

ENTITLEMENT CDBG PROGRAM

FAQs ON MEETING A NATIONAL OBJECTIVE WITH ACQUISITION, DEMOLITION, AND DISPOSITION

1. What are the basic principles to meet eligibility and national objective requirements?

As the following questions illustrate, each CDBG project must be an eligible activity and meet a national objective. Acquisition of real property, demolition and disposition are all eligible activities. Meeting a national objective can be more complex. CDBG grantees must identify the planned end use for all properties that they acquire. However, when the planned use does not come to fruition, grantees often struggle to find alternative end uses for these properties. Nonetheless, grantees should ensure that their acquisitions support the overall community development program. The chart at the end of these FAQs attempts to provide additional clarification and examples to supplement these questions.

2. Our community wants to demolish some blighted properties. How can we meet a CDBG national objective with this activity?

The main option is to treat the demolition as an activity that aids in the prevention or elimination of slums and blight, either on a spot basis or an area basis (24 CFR 570.208(b)). For the removal of isolated instances of blight, the spot slum and blight criteria are the most appropriate. Use of the area basis of slum and blight covers more properties; establishing an area as blighted requires more documentation. In cases where removal of blight is the goal of the demolition, the demolition serves as the end use and no further treatment is required, provided the use of the property does not change after the demolition.

3. If our community wishes to qualify demolition as meeting the CDBG national objective of benefiting low and moderate income persons, is there a way to accomplish this?

If the demolition is integral to another activity meeting the national objective of benefitting low- and moderate-income persons, the demolition could meet a national objective other than slums and blight. For example, a grantee could demolish a vacant structure and remove the debris to make a neighborhood park and playground that will serve a predominantly residential low- and moderate-income neighborhood. It is very difficult to qualify a stand-alone demolition as anything but removal of slums or blight.

Because grantees must demonstrate that at least 70% of expenditures benefit low and moderate income persons, communities have an effective limit of 30% of the grant (adjusted for administration and program income) for slum and blight (and urgent need) activities.

4. In our case, the grantee must acquire the property in order to carry out the demolition. What implications does this have for our program?

When using CDBG funds to acquire such properties (24 CFR 570.201(a)), the situation can be more complicated. This is due to the fact that both the acquisition and demolition activities must meet a national objective. In this case, the demolition would have to meet the

slum and blight national objective, either on an area basis or a spot basis, unless the demolition is integral to another activity that benefits lower-income persons, such as affordable housing.

The acquisition must also meet a national objective and will usually meet the national objective of the follow-on activity. There are several ways to approach national objective compliance. If acquisition for the purpose of clearing the property occurs, the clearance that meets the slum blight area or spot national objective is considered the use of the property. Second, through public ownership for an eligible use such as a park in a low- and moderate-income area (LMA), the acquisition can rely on the national objective of that eligible end use. Third, the acquisition can qualify through the property's disposition for an eligible activity (24 CFR 570.201(b)).

In all cases, the acquisition activity must meet a national objective, but not necessarily the slum/blight objective required for the demolition. For example, if the property is ultimately used for affordable housing, the acquisition would meet the low- and moderate-income national objective for housing activities (LMH).

It is very rare for acquisition alone to meet a national objective; generally acquisition is paired with another activity such as rehabilitation or disposition and the rehab or disposition meets the national objective (unless, as above, demolition is the end use). If the acquisition never meets a national objective, the purchase is ineligible. Note that an eligible end use that meets a national objective could be funded with other sources than CDBG.

5. How can our acquisition and disposition meet a national objective?

Once acquired, the grantee must either retain the property or dispose of it. CDBG recipients that hold the property must put it to an eligible use that meets a national objective within a reasonable period of time, because land banking is ineligible in CDBG. If the property is acquired for a public purpose and then sold, national objective compliance is determined based on the end use of the property.

Some public uses that are eligible and meet a national objective are:

- Community gardens or public facilities in low- and moderate-income areas;

- Neighborhood play lots in low- and moderate-income areas;

- Open space for drainage and storm-water retention in low- and moderate-income areas;
- or

- Lease or sale of land for housing meeting the low- and moderate-income housing criteria.

6. What kind of expenses are eligible as disposition?

Real property acquired with CDBG funds may eligibly be managed and maintained as a disposition expense, but such work must be limited in duration. Properties that have not achieved an end use within three to four years run the risk of monitoring or audit findings. Grantees or subrecipients may pay for ongoing maintenance of acquired properties, which

could include repairs, utilities, yard work and similar expenses. CDBG funds may only be used to maintain property that was acquired with CDBG funds and is being actively marketed. The property must support an eligible use and meet a national objective. If the property never achieves an eligible end use that meets a national objective, the maintenance expenses may be found ineligible as well.

7. In what other ways may CDBG-acquired property be used?

Grantees that think strategically may also dispose of property to other organizations, such as private developers. Here again, the disposition must lead to an eligible end use, such as affordable housing or LMI jobs.

Some private end uses that will likely qualify are:

Sale or donation of lots to adjacent income-eligible property owners to ensure continued maintenance as side yards;

Sale or long term lease for LMH housing (Single-Family or Multi-Family, owner or renter);

Disposition for economic development (parking lot for corner store in LMA);

Disposition for economic development (play lot for in-home daycare facility); or

Site assembly for a machine shop that will employ neighborhood residents.

8. What if the housing or other LMI-benefiting use that we planned does not materialize?

In such cases, the change of use rules apply, as described at 24 CFR 570.505 for entitlement grantees and 24 CFR 570.503(a)(7) for subrecipients. They apply to properties acquired or improved using CDBG funds in excess of \$25,000; demolition costs are not counted toward the \$25,000. For entitlement grantees, these standards apply from the date CDBG funds are first spent for the property until five years after closeout of an entitlement recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the closeout of the grant from which the assistance to the property was provided. For subrecipients, the properties must be used to meet one of the national objectives until five years after expiration of the agreement, or for such longer period of time as determined to be appropriate by the grantee. If the property is still covered by these requirements, the grantee or subrecipient must follow the change of use procedures.

9. How do we undertake a change of use?

First, determine that the property originally met a national objective; if it never met a national objective, the costs are ineligible and all funds expended on the property must be reimbursed to the program. Second, if the property did meet a national objective, calculate whether the CDBG costs of acquisition and improvements exceeded \$25,000. If lower than \$25,000, the grantee may dispose of property with no further requirements. If over \$25,000, the grantee must give affected citizens reasonable opportunity to comment on the proposed change. If the new use meets a national objective, the grantee may proceed with the change. If the new use

does not meet a national objective, then the grantee may retain or dispose of the property by reimbursing the CDBG program for the current fair market value of the property, less any portion of the value not attributable to CDBG. Sale proceeds are program income.

For example, an entitlement city renovated an older structure for a youth center in an LMA. Now, the demographics in the neighborhood have changed; the young people have grown and the community has many more adult and senior members. The entitlement community believes that it should demolish the building and change the use by selling the land to a business which does not directly benefit the low and moderate income area or create jobs. If the grantee follows the procedures for change of use and obtains approval from affected citizens, it may sell the land to the business, reimburse the CDBG program, and the property will no longer be subject to CDBG requirements.

10. What other requirements might apply?

Pursuant to 24 CFR 570.606, CDBG grantees must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended. The URA, passed by Congress in 1970, establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects. The government-wide regulation that implements the URA can be found at [49 CFR Part 24](#).

Relocation advisory services are the single most important part of a successful relocation program. Relocation advisory services are required to be provided to all eligible displaced persons including nonresidential displaced persons. These include determining the needs of displaced persons, explaining benefits that the displaced person might be entitled to, and providing listings of comparable dwellings for residential displacements and replacement sites for businesses, among others.

The CDBG program must also comply with the antidisplacement requirements of Section 104(d) of the URA. These include:

Funding recipients must certify they have in effect and are following a Residential Antidisplacement and Relocation Assistance Plan

Relocation assistance must be provided to lower-income residential tenants displaced as a direct result of demolition of any dwelling unit or conversion of a lower-income dwelling unit in connection with an assisted activity

The recipient must replace, on a one-for-one basis, all occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than lower income dwelling units in connection with an assisted activity

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 between the laws is the period of time used to calculate a rental assistance payment; Section 104(d) uses 60 months vs. 42 months for the URA.

The Uniform Act is quite complex. Grantees are strongly encouraged to contact their [HUD Regional Relocation Specialist](#) for assistance.

Please note that acquiring real property with CDBG funds through eminent domain (condemnation) for economic development projects benefiting private, for-profit businesses is prohibited. This is a statutory prohibition contained annually in the HUD appropriations bill since 2006. HUD has stated that housing construction (by itself, not mixed use) is not economic development.

11. Is there a requirement to do a financial analysis to determine the amount of CDBG funds to provide to a sub-grantee for acquisition?

Real property acquired with CDBG funds and real property acquired with other funds for a CDBG-funded project are subject to the URA which is implemented for the CDBG program at 24 CFR 570.606 and 49 CFR part 24. The URA real property acquisition regulations that apply to CDBG at 24 CFR 570.606(e) and 49 CFR part 24, Subpart B, generally require both an appraisal and appraisal review to establish the fair market value of real property to be acquired, with the exception of real property acquisitions that meet the criteria at 49 CFR 24.101(b)(1)-(5), often referred to as “voluntary acquisitions”. Even though the URA does not require an appraisal and appraisal review for these “voluntary acquisitions,” grantees must still be able to demonstrate that the acquisition cost, if funded under CDBG, is reasonable and necessary.

Complex issues can be brought to the local HUD field office for assistance. For additional information and guidance on the URA, including real property acquisition and valuation matters, visit HUD's Acquisition and Relocation website at: www.hud.gov/relocation. For direct assistance on URA real property acquisition matters, contact your HUD Regional Relocation Specialist, whose contact information is available at: https://www.hud.gov/program_offices/comm_planning/library/relocation/contacts.

12. Do Environmental Review requirements apply under 24 CFR Part 58?

Under 24 CFR Part 58, the Responsible Entity must determine the appropriate level of environmental review, ensure that the project complies with all applicable environmental laws and authorities, document any mitigation measures and conditions, and complete all required approvals. To determine the appropriate level of environmental review, all proposed or anticipated activities must be grouped together (24 CFR §58.32), and the environmental review must consider any subsequent use or changes to the site. For example, if a property to be acquired will require demolition and reconstruction, the environmental review must consider the full range of required activities in addition to the acquisition.

More information about environmental review requirements can be found on the HUD Exchange at <https://www.hudexchange.info/programs/environmental-review/>.

13. When disposing of a property purchased with CDBG funds, does the grantee need to ensure that the new owner will continue to meet a national objective or if not, sell the property at fair market value? What should a grantee do if the fair market value is less than the original CDBG investment in that property?

Yes, the new use must meet a national objective or the program must be repaid. If a subrecipient is involved, the subrecipient agreement must specify the terms under which a national objective must be met. The CDBG regulations state that the project must meet a national objective until five years after expiration of the subrecipient agreement, or longer as required by the grantee. If the property ceases to meet a national objective during that term, it must be treated as a change of use. (If there is no subrecipient agreement between the grantee and subrecipient concerning the activity, or if the subrecipient agreement contains no expiration date, the activity must continue to meet a national objective in perpetuity.) If the grantee holds title to the property, it must continue to meet a national objective in perpetuity or be sold for current market value, with the proceeds being CDBG program income.

If the new use can meet a national objective, no repayment would be required. For example, converting a community center to a daycare facility for LMI families would meet a national objective, so reimbursement is unnecessary. If the use changes and the subsequent use does not meet a national objective, then the property may be taken out of the program. The CDBG program must be reimbursed at current market value, regardless of the original purchase price. If the property never met a national objective, all costs must be reimbursed; the activity is ineligible. If CDBG paid only a portion of the costs, a proportional share of the proceeds should be reimbursed to the program. If the fair market value is less than the original CDBG investment, a determination must be made as to why the value change occurred and the grantee must document the files. See also Questions 8 and 9 above.

COMMON SCENARIOS INVOLVING ACQUISITION, DEMOLITION, DISPOSITION IN CDBG

Eligible Activity	End Use of Property	National Objective	Consequences
Acquisition Only	Property remains in public control. Example: Land acquired for public facility.	National objective based on end use; LMA or LMC in this example.	Document national objective. See Note A below.
	Never put to permanent use. Example: Acquired for housing, not developed.	Never achieved a national objective.	Ineligible activity. Reimburse the program for all CDBG funds expended.*
Demolition Only	CDBG is not used for acquisition. Remains in private ownership or public property acquired through other sources. Demolition is the only eligible activity. Example: Dangerous building taken down, site planted with grass.	Spot Slum and Blight Possibly Area Slum and Blight Possibly Urgent Need in limited situations.**	Eligible if property meets criteria in 24 CFR 570.208(b) or 24 CFR 570.483(c) and 70% overall benefit maintained
		LMA not available in CDBG. NSP allowed this because there was no slum and blight national objective.	Meet S&B criteria or reimburse the CDBG program.
Disposition Only	CDBG funded upkeep and subsequent sale of CDBG-assisted property for eligible use. Example: affordable housing.	LMH, S&B or other, depending on end use. If no end use, ineligible. If not acquired with CDBG funds, ineligible.	See Note A below. This scenario will generally involve CDBG acquisition.
Acquisition & Demolition	Clearance is the end use; no further activity planned.	Meets national objective for clearance, which also applies to the acquisition.	Any subsequent activity will trigger Change of Use (Note C)
	If public property supports an eligible activity and meets a national objective, then remains eligible program activity. Example: Community garden in LMA; flood zone buyouts.	National objective for Demolition: S&B National objective for Acquisition: Depends on the end use. Slum & blight is allowable if the end use is clearing blighted property in a flood zone. Urgent Need in limited situations**	Document national objective for both acquisition and demolition.
	Property does not have an eligible end use. Demolition did not meet national objective. Example: Demolition of property that was not blighted with no resale.	If property never met N.O: It is ineligible.	Reimbursement of all costs is required (Not just current value). See Note D.
Acquisition & Disposition (no Demolition)	If property sold to private entity, and supports an eligible activity, then remains eligible activity. Example: Affordable housing	National objective for acquisition/disposition. Depends on the end use of the property. LMA, LMH , LMC, LMJ, or SBA	The disposition (end use) drives the national objective. See Note A below.
	If publicly or privately owned and does not meet a national objective. Example: Vacant land acquired and sold for church.	If no national objective is ever met for either Acquisition or Disposition, then it is ineligible.	Reimbursement of all costs required (not just current value).

Acquisition & Demolition & Disposition	Dangerous structure acquired and demolished, then sold or donated to non-profit developer of affordable housing.	Slum/blight for demolition. National objective for acquisition and disposition based on end use. In this example: LMH	Document national objective.
	Demolition meets national objective, but Acquisition/Disposition does not. Example: Structure razed but land remains unused.	Acquisition for clearance can meet S/B test. No disposition for an eligible use does not result in a Change of Use.	Repay current market value if a Change of Use does not meet a national objective. See Note C
	Property not blighted. Grantee sells cleared land for parking lot in upper income Census Block Group.	No slum and blight for demo. Parking lot meets no national objective.	Ineligible Activity Repay all costs

Notes:

*Sales proceeds are program income. Repayments of ineligible costs are not considered program income. Repayments must be made to the line of credit from which they were drawn unless the funds were drawn from a grant that has since expired (over eight years old). Those repayments must be made to the grantee’s local CDBG program account.

**In very limited situations, the urgent need national objective could be possible: e.g., demolition or acquisition-plus-demolition on buildings damaged by a tornado, massive fire, mudslide, etc. The grantee would have to demonstrate that its current conditions present a serious and immediate threat to public health and safety. If the property is sold or reused for another purpose, the reuse must meet a national objective or change of use applies (reimbursement of current fair market value required).

A: If no accomplishments have been demonstrated after 3-5 years, HUD may have reason to question the national objective compliance.

B. Acquisition by Eminent Domain: There is a statutory prohibition is against using CDBG fund in conjunction with eminent domain for economic development projects benefitting private for profit businesses.

C. Change of Use: 24 CFR 570.503 for entitlement subrecipients; 24 CFR 570.505 for entitlement grantees; 24 CFR 570.489(j) for the State CDBG program.

D. Acquiring and/or holding property “for future use” is not an eligible activity.

REGULATORY REFERENCES:

ELIGIBILITY: Acquisition - 24.CFR 570.201(a) for Entitlements, Section 105(a)(1) for States; Disposition - 24 CFR 570.201(b) for Entitlements, Section 105(a)(7) for States; Clearance-Demolition - 24 CFR 570.201(d) for Entitlements, Section 105(a)(4) for States.

NATIONAL OBJECTIVES: Activities benefiting low- and moderate-income persons.24 CFR 570.208(a) for Entitlements, 24 CFR 570.483(b) for States; Slums and Blight24 CFR 570.208(b) for Entitlements, 24 CFR483(c) for States; Urgent Need 24 CFR 570.208(c) for Entitlements, 24 CFR 570.483(d) for States.