	X	X	X	
Creation, expansion, or modification of childcare facilities to encourage social distancing and reduce the transmission of the virus. Activities that address the effects of the current pandemic and mitigate the future spread of a coronavirus could include HVAC improvements, plumbing upgrades to improve sanitation, and the creation or improvement of outdoor spaces for childcare programs.									
Crisis Call Centers		X	X	X	X	X	X		X
Expansion, modification, or upgrade of existing call-in centers in response to the growing number of people in danger from suicide, substance abuse, domestic violence, and neglect and abuse of children due to social isolation measures enacted to prevent the spread of the coronavirus. Building renovations designed to improve interior air quality and ensure social distancing as well as permanently affixed technology upgrades to buildings to enable remote access are eligible public facility activities. Moveable equipment would not be an eligible public facility cost.									
Internet Access		X	X				X		X
Extension of reliable, high-speed internet access to underserved low- and moderate-income areas to enable or improve remote access to schools, jobs, and healthcare and thereby reduce the transmission of the virus. Infrastructure improvements include the installation of permanent high-capacity fiber-optics, fixed wireless, digital subscriber line (DSL), or cable in publicly assessable areas. Moveable equipment is not an eligible public facility cost.									
Public Rights-of-Way	X	X	X				X	X	X
Creation of outdoor space that allows safe, socially distanced activity in areas where pedestrian volume is likely to be high and pedestrian space is limited. CDBG-CV funds can be used to close lanes of traffic and repurpose on-street parking or underused parking by constructing permanent barriers such as railings, fences, or planter boxes; by constructing permanent canopies or awnings; by establishing appropriately spaced seating; and by improving lighting.									
Outdoor Recreational Facilities	X	X					X	X	X
Transformation of local streets into "neighborhood greenways" that welcome pedestrians and bicyclists while limiting vehicles to local traffic, providing additional space for outdoor activity, and encouraging physical distancing. CDBG-CV funds can be used for the purchase and installation of new gates, for removing architectural barriers that restrict the accessibility or mobility of elderly or disabled persons, for realigning and									

POTENTIAL PUBLIC FACILITY AND INFRASTRUCTURE PROJECTS	PREVENT	PREPARE	RESPOND	LAND ACQUISITION	BUILDING ACQUISITION	CONVERSION	CONSTRUCTION/ REHAB	SITE IMPROVEMENTS	REMOTE ACCESS
	CORONAVIRUS TIEBACK			CDBG-CV ELIGIBLE USE					
narrowing roadways, for expanding existing trail systems, and for repurposing surplus parking areas to allow outdoor recreational activity.									
Improvements to Buildings for Accessibility and Remote Access to Public Meetings	X	X					X	X	X
Physical modifications to improve access to buildings for people with disabilities is an allowed use of CDBG funds. Improvements such as automatic doors, touchless water fountains, and accessible bathrooms also reduce coronavirus transmission. Permanent improvements to enable remote video access to public and community meetings for public participation also increase access for persons with disabilities and mitigates coronavirus risks.									

These example projects may require the acquisition and renovation of land or buildings to repurpose them as public facilities or the modification of existing public facilities through various technology, structural, or site upgrades including:

- Reconfiguration of interior space to reinforce social distancing recommendations.
- Interior physical barriers such as clear plexiglass in public areas.
- Ventilation systems (i.e., high-efficiency particulate air [HEPA] filters, air purifiers, dehumidifiers).
- Temperature, humidity, and air quality sensors to reduce airborne transmission.
- Stand-alone sinks or handwashing areas.
- Replacement of fixed windows with operable windows.
- Accessibility improvements for persons with disabilities that reduce contact.
- Installation of drive-through or walk-up windows.
- Technology improvements, such as fiber-optic lines and ethernet cabling to support remote access.
- Modification of roadways and sidewalks to allow for social distancing.
- Creation of outdoor areas with shade covers and seating that ensure physical distancing.
- Exterior physical barriers such as fencing or planters.

PROJECT SELECTION CONSIDERATIONS

There are several factors for the grantee to consider after it has been determined that a project is an eligible activity; that it prevents, prepares for, or responds to the impacts of the pandemic; and that it meets a CDBG national objective. These include:

- Community Need:** Does the project address an identified housing, economic, or community development need? Is it a priority need? Are there gaps in the availability of and accessibility to facilities and improvements when compared to a larger area? How does the project compare to other potential uses of funds? Consider how effective it will be in:
 - Reducing the risk of individuals contracting or further spreading the coronavirus (prevent).
 - Keeping people healthy by reducing their risk of exposure to the virus or avoiding or slowing the spread of disease (prepare for).
 - Mitigating the social, economic, and public health impacts of the pandemic (respond to).
- Cost Reasonableness:** Is the cost of the project reasonable? Are CDBG-CV funds being used efficiently and effectively? Can CDBG-CV funds be used to leverage other public and private resources? Can the resources be expended within the time limitations for CDBG-CV funds?
- Timing of the Project:** The development of public facilities can be complicated, often requiring multiple funding sources, competitive bidding, detailed architectural plans, extensive public review, and lengthy permitting processes. Depending upon the scale, it can take years to complete some projects. Given these challenges, can the project be completed in time to address the intended purpose? How will the timing enable the grantee to meet the requirement to expend 80 percent of CDBG-CV grant funds within three years?
- Ongoing Use of the Facility:** Once completed, how long will the facility be used for its intended purpose? If converted for another purpose once it is no longer used for its specific purpose, will the new use remain in compliance with CDBG regulations? Additional information on the potential reuse of public facilities financed with CDBG-CV funds is included below in the "Use of the Public Facility after the Pandemic" section.
- Duplication of Benefits:** The Robert T. Stafford Disaster Relief and Emergency Assistance Act, PL 100-70, as amended, prohibits the duplication of benefits when using federal funds where other financial assistance has already been provided or will be provided for the same purpose, regardless of the funding source. As federal disaster assistance, the Stafford Act applies to the use of CDBG-CV funds.



This is a significant requirement that should be considered when developing a project budget. Grantees must have documented policies and procedures for preventing duplication of benefits.

Additional information is available in [CDBG Coronavirus Response Grantee Resources Related to Preventing Duplication of Benefits](#).

- **Operational Capacity:** Does the grantee or its subrecipient have the organizational capacity and funding needed to operate the facility once the project is completed? Will additional funds (often an eligible public service activity) be required?

ACQUISITION, CONSTRUCTION, AND REHABILITATION ACTIVITIES

Public facilities projects will involve the grantee acquiring or improving real property. Improvements may include a variety of construction or rehabilitation of existing structures as described in the previous section. While some grantees have extensive experience implementing public facility projects, the process may be new to others. Grantees with limited experience should start with simple physical improvement or acquisition projects rather than complex projects involving substantial rehabilitation and/or new construction. When another entity such as a subrecipient, another public entity, or even another division within the grantee's own organization is completing the project, it is critical for the grantee to be in close coordination from beginning to end. This section outlines the major steps necessary for successful implementation of a public facilities project. It also describes some of the "cross-cutting" requirements of federal grants and HUD programs, and lists additional US Department of Housing and Urban Development (HUD) resources.

Acquisition

CDBG-CV funds are well suited to support the acquisition of existing buildings that can be used as facilities to address the impacts of the coronavirus. Acquisition of real property requires a significant investment of time and a good deal of expertise. It is critical that grantees are diligent in managing the high-risk nature of acquiring real property.



- **Project Scope and Property Identification:** Grantees should have a clear sense of the end use of the property first and identify a suitable site second. A site search should be informed by the stated need. Clear criteria should be developed for the property.
- **Early Due Diligence:** Once a property and its potential use have been identified (and the property owner has expressed a willingness to sell), grantees should assess the condition of the property, evaluate the financial feasibility of acquiring and improving the property, document any potentially displaced residential or commercial tenants, and develop a scope of necessary rehabilitation.
- **Option Agreement and Predevelopment Activity:** Grantees are encouraged to execute a non-binding option agreement which establishes a period of further due diligence, the acquisition process, environmental review requirements, the prohibition of site-limiting activities, and limitations on the removal of tenants.
- **Property Acquisition:** Grantees must finalize the purchase of the property, [relocate displaced tenants](#), and complete required building and site improvements or—if it is to be transferred to a nonprofit service provider or subrecipient—finalize the sale or lease of the property. In the event the use of the facility changes after the pandemic ends, grantees must re-evaluate the CDBG

eligibility of the new use as detailed later in this guide. It is important to note that if a grantee directly acquires property, that property will be identified as CDBG-assisted and must meet a national objective as long as the grantee owns the property, or the grantee may be required to reimburse its CDBG program for the fair market value of the property. As properties appreciate over time, this can become a significant financial risk to the grantee. Subrecipients acquiring property with CDBG assistance can have a shorter compliance period. Additional information about changes in use of a property can be found later in the guide.

Construction and Rehabilitation

CDBG-CV funds can also be used for new construction, substantial rehabilitation or conversion, and minor structural rehabilitation as they relate to public facilities. While several CDBG-CV waivers have been authorized by the CARES Act, many of the general requirements of the CDBG program remain in place.



- **Project Selection and Scoping:** While a broad array of improvements are eligible uses of CDBG funds and could meet a national objective, grantees must tie any improvements using CDBG-CV to the prevention of, preparation for, or response to the coronavirus requirements of the CARES Act. Project scoping—the identification of project goals, deliverables, tasks, costs, and deadlines—is a critical step given the multiple regulatory requirements associated with the use of CDBG.
- **Planning and Design:** Further develop a detailed scope of work and specifications prior to seeking construction proposals. These services are typically provided by a licensed architect with experience in the type of project that is planned. This will help grantees ensure they include the entire scope of work in the environmental review that must be completed prior to moving forward. The level of substantial rehabilitation or a change of use can trigger a higher level of environmental review.
- **Procurement:** The grantee is typically responsible for procurement of the contractor. When grantees are working with a subrecipient organization, that organization may be responsible for contractor procurement. Specific Federal and local procurement must be followed and incorporated into bidding processes and agreements, and grantees must incorporate all [labor standards](#) and [Section 3](#) requirements. No waivers related to CDBG procurement requirements are available.
- **Construction:** Once a contractor is selected and work is underway, it is critical to monitor progress and meet labor requirements. Grantees will need to consider how to incorporate social distancing requirements for construction workers, inspections, and other labor requirements.

See the HUD video series on [How to Use CDBG for Public Facilities and Improvements](#) for more information.

OTHER PROGRAM AND FEDERAL REQUIREMENTS

There are many Federal requirements that must be applied when developing a public facility project. Several of the more significant are noted below to provide general guidance to grantees unfamiliar with the process.

- **Environmental Review:** The appropriate level of environmental review must be conducted prior to any site-limiting action or the execution of any binding agreement with a property seller, partner agency, or contractor. The [HUD COVID-19 environmental review memo](#) (issued on August 6, 2020) provides specific information and examples of the levels of environmental review required for different types of projects. Grantees are encouraged to work with their HUD field office and environmental review specialist to ensure they are conducting the correct level of review for their projects.
- **Acquisition and Relocation:** All URA Acquisition and Relocation requirements apply to CDBG-CV projects. In addition, grantees should consider any additional Federal or state protections that may be in place to reduce displacement related to the coronavirus. See the [Tenant Assistance, Relocation, and Real Property Acquisition Handbook \(1378.0\)](#) for specific requirements.
- **Fair Housing and Equal Opportunity:** The grantee 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. See [Basically CDBG – Chapter 19: Fair Housing, Accessibility, and Equal Employment](#) for guidance.
- **Labor Requirements:** All Davis-Bacon, Section 3, and other labor requirements apply to CDBG-CV projects. See the [Federal Labor Standards Requirements in Housing and Urban Development Programs Guide \(1344.1\)](#) for specific requirements.
- **Habitability Standards:** Public facilities are considered shelter rather than housing under CDBG regulations. Any shelter must meet lead-based paint requirements and as well as [Section 504](#) accessibility standards that are required for both residential and commercial projects. For shelter and transitional housing, there may be other state or local habitability standards required.

The Guide for Review of CDBG-Funded Public Facilities/Improvements (Exhibit 3-25), and other exhibits included in the [CPD Monitoring Handbook](#), is an excellent resource for grantees developing a public facility or infrastructure project. Grantees are strongly encouraged to review the relevant sections of the Handbook to understand required project documentation.

USE OF A PUBLIC FACILITY AFTER THE PANDEMIC

Grantees should consider that the use of a public facility may change after the pandemic is over and the facility may no longer be needed for its intended use.

The Uniform Administrative Requirements ([24 CFR 200.311](#)) state that real property acquired or improved with Federal funds must continue to be used "for the originally authorized purpose as long as needed for that purpose, during which time the non-Federal entity must not dispose of or encumber its title or other interests." Often referred to as the **change of use standard**, the standard applies when more than \$25,000 in CDBG-CV funds are used to acquire or improve real property.

- If the property was acquired or improved by a grantee, the change of use standard applies from the date CDBG-CV funds are first spent for the property until five years after closeout of the grantee's participation in the CDBG entitlement program. ([25 CFR 570.505](#))
- In the case of property acquired or improved by a subrecipient, the standard applies for a minimum period of five years after the expiration of the subrecipient agreement. ([24 CFR 570.503\(b\)\(7\)](#))

Grantees are required to provide adequate public notice and an opportunity for the public to comment on the proposed change of use and determine if the acquired or improved property continues to meet a national objective.

- If, after consultation with the public, the grantee determines that the change of use is appropriate and that the new use continues to meet a CDBG national objective, the standard would be met, and no further action required.
- If the change of use does not meet a CDBG national objective, the grantee will need to reimburse the CDBG program if it decides to proceed as proposed. The amount required to be reimbursed to the CDBG program is based on the fair market value of the property at the time of the change of use, not the initial expenditure of CDBG-CV funds. That reimbursement is considered to be program income. Program income generated from CDBG-CV funds is treated as CDBG program income.

A change in use from the initial use to a later non-coronavirus-related use would not necessarily impact the determination of whether or not the new use meets a CDBG national objective.

Additional information can be found in [Basically CDBG - Chapter 6: Public Facilities, Special Assessments, and Privately-Owned Utilities](#).

OTHER USEFUL RESOURCES

Several helpful online resources have been developed by HUD:

- [Quick Guide to CDBG Eligible Activities to Support Coronavirus and Other Infectious Disease Response](#)
- [Primary Activities That Can Be Used to Prevent, Prepare for, and Respond to Coronavirus in the CDBG Program](#)
- [Using CDBG and CDBG-CV to Support Pandemic Recovery](#)
- [Federal Funding Priority Order for Non-Congregate Shelter During COVID-19](#)
- [Basically CDBG—Chapter 6](#)
- [How to Use CDBG for Public Facilities and Improvements](#)
- [Guide to National Objectives and Eligible Activities for CDBG Entitlement Communities](#)
- [Guidance on Options and Conditional Contracts for Purchase of Real Property for Environmental Reviews](#)

QUESTIONS

Specific questions about how the CDBG-CV program can be used to fund public facilities and infrastructure that prevent, prepare for, or respond to the coronavirus pandemic should be submitted to HUD's CDBG-CV [Ask A Question](#) helpdesk or directed to your CDBG field representative.