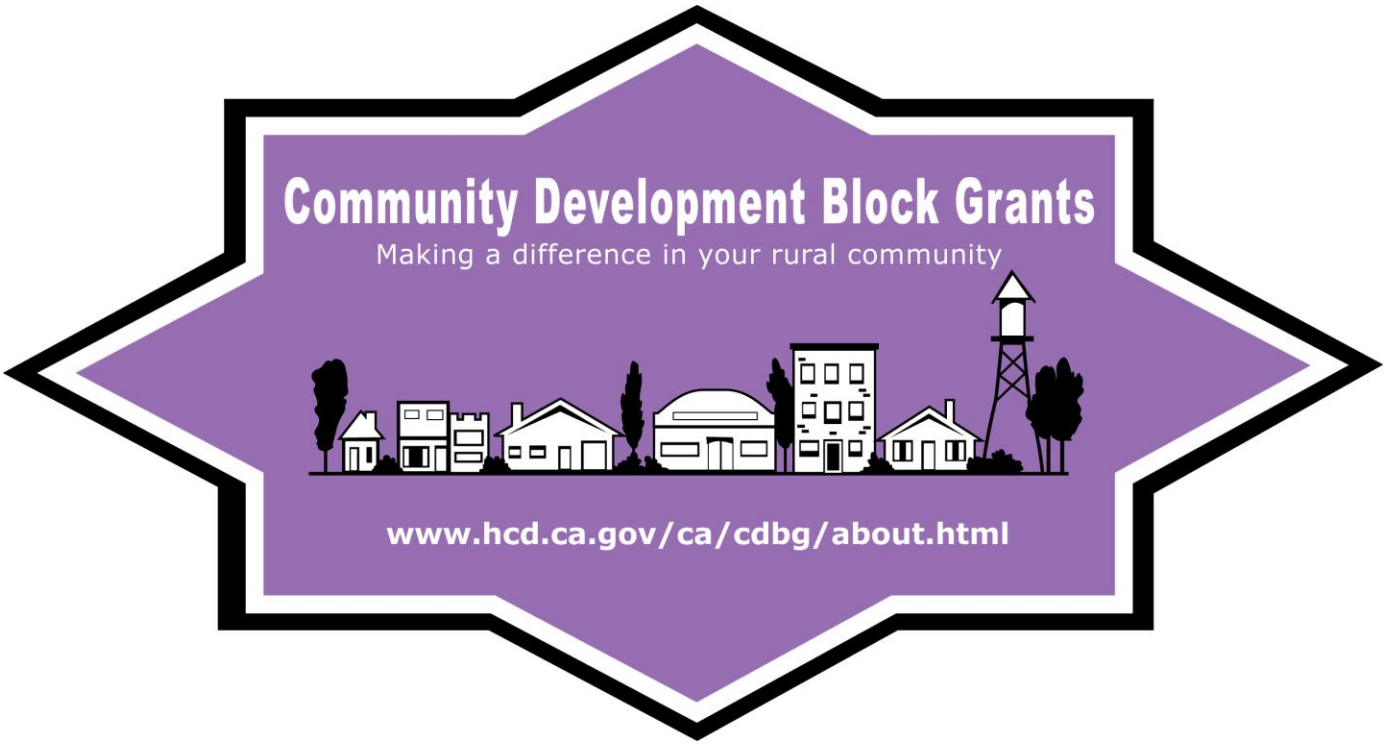

2014 CDBG
Notice of Funding Availability

JANUARY 6, 2014

STATE OF CALIFORNIA

Department of Housing and Community Development
Financial Assistance Division
Community Development Block Grant (CDBG) Program
2020 West El Camino Avenue, Suite 500
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STATE OF CALIFORNIA

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STATE OF CALIFORNIA

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

2014 NOFA
Notice Date: January 6, 2014

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OVERVIEW

1. NOTICE OF FUNDING AVAILABILITY (NOFA)

The Department of Housing and Community Development (the "Department") is pleased to announce the availability of approximately $28,540,278 in federal Community Development Block Grant (CDBG) funding allocated to the State from the Department of Housing and Urban Development (HUD) for funding year 2014-2015.

This NOFA applies to CDBG-eligible activities funded under the Economic Development (ED) Set-Aside, Community Development (CD) sub-allocation, Colonia Set-Aside, and Native American Set-Aside. Typical activities funded under each of these predominately benefit low- and moderate-income Californians and include: Business Assistance (BA) Projects and Programs; Microenterprise (ME) Assistance Programs; Housing Rehabilitation (HR) Programs and Projects; Homeownership Assistance (HA) Programs; Housing Acquisition Projects; Public Infrastructure Projects; Public Facility Projects; Public Services Programs; and Planning and Technical Assistance Grants.

The following is the anticipated and approximate amount of funding for each sub-allocation/set-aside in this NOFA. The final amounts available for each will be determined first by applying the statutory percentage requirements as listed in each funding category below, and then by percentage formula using the aggregate request of all applications for each activity and the actual amount of available funds. For example, if the aggregate amount of funding requests for HR is 40% of the total amount of funding requested overall, then 40% of the NOFA funding will be made available for HR awards.

A. Economic Development (ED)

California Health and Safety Code 50827 and State CDBG Regulations, Section 7062.1, require the Department to set-aside 30% of the annual federal CDBG award for ED activities. The entire 30% must be awarded within the federally-required 15th month period; otherwise, any unused ED funds must roll to the CD activity category for award under subsequent NOFAs. The 30% set-aside in this NOFA for ED is expected to be $7,562,083. The split between the Enterprise Fund (EF) and the Over-The-Counter (OTC) allocations will be initially set at 70% / 30% respectively, but may be adjusted by the Department as circumstances warrant. These amounts reflect $1,000,000 being set-aside for ED Planning and Technical Assistance (PTA) activities, as noted below.

B. Community Development (CD)

The CD activity category amount is the balance of funds remaining after subtracting from the annual HUD allocation, both the individual Set-Asides (ED, Native American, Colonia) and the State's allowed administration funding. For this NOFA, this is estimated to be $16,209,025. This amount reflects $1,000,000 being set-aside for CD PTA activities, as noted below.

C. Colonia

Section 916 of the National Affordable Housing Act of 1990, as amended, established an annual set-aside for activities benefiting the residents of Colonias. In accordance with direction from HUD, the State will set-aside 5% of the allocation in this NOFA, this is estimated to be $1,427,014. Any unused Colonia funding will roll to the CD activity category for funding under this NOFA.

D. Native American

Pursuant to Health & Safety Code Section 50831 and State CDBG Regulations, Section 7062, the State annually sets aside 1.25% of its CDBG award for grants to non-federally recognized tribes within non-entitlement areas of the State. The Native American Set-Aside amount for this NOFA is expected to be approximately $356,753. Any unused Native American funding will roll to the CD activity category for funding under this NOFA.

E. Planning and Technical Assistance (PTA)

For this NOFA, the Department anticipates the amount available for all CD and ED PTA grants, whether applied for as a stand-alone PTA application or in conjunction with a multi-activity application, to be approximately $2,000,000.

Notes:

- *The Department reserves the right, at its sole discretion, to rescind, suspend or amend this NOFA and any or all of its provisions. If such an action occurs, the Department will notify interested parties via its Listserv email tool and web site*.

- *It is the applicant's responsibility to ensure that the application submitted is clear, complete and accurate. After the application submittal deadline, CDBG may request clarifying information, provided that such information does not affect the competitive ranking of the application. No information will be solicited or accepted if such information results in a competitive advantage to an applicant. No applicant may appeal the Department's evaluation of another applicant's application.*

2. AUTHORIZING LEGISLATION AND REGULATIONS

The CDBG Program is authorized by the Housing and Community Development Act of 1974 (HCDA) as amended[1], and Subpart 1 of the Federal Community Development Block Grant regulations[2]. The requirements of the State CDBG Program are in Health and Safety Code, Sections 50825 - 50834, and Title 25 of the California Code of Regulations, Sections 7050 - 7126.

Reference Note: *The Act (HCDA) was codified as Title 42 of the United States Code, Section 5301, et seq.; thus, those citations are interchangeable and cite the same statute language. For example, the citation of HCDA 105(a)(22) and 42 USC 5305(a)(22) are references to the same statute language.*

3. APPLICATION TIMELINES

A. Key Dates

NOFA and Application Release:	January 6, 2014
ED Over-the-Counter (OTC) Open Date:	January 6, 2014
Application Workshops:	January 28, 2014 thru February 13, 2014
Applications due to HCD by 5:00 P.M.:	**Friday, April 11, 2014**
Awards Announced:	July/August, 2014
ED Over-the-Counter (OTC) Close Date:	April 30, 2015

Applications **received** by the Department after 5:00 P.M., Friday, April 11, 2014 (except for the ED OTC) will not be accepted.

B. Application Process

1) Applications must be received by the Department by 5:00 P.M. on Friday, April 11, 2014.
2) Late applications will not be considered for funding.
3) Tele-faxed or e-mail transmitted applications will **not** be accepted.

[1] Title I of the Housing and Community Development Act of 1974 as amended. 42 U.S.C. 5301 et seq., Federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

[2] Title 24 Code of Federal Regulations (CFR), Part 570, Subpart I.

4) The Department will conduct a preliminary review of each application to determine whether or not the application meets all of the applicant and threshold eligibility criteria.

5) If an application does not meet all the applicant and threshold eligibility criteria, the Department will contact the applicant and provide an opportunity to submit documentation confirming that threshold has indeed been met.

6) Once the pool of eligible applications has been determined, the competitive scoring process commences and there will be no further contact between the Department and applicants until the award list has been finalized.

7) Applications that meet all of the threshold criteria will be reviewed for activity eligibility. If an activity is deemed ineligible, that specific activity application will not be scored, though the other eligible activity applications (if any) in the applicant's overall application will still be scored.

8) Only the eligible activities in eligible applications will be rated and ranked.

9) Once all rating and ranking is completed, the award list will be compiled and the Department will call each applicant to inform them of whether they were awarded funding or not.

C. For Further Information

Please contact your CDBG Representative or the CDBG Administrative Assistant at (855)333-CDBG (2324). Please refer to **NOFA Appendix A** for the name of the CDBG Representative assigned to each eligible jurisdiction.

Management Contacts:

Community Development and Northern California:

Karen Patterson
(916) 263-1466
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Economic Development and Southern California Community Development

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4. WHAT'S NEW IN THE NOFA

This NOFA continues implementation of the significant changes made last year to the way the Department operates the CDBG Program.

The most significant changes being implemented this year are listed in this section, and will be discussed in more detail throughout the NOFA, as well as during the application workshops in January and February. (See **Appendix B** for workshop registration information.)

1. Updated Planning and Technical Assistance Guidance

a. Income Surveys are not an eligible PTA activity

b. PTAs must be Low/Mod Area benefit (LMA) and be tied to an activity that has "proposed beneficiaries" if implemented. In limited Economic Development cases Slum/Blight may be used, however discuss any PTA applications that are not LMA with your Rep.

2. Updated Scoring for Public Services

a. As with other Readiness scoring, the Department will be scoring on the jurisdiction's history of public service delivery and/or oversight:

1. Jurisdiction has operated and/or had oversight of **CDBG funded public services** since Program Year 2008-09 = *175 points*

2. Jurisdiction has operated and/or had oversight of **federally funded (but not CDBG funded) public services** since Program Year 2008-09 = *125 points*

3. Jurisdiction has operated and/or had oversight of non-federally funded public services since Program Year 2008-09 = *75 points*.

4. Jurisdiction has not operated or had oversight over any public services since Program Year 2008-09 = 5*0 points*

3. Updated Scoring for Multi-Family

In the Multi-Family Score Sheet, under Activity-Specific Operator Experience the "Note" section has been amended to provide points for draft development agreements rather than subrecipient agreements. The score sheet reads as follows:

Note: *Any jurisdiction that has a draft Development Agreement with a developer/property owner with CDBG/HOME MFH experience* since Program Year 2008-09 *will get 50 points, up to the Readiness maximum of 200 points.*

4. Updated Scoring for Timely Clearance of Special Conditions

Program regulations state that Timely Clearance means within 90 days of contract execution, however, each applicant will receive the full 60 points for this scoring criteria since the Department is changing Special Conditions to General Conditions and is no longer requiring a 90 day deadline to clear, thus no applicant will be held to that standard.

5. Updated Jurisdictional Boundaries Guidance

a. HUD CDBG Final Rule changed and clarified the statute and regulatory rules for grantees implementing CDBG activities outside their jurisdictional boundaries. These Final Rule changes became effective in May of 2012. See Management Memo 13-06 for full details: http://www.hcd.ca.gov/fa/cdbg/MgmtMemo.html

b. Essentially:
   1. For **non-entitlement jurisdictions spending CDBG funds in other non-entitlement jurisdictions**, the beneficiaries of the funding must significantly be residents of the jurisdiction providing the CDBG funding. City CDBG funding must significantly benefit just the residents within the city limits. County residents, however per HUD, include all the residents of the county.

   2. For **non-entitlement grantees spending funding in an entitlement jurisdiction**, the non-entitlement funding must be proportional to the non-entitlement beneficiaries. So if 40% of the beneficiaries are non-entitlement, the non-entitlement grantee can only provide 40% of the project/program funding **and** the entitlement must provide the final 60% of funding from their own funds (ie, their own general funds or CDBG entitlement grant funds).

c. The Final Rule changes superseded the California State CDBG Regulations at 25 CCR 7060(c), which pertains to who can apply on behalf of eligible Native American tribes. With the Final Rule changes, all applications and applicants for the Native American allocation must meet all requirements set forth in 24 CFR 486(b) and (c).

6. Updated Citizen Participation Language – Appendix D and Certification

a. Timing of public notice prior to public hearing must, at a minimum, meet the requirements of The Brown Act - http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf

b. State's Citizen Participation language in Appendix D has been updated to make clear what is required for the public hearing meetings to qualify as the required public hearings; and updated with the State's requirements as documented in the Annual Plan Update to HUD so we are consistent.

c. Limited English Proficiency language as been added to Appendix D to align with current Fair Housing law.

7. Updated Income Survey Overview – Appendix F

This appendix has been updated with clearer guidance on several aspects of conducting an income survey. While the Appendix includes an overview of the process and requirements, it has a new submission list of items that the Department must receive in order for the survey to be reviewed. These items are critical in the Department's determination of the federal requirement that a "sound methodology" be used and documented when conducting an income survey for area eligibility. As well, if the methodology is not determined as sound, it will be ineligible, thus rendering the activity application predicated upon the survey to be ineligible.

8. Updated Summary Application

1. Citizen Participation text in the Threshold tab and the Statement of Assurances tab has been updated to include certification that all public hearings are held at ADA compliant locations and to make clear that Limited English Proficiency means citizens with limited English proficiency, not the only the absence of English proficiency.
2. A column for the Activity Delivery amount has been added to the Funding Sources Tab for the Department's use when entering the data into CAPES.
3. The Activity dropdown list has been updated to match the Matrix Code list, but has two exceptions:
    a. We have customized PTA (20A) choices – there is a 20A- ED and 20A-CD. Please be sure to choose the correct type of funding you are requested for your PTA, either ED or CD funding.
    b. Microenterprise (18C) has been broken out into two categories as well. Micro Technical Assistance – 18C and Micro Financial Assistance – 18C.

9. Activity Delivery

a. Activity Delivery (AD) for Public Services (including Microenterprise Technical Assistance (TA)) and PTAs will be listed as zero percent (0%) in the Summary Application Excel sheet. Since Public Service and PTA costs are considered activity costs, there is no need to separate out Activity and Activity Delivery as separate budgeted items. All costs associated with directly implementing a Public Service, including Microenterprise TA, or a Planning grants are considered eligible activity costs. Applicants are reminded, however, that expending funds on any CDBG eligible activity without meeting a National Objective ("if implemented" for PTAs) would be make the activity and any expended funds ineligible.

b. Activity Delivery for Public Facilities and Public Infrastructure will no longer have the two AD percentages. All Public Facilities and Public Infrastructure will be up to 12%. The Department has removed the "*Complex Labor Standards mean multiple subcontractors and/or numerous trades" criteria.*

FUNDING PARAMETERS

5. FUNDING AND ACTIVITY LIMITS

A. Jurisdictions may apply for up to three (3) activities in one application. This includes any combination of three activities from the following list: Housing, Public Improvements (i.e., Infrastructure), Public Facilities, Public Services, EF and PTA.

Note: *ED OTC activities, Colonia activities and Native American activities are separate and not counted in the three activity maximum or the maximum funding cap of $2,000,000.*

B. A "Combo Program" of Housing Rehabilitation and Homeownership Assistance counts as one activity.

C. The Multi-Family Residential Rehabilitation activity allows for only one project.

D. An Enterprise Fund "Combo Program" of Business Assistance (BA) and Microenterprise (ME) counts as one activity.

E. Within the application maximum of 3 activities, one PTA activity, with up to two studies may be applied for, up to a maximum request of $100,000.

F. A Public Service activity application may be comprised of no more than 3 individually eligible Public Service programs.

G. An application can receive a maximum of up to 1,000 points per activity.

H. PTA requests included in an application with other activities will be eligible for funding if a jurisdiction scores high enough to be funded on one or more of the other activities. If a jurisdiction is not funded for any of the scored activities, it will not be funded for the PTA activity.

Maximum Award Limits for Each Allocation and Activity

A. Maximum total award limit will be $2,000,000, including all activities except ED OTC, Colonia and Native American. ED OTC is a stand-alone application subject to the ED OTC limits noted below, and Colonia and Native American funding is in addition to the $2,000,000 maximum.

B. Enterprise Fund (EF) Activity

BA and ME: A single activity can be funded up to $300,000 on (BA or ME). A combination of BA and ME activities may be funded up to $500,000, in any combination of funding under the EF Set-Aside.

C. Economic Development Over-the-Counter Funding

Up to a maximum of $3,000,000 in funding per NOFA (may submit one or more proposals) per jurisdiction, per project. Two-year awards for single projects may be considered for funding up to $6,000,000 dollars.

D. Housing Activity

Maximum of $1,000,000 encompassing any two categories listed below:

1) Housing Rehabilitation – (1-4 Units) (HR) or Homeownership Assistance (HA) (up to $600,000); Housing Combo - HA and HR (up to $1,000,000).

2) Housing Project - Multi-Family Rental Rehabilitation with or without Acquisition (up to $1,000,000).

3) Housing Project - Acquisition of Real Property - for Multi-Family Housing Projects (up to $600,000).

E. Public Improvements or Public Improvements In-Support-Of Housing New Construction (PIHNC) Activity

Up to a maximum of $1,500,000 (maximum of one project).

F. Public Facility Activity

Up to a maximum of $1,500,000 (maximum of one project).

G. Public Service Activity

Up to $500,000 with a maximum of 3 Public Services. An application containing up to 3 services counts as one activity. No more than one Public Service activity application per NOFA.

H. Planning and Technical Assistance (PTA) Activity

Up to $100,000 in funding is available for PTA activities. No more than two studies per application. The application may include two CD studies, or two ED studies or one of each. New items have been added to the dropdown

menu in the Application Summary for PTAs to make clear if the PTA being applied for is a CD-PTA (20a) or and ED-PTA (20a) Additionally, activity guidance regarding eligibility has been added, so please be sure to see important PTA information near the bottom of Section 9, *Eligible Activities*.

I. Colonia and Native American Allocations

Applications have the same maximums as noted in all activities above, and are in **addition** to any CD or ED activity applications. They are not subject to the $2,000,000 award limit. If a jurisdiction is funded for ED and/or CD activities, plus a Native American or Colonia award, the funding may be in excess of $2,000,000 and the total number of activities awarded may be more than three; however, the entire grant will be contained in one contract.

J. Use of Program Income (PI) for Activities in an Application

Program Income (PI) may be added into an application in support of any *non-Revolving Loan Account (non-RLA)* activity proposed. The proposed activity must be funded in order for the PI to be included in the grant contract. It is not necessary or permissible to attach PI to an activity that already has an established RLA, such as HR, HA or BA. The PI must be committed to the activity via the application resolution or it will not be included in the readiness scoring for all funding in place. Additionally, if the PI is not included in the resolution, it cannot be included in the contract should the activity be awarded.

Limited Number of Awards

All activity applications for funding, **except** for ED OTC, will be competitively rated and ranked. **PTAs will not be scored**, but will be ranked via the Tie-Breaker process in the event of oversubscription. Funding will be awarded to applicants that score the highest in each specific activity, until the funding available for each activity is exhausted.

Limited Funding for Public Service Activities

Federal statute [42 USC 5305(a)(8)] limits Public Service funding to no more than 15% of the State's annual CDBG activity funding from HUD.

6. PROGRAM ADMINISTRATIVE AND DELIVERY COSTS

General Administrative Expenses

General Administrative (GA) costs include staff and related costs required for overall contract and program management, coordination, monitoring, reporting and evaluation. For all contracts (other than ED OTC), grantees are allowed up to seven and one-half percent (7.5%) of the total of all activity funds requested and awarded for reasonable GA expenses related to administering the CDBG Program. This is a change from the previous years' calculation method for allowable GA; and, though there is a detailed discussion of the calculations below, the new Summary Application in Excel will perform these calculations automatically.

Calculation of General Administration

Below is the formula to be used to calculate 7.5% GA based solely on the amount of activity funding being requested (activity funding includes Activity Delivery (AD)). In essence, GA will now be calculated only on the amount of dollars being requested for each activity, not the overall total of the activity category limit (i.e., "Housing") or the entire application. Although the formula will be applied to the overall application total, the formula will be used in the Summary Application for each activity being applied for. Examples of the calculation are below:

Formula: Activity Total divided by 1.075 = Activity $ Amount (including AD) Activity Total – Activity $ Amount = GA
Total Application Example: Assuming an application amount of $2,000,000: $2,000,000 / 1.075 = $1,860,465 available for all Activities (including AD) $2,000,000 - $1,860,465 = $139,535 GA Verification: $139,535 / $1,860,465 = 7.5% Also: $1,860,465 + $139,535 = $2,000,000
Single Activity Example: Assuming an application for a $600,000 Housing Rehab Program Activity: $600,000 / 1.075 = $558,139 available for Activity (including AD) $600,000 - $558,139 = $41,861 GA Verification: $41,861 / $558,139 = 7.5%. Also: $558,139 + $41,861 = $600,000

Please Note: *In the application process, a GA amount will be calculated for each activity applied for. However, in the final contract, only one total amount for GA will appear. Since an applicant may or may not be funded for all of the activities applied for, there is no way to know at the application stage what the total GA award amount will be. Thus, it is least cumbersome for the Department to initially calculate the GA for each activity applied for, and then add together the GA calculations for all the awarded activities. This will result in the final, contracted amount of GA awarded to the grantee.*

ED OTC General Administrative Expenses

- For an ED OTC project with a single-year award of funds, up to $3,000,000, **GA** is calculated at seven and a half percent (7.5% - see formula above) of requested activity funds, but not to exceed $50,000.

- For an ED OTC project with a two-year award of funds, over $3,000,000, **GA** is calculated at seven and a half percent (7.5% - see formula above) of requested activity funds, but not to exceed $100,000.

Activity Delivery (AD) Expenses

A portion of the grant award may be used to pay for the actual costs associated with the delivery of the proposed activity. AD includes costs associated with staff and overhead directly involved with carrying out the activity.

Allowable **AD** amounts vary depending on the activity category. Maximum amounts/percentages are as follows:

- ED Over-the-Counter: not to exceed $40,000
- Enterprise Fund: up to 15%
- Housing Rehabilitation: up to 19%
- Public Facilities or Public Improvements: up to 12%
- *Public Services (including Microenterprise TA)* *0%*
- *PTA:* *0%*
- All other activities: up to 8%

Note: *AD costs are calculated as a percentage of the actual activity amount after GA funds are subtracted. Please note that the formula is similar to the new method of calculating GA, wherein AD dollars are based only on the actual activity funding amount. The allowable percentage for each activity category is turned into a numerical "factor," by which the Activity Funding amount is divided. The quotient is the amount used solely for the activity, which is then subtracted from the Actual Activity Funding Amount (Total Request less GA), and the result is the Allowable AD Amount.*

Formula:

Activity Total – GA = Activity Funds / AD % Factor = Remaining Activity Amount
Activity Funds – Remaining Activity Amount = Allowable AD Amount

AD Percentage Factors – By Activity:

Enterprise Fund Activities:	1.15%
Housing Rehabilitation:	1.19%
Public Facilities and Public Improvements:	1.12%
All other Activities:	1.08*

Single Activity Example:

For a $300,000 Homeownership Assistance Program with Activity Delivery costs of 8% AD will be calculated in the Summary Application using the formula above, as follows:

$300,000 – $20,930 (7.5% GA using 1.075 Factor) = $279,070 (activity funds including AD)
$279,070 / 1.08 (AD Factor for HA Activity) = $258,398 available solely for the HA Activity
$279,070 - $258,398 = $20,672 Allowable AD Amount

Verification: $20,672 / $258,398 = 8%
Also: $258,398 + $20,672 AD = $279,070 Activity Amount; and,
$279,070 + $20,930 GA = $300,000

Notes:

- *As noted above, the final amount of GA awarded in a contract will be based on which activities are awarded, and will be shown in the contract as a total amount for GA rather than as an amount tied to any specific activity.*

- *In the event AD costs are drawn down in the course of implementing the grant, and ultimately the activity does not proceed to its planned conclusion and a National Objective is not achieved by the contract expiration date,* ***all AD funds must be returned to the State, as well as any expended activity funds.***

Activity Delivery Costs for Housing Combination Program

The AD costs for the Housing Combination Program will be calculated based on the activity amounts being applied for under each program (HA and HR) using the guidelines above. If the applicant gets awarded the Combo Program, and decides during the term of the grant to transfer funds between the two activities, then the AD allocations will be re-calculated accordingly at the time of the transfer.

7. NOFA APPLICATION WORKSHOPS

In January and February 2014, the Department will present one-day NOFA workshops in five locations around the State.

The workshops are designed to review and discuss the NOFA and its components, to assist eligible applicants in important program topics, and to discuss how to best assemble and submit a complete application. Presentations will include an overview of the State Program, with an emphasis on eligible CDBG activities and meeting a National Objective; what's new this year; a discussion of the application evaluation criteria for eligible activities; methods for submitting required documentation; and, general information regarding the major federal overlay requirements that may affect funded activities. State CDBG staff will take project-specific questions for about an hour after each workshop.

Eligible applicants attending a workshop are encouraged to review the NOFA and Application prior to attending. Applicants should come to the workshops with a copy of the NOFA and the Application Packages they intend to fill out, since neither electronic nor hard copies of these documents will be available at the workshops.

The schedule for application workshops and webinars is as follows:

NOFA WORKSHOPS

Tuesday	January 28, 2014	Hollister
Thursday	January 30, 2014	Dinuba
Tuesday	February 4, 2014	Calexico
Tuesday	February 11, 2014	Fortuna
Thursday	February 13, 2014	Sacramento

Additional information about the workshop dates, times and locations, as well as a NOFA Workshop RSVP are detailed in **Appendix B.**

Note: *Applicants that anticipate attending one of the scheduled workshops are encouraged to send a NOFA Workshop RSVP form to the CDBG Program. This will help ensure that adequate seating is available for all participants.*

8. ELIGIBLE APPLICANTS, AREAS AND THRESHOLD

Eligible Applicants

A. CDBG - Non-Entitlement Cities and Counties

In general, incorporated cities under 50,000 in population and counties with an unincorporated area population of under 200,000 persons are eligible to

participate in the State CDBG Program. Eligible cities and counties may apply for funds under each Program component. The following exceptions apply:

- *If a city under 50,000 in population has entered into a three-year urban county Cooperation Agreement, that city cannot participate in the State CDBG Program until the expiration of the Agreement.*
- *If a city under 50,000 in population has been declared the central city of a Standard Metropolitan Statistical Area, it cannot participate because it is entitled to receive CDBG funds directly from HUD.*
- *If a jurisdiction is presently debarred, proposed for debarment, suspended, or declared ineligible pursuant to Title 24 CFR, Part 24 and 48 CFR Part 9, Subpart 9.4, the jurisdiction cannot participate in the CDBG Program*.

See **Appendix A** for a listing of the population eligible non-entitlement cities and counties for the CDBG Program. Jurisdictional debarment status may be obtained by conducting a search at this site: https://www.sam.gov/portal/public/SAM/. This information will be required at the time of application. Also, please note that the link above is a new web-address for the Excluded Parties List System (EPLS). The EPLS is now part of the federal System of Award Management (SAM) system.

Appendix A also provides the poverty index for each jurisdiction and the percentage of low- and moderate-income persons in the jurisdictions.

B. 50% Rule for Application Eligibility

Pursuant to State CDBG regulation 25 CCR 7060(a)(3), an applicant with one or more open CDBG grant agreements executed in 2012 or later, for which the expenditure deadline established in the grant agreement(s) has not yet passed, shall be ineligible to apply for any additional CDBG funds unless the applicant has expended at least fifty percent (50%) of all CDBG funds awarded in 2012 and later. The 50% expenditure regulation is known as "The 50% Rule." The requirements of this regulation do not apply to ED OTC contracts.

Simply put, if a jurisdiction has not yet expended 50% of **all** the funds awarded through all of its open contracts awarded under the 2012 NOFA and later, except for ED OTC, the jurisdiction is not eligible to apply for more funds.

"Expended" means: By the NOFA due date, the work is complete, the cost has been paid by the applicant, and Funds Request has been received by the Department. The Department may require evidence of the above to ensure the applicant's compliance with the 50% Rule.

Some examples of expended can include:

1) Escrow has closed on a homebuyer assistance application **and the applicant has the final HUD-1;** and,

2) The invoice(s) for a single family rehabilitation project has been inspected by the applicant, and the applicant and homeowner have approved the work as completed **and the invoice(s) has been paid.**

Applying the 50% Rule:

- *For this NOFA, the 50% Rule only applies to contracts awarded under the 2012 and 2013 NOFAs. So if a grantee was awarded $50,000 for PTAs, $1,500,000 for Infrastructure, including 7.5% GA, for a contract total of $1,550,000, by the 2014 NOFA application due date, the grantee must have expended at least $775,000 (50% of the total $1,550,000).*

- *It is important to note, funding limits and the 50% Rule are interrelated. If a jurisdiction received an award for $1,500,000 for a Public Improvement Project, $500,000 to fund an Enterprise Fund activity, and $600,000 for a HR Program under the Native American Allocation (allowably exceeding the $2,000,000 total activity cap due to the inclusion of the Native American activity), the jurisdiction would be required to expend $1,300,000 (50% of the total $2,600,000) to be eligible to apply for any additional CDBG funding, except ED OTC this year.*

- *The 50% rule applies to all CDBG contracts, excluding ED OTC contracts that have not passed their expenditure deadline at the time of the NOFA Application Due Date. If there are two "active" contracts, the jurisdiction would need to add both contracts together and divide by 2 to get to the amount to be expended prior to the application due date.*

Eligible Areas

A. Funding Outside a Grantee's Jurisdictional Boundaries

Given the CDBG Final Rules at 24 CFR 570.486(b) and (c) pasted below, the Department issued CDBG Management Memo 13-06 which details the federal language and the resulting associated Department policy. Please review the Memo prior to Service Area Determination.

(b) ***Activities serving beneficiaries outside the jurisdiction of the unit of general local government****. Any activity carried out by a recipient of State CDBG program funds must significantly benefit residents of the jurisdiction of the grant recipient, and the unit of general local government must determine that the activity is meeting its needs in accordance with section 106(d)(2)(D) of the Act. For an activity to significantly benefit residents of the recipient jurisdiction, the CDBG funds expended by the unit of general local government must not be unreasonably disproportionate to the benefits to its residents.*

(c)Activities Located in Entitlement Jurisdictions *- Any activity carried out by a recipient of State CDBG program funds in entitlement jurisdictions must significantly benefit residents of the jurisdiction of the grant recipient, and the State CDBG recipient must determine that the activity is meeting its needs in accordance with Section 106(d)(2)(D) of the Act. For an activity to significantly benefit residents of the recipient jurisdiction, the CDBG funds expended by the unit of general local government must not be unreasonably disproportionate to the benefits to its residents. In addition, the grant cannot be used to provide a significant benefit to the entitlement jurisdiction, unless the entitlement grantee provides a meaningful contribution to the project.*

Housing and Community Development Act, 106(d)(2)(D) states:

To receive and distribute amounts allocated under paragraph (1), the State shall certify that each unit of general local government to be distributed funds will be required to identify its community development and housing needs, including the needs of low and moderate income persons, and the activities to be undertaken to meet such needs.

It is incumbent upon each applicant to provide proposed beneficiary documentation showing that their citizens will significantly benefit from the activity being applied for. As part of the eligible activities review process, the Department will review the documentation to ensure all activities meet the above requirements.

B. Native American Set-Aside - Eligible Communities

Eligible jurisdictions may apply for Native American Set-Aside funds in addition to any other CDBG activity funding in this NOFA without invoking the program funding caps. Jurisdictions are encouraged to include activities benefiting eligible Native American communities in their application for CDBG funds. Requests for funding under the Native American Set-Aside must be included in the jurisdiction's application; and, if awarded, will be included in the same grant contract as all other activities/funding awarded.

1) Eligible cities/counties may apply for Native American Set-Aside funds on behalf of non-federally recognized Native American communities up to the maximum activity amount available, as defined in this NOFA, for Housing or Public Infrastructure In-Support-Of Housing.

2) Pursuant to State CDBG Regulation, Section 7062, grant funds may be awarded to "eligible applicants for identifiable geographic areas within eligible cities and counties comprised of high concentrations of Native Americans not recognized as Indian Tribes, as defined in Section 102(a)(17) of the Act."

3) Further, pursuant to State CDBG Regulation, Section 7062 "identifiable geographic areas comprised of high concentrations of

Native Americans" means: "identifiable geographic areas comprised of no less than fifty one percent (51%) Native Americans not recognized as an Indian Tribe by the Act. An identifiable geographic area may be defined by locally accepted social, historical, physical, political, or past programmatic boundaries." Additionally, the identifiable geographic area cannot be located on a Rancheria of a federally-recognized Tribe.

4) Eligible activities is limited to housing and infrastructure that support housing. Pursuant to California Health and Safety Code 50831, the Department shall utilize these funds *for the same purposes as those specified in Section 50828.* Section 50828 states that *not less than 51%* of the funds *be used for the purpose of providing or improving housing opportunities for person and family of low or moderate-income, or for purposes directly related to the provision or improvement of housing opportunities for persons and families of low or moderate-income, including, but not limited to the construction of infrastructure*.

5) The Final Rule changes superseded the California State CDBG Regulations at 25 CCR 7060(c), which pertains to who can apply on behalf of eligible Native American tribes. With the Final Rule changes, all applications and applicants for the Native American allocation must meet all requirements set forth in 24 CFR 486(b) and (c).

Note: *Funding for this set-aside, if not fully awarded, will be reallocated to fund additional Community Development activities.*

C. Colonia Set-Aside - Eligible Communities and Activities

Eligible jurisdictions which contain Colonia communities, as defined by the National Affordable Housing Act of 1990, may apply for these funds. A "Colonia" is:

1) Any identifiable community that is located within 150 miles of the border between the United States and Mexico, **except** within any standard metropolitan statistical area that has a population exceeding 1,000,000; **and**,

2) Any identifiable community that is designated by the State in which it is located as Colonia; **and**,

3) Any identifiable community that is determined to be a Colonia on the basis of objective criteria, including the lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; **and**,

4) Any identifiable community that was in existence and generally recognized as a Colonia before the enactment of the National Affordable Housing Act of 1990.

***Note:* All eligible Colonias for this NOFA have been identified.**

In compliance with CDP Notice 11-001, the availability of Colonia Set-Aside funds pursuant to this NOFA is limited to eligible jurisdictions that propose eligible Colonia-specific activities within designated Colonias that directly improve residential concerns associated with: (1) a lack of potable water; (2) lack of adequate sewage systems; and, (3) lack of decent, safe and sanitary housing.

All other eligible activities may be applied for from the CD allocation and may be carried out within Colonia boundaries, provided the Colonia area is also an eligible non-entitlement area and the activities meet the National Objectives of LMI or LMA.

Threshold Requirements

Pursuant to State CDBG Regulations, Section 7060, in order to be eligible to submit an application for funding, an applicant shall have met the following requirements at the time of application submittal:

A. City or County must be a Non-Entitlement Jurisdiction (see Appendix A for list of Non-entitlement jurisdictions), or must not currently be party to an Urban County Agreement or participate in or be eligible to participate in the HUD administered CDBG Entitlement Program.

B. The applicant shall submit all the application information required in State CDBG Regulations, 7062.1, 7070, 7072 and 7078, as applicable for the activities and funding allocations being applied for.

C. The applicant must demonstrate to the satisfaction of the Department that it is in compliance with the state and federal submittal requirements of OMB Circular A-133, Single Audit Report by the NOFA application due date.

Per OMB Circular A-133 Section .320, all jurisdictions using pass-through funds are required to have a complete A-133 package for the applicable fiscal year submitted to the Pass-Through Entity. Per the State Administrative Manual (SAM) Section 20070, the State Controller's Office (SCO) is the Pass-Through Entity for California and is responsible for coordinating Single Audit compliance with local governments for all Pass-Through Federal Funding (State CDBG Program funding is pass-through funding). SCO determines if the submitted A-133 is complete.

For purposes of eligibility under this NOFA, the Department requires that a "complete" A-133 be submitted to the SCO for the most recently

ended fiscal year. To be in compliance and therefore eligible for this NOFA, A-133 reports and associated documents, (including a Management Letter, if required) must be received at the SCO by close of business on the NOFA due date: April 11,2014.

It is strongly recommended that each applicant check with SCO to confirm that they have received your complete A-133 submission by the NOFA application due date, and that the submission is properly reflected on SCO's status list.

For more information please see:

SAM: http://sam.dgs.ca.gov/TOC/20000/20070.htm
SCO: http://www.sco.ca.gov/aud_single_audits.html

Applicants deemed by SCO to be out of compliance with the A-133 submission requirement by the due date of this NOFA will not be eligible for funding.

D. Pursuant to State CDBG Regulation, Section 7080, applications must be in compliance with federal CDBG Public Participation regulations to be eligible for funding. Refer to Appendix D and E for requirements and sample governing body resolutions.

E. The application must have complied with all the requirements listed in Health and Safety Code Section 50830, regarding Housing Element law. Pursuant to the law, CDBG will not reject an application based on either the content of the Housing Element or the Department's findings on the element, except as may otherwise be provided in Section 50830 of the Health and Safety Code. The determination of compliance will be made by the Department's Housing Policy Development Division.

The Department strongly recommends that if you do not know the status of your **Housing Element**, call Paul McDougall, Manager of Department's Housing Policy Development Division, at (916) 263-7420 or pmcdougall@hcd.ca.gov to verify compliance.

Refer to **Appendix C** for Housing Element and Growth Control Requirements.

9. ELIGIBLE ACTIVITIES

OVERVIEW

- *Pursuant to the Housing and Community Development Act of 1974 (HCDA Section 105(a)), CDBG funds may be used for activities as discussed below in Section 9 – Eligible Activities.*

- *For an activity to be eligible, it must be a HUD eligible activity as outlined and defined in the subsections below, and must also meet a National Objective, pursuant to 24 CFR 570.483, as discussed further in Section 10 of this NOFA.*

- *Planning and Technical Assistance is an eligible activity and may be applied for and funded for either Economic Development or Community Development purposes. Details on this activity are discussed in Section 9H below.*

ECONOMIC DEVELOPMENT

A. Enterprise Fund

1) Business Financial Assistance Program

Funds under this activity are provided to eligible businesses as loans. Projects funded under this program fall under HUD's Special Economic Development Activities as per HCDA 105(a)(17). Eligible loans are underwritten with standards and documentation similar to those used by private commercial lenders including credit scores, equity contributions, historic income, projected income, collateral, and debt coverage. In addition, loans must be underwritten using HUD underwriting standards per 24 CFR 570.482(e). Businesses funded can be existing or startup companies. Loan funds are restricted to certain eligible activity costs as listed below.

a) Eligible Uses of Funds

- Financing of working capital to pay for marketing costs, operating expenses and inventory. (Documentation of need for working capital and inventory must be provided.)
- Financing of furniture, fixtures and equipment (FF&E). Also, purchase and installation of manufacturing equipment.
- Financing of interior and exterior repairs and property improvements to owner and renter occupied commercial properties (including permits, engineering and architectural costs). These improvements may include ADA accessibility improvements.
- Financing of demolition and reconstruction or repair of blighted buildings where the business will operate.
- Refinancing existing indebtedness when documentation of need is provided and when refinancing costs do not exceed 50% of loan funds requested.
- Financing of relocation costs of any displaced persons due to project development are also eligible under this

program.

- Financing of offsite public improvements required as part of project's development.

b) <u>Ineligible Uses of Funds</u>

- Projects that do not meet proper Public Benefit or National Objective.
- Projects that assist housing development.
- Projects that are speculative in nature with no firm basis for sales projections and loan repayment.
- Payment of project costs incurred prior to loan approval and NEPA review completion.
- Projects which violate HUD job pirating prohibition (using CDBG funds to encourage a business to move from one labor market to another).
- Loans to Nonprofits - Loans are restricted to payment of acquisition of real property or construction costs.

Reference: ED Assistance to For-Profit Business: HCDA 105(a17)

2) <u>Microenterprise Assistance Program</u>

Funds under this activity may be provided as three different services to eligible ME persons and businesses. ME activities can provide: (1) Technical Assistance Services; (2) Financial Assistance; and, (3) Support Services. Eligible ME businesses and persons, once qualified, are eligible for these three services for up to three years, per 24 CFR 570.483(b)(2)(iv). MEs can be funded as existing or startup companies. Financial assistance must be provided only after underwriting and confirmation that the ME participant and their business are financially viable. Costs for the three services are restricted to certain eligible activity costs as listed below.

a) <u>Eligible Use of Funds</u>

<u>Technical Assistance (must income qualify participant using Department's current Income Self-Certification Form posted on HCD website)</u>:

- Technical Assistance classes, which provide business training and capacity building:
  - Technical Assistance may be provided in the form of one-on-one training done with consultants to help businesses develop financial management tools and inventory controls for their company or developing a specific marketing plan. This does not include one-on-one application preparation for financial

assistance noted below. This one-on-one application preparation would be considered AD.

- Financial Assistance (must income qualify participant using the Part 5 method):
  - Financing working capital to pay for marketing costs, operating expenses and inventory. (Documentation of need for working capital and inventory must be provided.)
  - Financing for furniture, fixtures and equipment (FF&E). Also, purchase and installation of manufacturing equipment.
  - Financing for payment of interior repairs and property improvements to owner and renter occupied commercial properties (including permits, engineering and architectural costs). These improvements may include ADA accessibility improvements.
  - Funds for relocation of any displaced persons due to project development are also eligible under this program.
- Support Service Assistance:
  - Funds for payment of transportation costs to allow ME participants to travel to and from classes and technical assistance.
  - Funds for payment of child care services to support the ME Program participant in attending technical assistance activities.

b) Ineligible Uses of Funds

- Assistance to non-profit agencies.
- Projects that assist development of housing.
- Payment of project costs incurred prior to loan approval and NEPA review completion.
- Financial assistance to persons/families above 80% AMI.

Reference: HCDA 105(a)(22)

B. ED Over-the-Counter (OTC)

ED OTC funding is provided to a specific project and as a CDBG-eligible activity, falls under HUD's Special Economic Development Activities as per HCDA 105(a)(14), and, 105(a)(17).

An OTC project can consist of financial assistance to single business or a large number of assisted businesses served by common infrastructure. The

most common form of OTC project is a single business with a single project where funds are provided as a loan to an eligible borrower. The more complex OTC project occurs when OTC funds are used to pay for infrastructure improvements in support of a commercial development (shopping center or industrial park) that has multiple businesses. All businesses associated with or served by the infrastructure must be underwritten and qualified as part of the CDBG OTC funding proposal. Incubator facilities and farmers markets may also be funded as an OTC project, which provides support for growing local businesses in the community. The incubator and farmers market OTC projects are also very complicated because of the large number of businesses served by the facilities and documentation of eligibility of the businesses.

a) <u>Eligible Uses of Funds</u>

- Financing may be used to cover any offsite public improvements required as part of project development.
- Financing may be used for working capital to pay for marketing costs, operating expenses and inventory. (Documentation of need for working capital and inventory must be provided.)
- Financing may be used for furniture, fixtures and equipment (FF&E). Also, purchase and installation of manufacturing equipment.
- Financing may be used for payment of interior and exterior repairs and property improvements to owner and renter occupied commercial properties (including permits, engineering and architectural costs). These improvements may include ADA accessibility improvements.
- Financing may be used for payment of demolition and reconstruction or repair of blighted buildings where the business will operate.
- Financing may be used for refinancing existing indebtedness when documentation of need is provided and when refinancing costs do not exceed 50% of loan funds requested.
- Financing used for relocation of any displaced persons due to project development is also eligible under this program.

b) <u>Ineligible Uses of Funds</u>

- Projects that do not meet proper Public Benefit or National Objective.
- Projects that assist housing development.
- Projects that are speculative in nature with no firm basis

for sales projections and loan repayment.

- Payment of project costs incurred prior to loan approval and NEPA review completion.
- Projects which violate HUD job pirating prohibition (using CDBG funds to encourage a business to move from one labor market to another).
- Non-profit financing is restricted to payment of acquisition of real property or construction costs.

1) *Section 108 Loan Guarantees* - The Department is reviewing the process and options for funding Section 108 Loan Guarantees for large Economic Development OTC projects. Please contact your Representative for more information.

COMMUNITY DEVELOPMENT

C. Housing Definitions of Single Family Residential and Multi-Family Residential

Single Family Residential, as applied to eligible ***program*** activities such as HR programs, is defined as one (1) to four (4) residential units on a single property.

Multi-Family Residential applies to the eligible ***project*** activities of Multi-Family Housing (MFH) Rehabilitation and MFH Acquisition/Rehabilitation, and is defined as five (5) residential units or more on a single property or within a single development complex.

While the number of units being served is an important aspect of the distinction between Single Family and MFH activities, the more important distinctions, from an eligibility and compliance stand point are that:

- **HR and HA are Programs where, at the time of application, there are no specific addresses assigned to the funding and guidelines are required.**
- **MFH Acquisition and/or Rehabilitation are Project activities where, at the time of application, there is a specific address assigned to the funding and no guidelines are needed, but more involved oversight by the Department is required (e.g., feasibility studies, expanded environmental review, Davis-Bacon, etc.).**

These are critical differences when applying for any of these activities, as the application requirements and scoring criteria are significantly different. Programs require Program Guidelines to be submitted as part of the application, whereas Projects do not. Please follow the instructions in the Application for these activities and provide the specific documents and

information required.

1) Housing Project - Property Acquisition for Multi-Family Housing

a) Eligible Uses of Funds

This activity is intended only for the acquisition of property for the purposes of housing projects. If the applicant is interested in non-housing property acquisition, the applicant should apply under the activity that corresponds to the proposed use of the property (i.e., when proposing to acquire a public facility or the land upon which to build one, the applicant should apply under the Public Facility activity).

Eligible uses of funds include the following:

- Acquisition of existing rental housing, the majority (51%) of units of which are occupied by low- or moderate-income residents.
- Resident purchase of mobile home parks.
- Acquisition of vacant land as part of an affordable housing development project.

Reference: Section 105(a)(1) of the Housing and Community Development Act of 1974.

Note: *For this activity, the corresponding application to use is the Housing Project – Multi-Family application package. See Eligible Activity #4 below*. ***Further, this activity can only be eligible if the acquisition results in housing units being built that are occupied by low/mod beneficiaries such that a National Objective will be met.***

b) Ineligible Uses of Funds

- Acquisition of property that is to be donated or sold for less than the purchase price to the same entity from which the property was originally purchased.
- Acquisition of newly-constructed housing or an interest in the construction of new housing, **unless** such housing is already constructed and for sale on the open market at the time that a commitment is made to use CDBG funds for such a purchase.

2) Housing Program - Homeownership Assistance

a) Eligible Uses of Funds

HA **Programs** that provide direct assistance to Low– or Moderate- Income (LMI) homebuyers for the acquisition of an existing or new housing unit completed prior to the homebuyer submitting an offer to purchase. **LMI is defined as total income that is at or below 80% of Area Median Income (AMI) adjusted for family size.**

Assistance may be used to:

- Subsidize interest rates and mortgage principal amounts;
- Finance the acquisition by LMI homebuyers of housing that will be occupied by the homebuyers;
- Acquire guarantees for mortgage financing obtained by LMI homebuyers from private lenders;
- Provide up to 50% of any down-payment required from the LMI homebuyer; or,
- Pay reasonable closing costs incurred by LMI homebuyers.

b) Ineligible Uses of Funds

- HA that would benefit a *non*-LMI person or household. Or assistance to a homebuyer that does not occupy the home.
- HA on a unit that is not yet built, and would thus be considered *housing new construction*. HA under CDBG is intended for existing homes, not new construction.

Reference: HCDA 105(a)(24)

3) Housing Rehabilitation Program (1-4 units) (HR)

a) Eligible Uses of Funds

- Financing of the costs of repairs and general property improvements to owner- and renter-occupied units, including repair or replacement of principal fixtures and components of existing structures (e.g., the heating system).
- Demolition and reconstruction of dwelling units (under certain, limited circumstances).
- Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds, if such financing is determined by the grantee to be necessary or appropriate to achieve the locality's community development objectives.

- Water or sewer laterals from the main water line to the dwelling, regardless if the main water line or any part of the lateral is located in a public right of way. See **Management Memo 14-01** at this link: CDBG Management Memos for further details.
- Installation of water meters, if done in-conjunction with the rehabilitation of the unit itself.
- Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, wall and attic insulation, and conversion/modification/replacement of heating and cooling equipment, including the use of solar energy equipment.
- Improvements to increase the efficient use of water through such means as water savings faucets and shower heads and the repair of water leaks.
- Initial homeowner warranty premiums when rehabilitation is carried out with CDBG funds.
- Hazard insurance premiums when rehabilitation is carried out with CDBG funds, except where assistance is provided in the form of a grant.
- Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973 and for which the rehabilitation is carried out with CDBG funds.

b) Ineligible Uses of Funds

- Any action that results in what would be considered *housing new construction.*
- Creation of a secondary housing unit attached to a primary unit.
- Installation of luxury items, such as a swimming pool.
- Costs of equipment, furnishings or other personal property which are not integral structural fixtures, such as a window air conditioner, washer or dryer, etc.
- Labor costs for owners to rehabilitate their own property.
- Assistance to homeowners that would benefit a *non*-LMI person or household.

c) Other Considerations

The HR (1-4 Units) activity is a **program** involving single family residential properties that are one to four units.

HR programs require guidelines adopted in accordance with required citizen participation and formal resolution by the governing body of the jurisdiction.

Further, should the jurisdiction choose to include tenant-occupied HR in their program, the guidelines **must** separate out the rules for renter-occupied units (also called owner-investor) and owner-occupied units.

Reference: HCDA 105(a)(1), 105(a)(4)

4) Housing Projects - Multi-Family Rental Rehabilitation - with or without Acquisition

a) Eligible Uses of Funds

- Financing of the costs of repairs and general property improvements to renter-occupied units, including repair or replacement of principal fixtures and components of existing structures (e.g., the heating system).
- Demolition and reconstruction of dwelling units (under certain circumstances).
- Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds, if such financing is determined by the grantee to be necessary or appropriate to achieve the locality's community development objectives.
- Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, wall and attic insulation, and conversion/modification/replacement of heating and cooling equipment, including the use of solar energy equipment.
- Improvements to increase the efficient use of water through such means as water savings faucets and shower heads and the repair of water leaks.
- Conversion of commercial properties into housing units.
- Conversion of a non-residential structure (closed school building, closed military facility, etc.) to residential (adaptive reuse).
- Projects with at least 51% of the units occupied by or restricted for low/mod households.

b) Ineligible Uses of Funds

- Installation of luxury items, such as a swimming pool.
- Costs of equipment, furnishings or other personal property which are not integral structural fixtures, such as a window air conditioner, washer or dryer, etc.
- Labor costs for owners to rehabilitate their own property.
- Projects with less than 51% of the units occupied by or restricted for low/mod households.

c) Other Considerations

Housing Projects - Multi-Family (MFH) are for properties with 5 or more units, and formal *program guidelines* are not applicable. MFH projects will be reviewed for feasibility, as well as true financial need. As stated in this NOFA and corresponding application package, only one MFH Rehab project is allowed per application.

Reference: HCDA 105(a)(1), 105(a)(4)

5) Housing – Combo – Applying for both Homeownership Assistance (HA) and Housing Rehabilitation (1-4 Units) (HR)

a) Eligible Uses of Funds

This activity allows jurisdictions to apply for funding for both their HA and HR Programs. It provides greater flexibility by allowing grantees to transfer CDBG funds between the two programs without having to execute a formal contract amendment. Grantees will need to inform the Department in writing each time funds are moved, and written approval for transfer between the two programs will be required.

For details on eligible and ineligible activities, please refer to the HR and HA sections above.

Note: *The "Combo" program is merely a means to apply for both programs together; however, both programs cannot be used on the same address. That is to say, CDBG funds cannot be used to acquire, rehabilitate and resell 1-4 Unit properties.* ***Further, In order to be considered for a housing combination program, the application must include the forms and support documentation for both activities.***

b) Ineligible Uses of Funds

For ineligible activities, please refer to the HR and HA sections.

Reference: HCDA 105(a)(4) and HCDA 105(a)(24)

6) Housing - Housing New Construction

a) Very Limited Eligible Uses of Funds

For the State CDBG program, the Housing and Community Development Act of 1974, as amended (HCDA) states that any activity not specifically listed in section 105 is not eligible. Thus, the construction of new, permanent, housing structures

is **ineligible** for CDBG assistance, except under the following limited circumstances:

Construction of **last resort** housing is when a jurisdiction is providing a displaced person with a comparable replacement dwelling unit, and this can only be accomplished by new construction. Last resort housing provisions are set forth in federal regulations Title 24 CFR, Part 42, Subpart I. Documentation demonstrating the efforts to relocate individuals must be submitted with the application if last resort housing or displacement is part of the application.

Note: *Generally, activities in support of new housing construction projects are eligible under Public Improvements In-Support-Of Housing New Construction.*

b) Other Considerations

- Project Completion: Construction of all housing units must be completed and the housing must be occupied ***prior to the expiration of the CDBG Grant Agreement*.**
- Conversion of a non-residential structure to residential (adaptive reuse) is *not* considered to be a housing new construction activity, and is eligible under HR.

Reference: HCDA 105(a)(4), 105(a)(6)

D. Public Improvements

a) Eligible Uses of Funds

- The costs of construction, reconstruction, rehabilitation or installation of a public improvement project, including water and sewer facilities, flood and drainage facilities, street improvements (including sidewalks, curbs and gutters) and utilities.

  For Public Improvements to be eligible under the Community Development funding category, the project must be located in and serve a predominantly residential area. The applicant must attach a map indicating the use of all properties in the service area of the project.

b) Ineligible Uses of Funds

- Costs of operating and maintaining public improvements.
- Costs of purchasing construction equipment.

Reference: HCDA 105(a)(2)

E. Public Improvements In-Support-Of Housing New Construction (PIHNC)

a) Eligible Uses of Funds

- The following are eligible uses of CDBG funds in conjunction with the actual construction of new permanent housing:

  Off-site improvements such as utilities, streets, curbs and gutters, sidewalks, and flood and drainage improvements are eligible only where specifically required as a condition of the housing project approval **and** where the improvement is necessary to the development. If the proposed improvements are not a ***condition of approval***, then **the activity will be deemed a non-specific Public Improvement Project and the applicant should use the Public Improvement application for that activity rather than Public Improvement In-Support-Of Housing New Construction. The non-specific Public Improvement application will be evaluated for eligibility and scored on the basis of area benefit.**

b) Ineligible Uses of Funds

- Costs of operating and maintaining public improvements.
- Costs of purchasing construction equipment.
- Off-site improvements that are not a condition of approval for the new housing development.
- On-site improvements

c) Other Considerations

Project Completion: The construction of all housing units must be completed and the housing **must be occupied** (regardless of any other funding sources in the project) ***prior to the expiration of the CDBG Standard Agreement.***

Reference: HCDA 105(a)(2)

F. Public Facilities

a) Eligible Uses of Funds

- Acquisition, rehabilitation or new construction of buildings and grounds used for public purposes such as training, health services, education, recreation, nutrition, shelter, day care, temporary housing and fire protection. For a

public facility to be eligible, it must be used for public purposes as described in this section, or provide eligible public services as described in this section, item G below.

- The acquisition of real property (including air rights, water rights, easements, rights-of-way and other interests therein) is eligible if the property meets any of the following criteria:
  - Blighted, deteriorated, deteriorating, undeveloped or inappropriately developed from the standpoint of sound community development and growth;
  - Appropriate for rehabilitation or conservation activities; ***or,***
  - The acquisition of land for use as a park serving primarily a residential neighborhood that is predominantly low- to moderate-income.
- Temporary Housing: For housing-related activities to be eligible as a Public Facility, both the facility and the services therein must be designed for use in providing temporary shelter for persons having special needs. Such shelters would include, but not be limited to, nursing homes, convalescent homes, shelters for victims of domestic violence, shelters and transitional facilities for the homeless, halfway houses for runaway children or drug offenders or parolees, group homes for the developmentally disabled, and seasonal housing for migrant farm workers.

Note: *Costs for design features which promote the energy efficiency of the proposed Public Facility activity may be included.*

- If a public facility contains multiple uses, including eligible and ineligible uses, it could still receive CDBG assistance if:
  - *The portion of the building which will house the eligible uses will occupy a designated and specific area demonstrated by building drawings/plans.*
  - *The applicant can determine the costs attributable to the portion of the facility proposed for assistance as separate and distinct from the overall costs of the multi-use building.*

b) Ineligible Uses of Funds

- Buildings used for the general operation of local government are not eligible as public facilities, except that the removal of architectural barriers from such buildings is an eligible activity. Please see the note below regarding Section 504 compliance.
- The costs of maintaining or operating a public facility are not eligible as a public facility activity, but may be eligible under the public service activity.
- Refinancing loans on existing public facility buildings is not an eligible use of CDBG funds, unless the refinancing takes place in conjunction with the rehabilitation of the building.
- Permanent housing.
- Time-sharing of eligible and non-eligible uses for the same space.

c) Other Considerations

Use Limitation Agreement: For property acquired or improved in whole or in part using CDBG funds, a Use Limitation Agreement will be required to be in effect for at least five years after the close out of the CDBG contract to ensure that the eligible public services will continue to be provided.

Reference: HCDA 105(a)(2)

Note: Government Building Exception: **Section 504** Compliance: Rehabilitation of buildings used for the general operation of local government is not eligible **unless the rehabilitation is to remove architectural barriers** and must comply with the requirements detailed in Section 504 of the Rehabilitation Act of 1973, including obtaining a certificate of compliance from the architect documenting that the facility meets Section 504 accessibility requirements. (See **Appendix H)**

Reference: Section 504 of the Rehabilitation Act of 1973 and HCDA 105(a)(5).

G. Public Services

a) Eligible Uses of Funds

CDBG funds may be used to provide public services including labor, supplies, materials and other costs. Funding operating and maintenance costs in the facility providing the service is

allowed under this category. Public Services include, but are not limited to:

- Child Care
- Health Care
- Crime Prevention
- Job Training
- Recreation Programs
- Education Programs
- Fair Housing Counseling
- Credit Counseling Services
- Public Safety Services
- Services for Senior Citizens
- Services for Homeless Persons
- Drug and Alcohol Abuse Counseling and Testing
- Transportation Services
- Nutrition Services
- Energy Conservation Counseling and Testing
- Emergency Assistance Payments
- Neighborhood Cleanup
- Code Enforcement*

Note: *Code Enforcement is not actually a Public Service Activity, it is a stand-alone activity.* To be eligible for Code Enforcement funding, the activity must adhere to the following:

1) It must only pay for the *enforcement* of state and/or local codes.
2) It does not pay the costs of correcting code violations
3) Is only eligible in deteriorating or deteriorated areas where such enforcement, together with public or private improvements, rehabilitation or services to be provided, may be expected to arrest the decline of the area.
4) It cannot be applied across the jurisdiction
5) It must identify measurement standards and keep good records to show it is working.

b) Ineligible Uses of Funds

- Political Activities
- Religious Services
- Governmental Operations
- Ongoing Grants or Non-emergency payments to individuals for the food, clothing, rent, utilities or other income payments (subsistence payments) — beyond three months.

c) Other Considerations

Federal statute allow for the use of CDBG funds for Public Services only under the following four (4) circumstances:

1) The service must be **new**, in that it has not been provided before, or has been discontinued for more than 12 months prior to the date the final filing date of the application; ***or,***
2) The proposed service must be a **quantifiable increase** in the level of service with the costs having never been incurred or paid for by a funding source.
3) The service is **currently funded with CDBG** grant funds and the service will remain at substantially the same level.
4) The service was previously **funded by another source and that source is no longer available**. The **loss of this funding must be documented in the application.** *This eligibility requires an exception from HUD. The applicant will be required to show that CDBG funds are not being substituted for other state or local funds and that the loss of current funding is out of the applicant's control. CDBG funding may not supplant other state and local funding. If the applicant intends to apply under this eligibility please call your CDBG Representative to discuss prior to preparing the application.*

Note: *The State CDBG allocation for Public Services cannot exceed 15% of the total award to the state.*

Reference: HCDA 105(a)(8)

H. Planning and Technical Assistance (PTA)

a) Eligible Uses of Funds

CD planning studies focus on research, analysis and planning for community needs in regard to: housing, public improvements, community facilities, public services and local planning issues. Planning study final products must show a connection to assisting with an eligible CDBG activity that, if implemented, meets a National Objective of LMA or, in limited ED circumstances, Slum and Blight.

ED planning studies focus on business development and job creation or retention through analysis of business development opportunities. ED planning grants also help

develop analysis of needs and impediments to growth of local businesses (lack of infrastructure or financing). Planning grants for ED can assist in the development of long term local economic development strategies, like County Economic Development Strategies (CEDS) required by Federal Economic Development Agency (EDA). Downtown economic development plans to guide the growth and revitalization of a downtown area are also eligible and could qualify as helping to develop a BA program for the downtown area which would create jobs and jobs for Low/Mod persons.

Per HCDA 105(a)(12), PTA funding may only be spent on:

- Studies;
- Analysis;
- Data gathering;
- Preparation of plans; and,
- Identification of action that will implement plans.

***Note*: Grant writing, including ED OTC grant writing, is *not* an eligible use of PTA funding.**

Further*, the application must document* that the work-product to be produced by the PTA award, if implemented, **will** meet a National Objective (see the National Objective Matrix in Appendix G). The Department will evaluate each PTA for eligibility based on the application's supporting documentation confirming the PTA will meet a National Objective.

If awarded, the work-product produced by the PTA award **must:**

1) Be consistent with the work product applied for in the PTA application; and,
2) Be submitted to the Department at time of grant closeout.
3) Meet a national objective if implemented or meet LMA or Slum and Blight national objective at the time of award.

If the work-product produced by the PTA grant is: (1) not consistent with the work-product approved in the original application and as described in the contract; (2) will not, if implemented, meet a National Objective; or, (3) is not submitted at the time of grant closeout, *the activity may be deemed ineligible and the funding shall be returned to the Department.*

Grant writing may be funded through a jurisdiction's GA funding; **however, CDBG GA can only be spent on preparing CDBG applications**.

Call your CDBG representative if you have any questions about eligible PTA activities.

b) <u>Ineligible Uses of Funds</u>

a) Planning and capacity building activities <u>do not</u> include:

- Engineering, architectural plans and design costs related to a specific project (for example, detailed engineering specifications and working drawings); or,
- The costs of implementing plans, including grant application preparation.
- The costs of Geographic Information Systems.
- Providing technical assistance to a non-profit for capacity building.

b) In addition, the list below gives examples of activities that are ineligible, with possible exceptions. *CDBG encourages applicants to contact your CDBG Representative if there are any eligibility questions.*

✓ **<u>Ineligible</u>: Income Survey** costs. The cost of conducting an Income Survey is not an eligible PTA cost. PTA funding cannot be spent on 'tools' that do not result in an eligible activity. GA funds, however, may be used to complete an Income Survey.

✓ **<u>Ineligible</u>: Housing Element** preparation for Jurisdictions in which fewer than 51% of residents are Low/Mod as documented by the federal census.

<u>Exception</u>: *Costs incurred for the preparation of that portion of the Housing Element in which affordable housing is addressed is eligible. See also below under comprehensive planning.*

✓ **<u>Ineligible</u>: Comprehensive**, general or long-range planning:

- *<u>Comprehensive</u>* means the study was conducted for more than half of the geographic area in the jurisdiction, and includes two or more topics regarding the physical development of the jurisdiction.
- *<u>General</u>* means the documents include summaries of broad policies or proposals that are not site-specific.

- *Long-range* means the time-frames for the policies and proposals are five years or more.

Exception: Comprehensive planning is allowed if the planning is carried out in a geographic area in which 51% or more of the residents are Low/Mod income as documented by the federal census or income survey completed within the last five years, and the applicant can document that the comprehensive plan will primarily benefit Low/Mod income persons.

Reference: HCDA 105(a)(12); HCDA 105(a)(14); and, HCDA 105(a)(19)

c) Other Considerations

Cash Match Requirements - *The PTA activity requires local matching funds to be committed to the activity, per Health and Safety Code 50833.* Per Title 25, Section 7058(a)(5)(A), all jurisdictions applying for a PTA activity will be required to commit five percent **(5%)** of the total funding amount as a required cash match. For more information on this requirement, please see **Appendix J** and the PTA activity section of the Application.

10. NATIONAL OBJECTIVES AND DOCUMENTING BENEFICIARY REQUIREMENTS

A. Meeting a National Objective

According to 24 CFR Section 570.483, to be eligible for funding, every CDBG-funded activity must meet one of the following three National Objectives of the program. The National Objectives are:

- *Benefit to low- and moderate-income persons; or,*
- *Prevention or elimination of slums or blight; or,*
- *Urgent Need, which is meeting other community development needs having a particular urgency because of existing conditions that 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. (Urgent Need is not eligible.)*

CDBG statutes and regulations allow for three National Objectives to be met by eligible activities; however, as noted above, under this NOFA only two of the three National Objectives can be used for eligible CDBG activities. The most commonly used is benefit to low- and moderate-income individuals or households (LMI), which is allowable for both CD and ED activities. Elimination and prevention of slums and blight is only allowed for ED

activities.

See the HUD Guide to National Objectives and Eligible Activities for State CDBG Program at: HUD Guide to National Objectives and Eligible Activities for State CDBG

If an eligible activity is not documented in the application as meeting one of the allowable CDBG National Objectives, then the activity will be deemed ineligible and the jurisdiction will be ineligible for funding of that activity. As such, the application must clearly document how the CDBG National Objective will be met.

There are a number of different ways to meet the National Objective of benefit to LMI persons, based on the proposed activities. Each of these methods is designed to document that households benefiting from CDBG eligible activities are at or below the Department's annual published limits of eighty percent (80%) or less of county median income, adjusted for family size. Below is a description of how documentation for meeting the National Objective of benefit to low- and moderate-income persons is achieved.

ED activities documentation for meeting Public Benefit requirements is discussed in Section 11, *Public Benefit Requirements*.

Refer to **Appendix G** for the National Objective Matrix. The Department strongly encourages applicants to review and print this document.

BENEFIT TO LOW- AND MODERATE-INCOME PERSONS (LMI)

Seventy percent (70%) of all CDBG funding must be spent for the benefit of persons, families or households with incomes at or below 80% of their county's median income, adjusted for family size. The criteria for how an activity may be considered to benefit LMI persons are divided into four subcategories: Low/Mod Area (LMA); Limited Clientele (LMC); Low/Mod Housing (LMH); and Low/Mod Job (LMJ). These are detailed below.

Further, there is also a ***restriction on benefit to moderate-income persons.*** The regulations require grant recipients to ensure that moderate-income persons are not benefitted to the exclusion of low-income persons (see 24 CFR 570.483(b)). This does not mean that each CDBG-assisted activity must involve both low- and moderate-income beneficiaries. However, it does mean that the grant recipient's CDBG program, as a whole, must *primarily benefit low-income persons*, and that moderate-income persons do not benefit to the exclusion of low-income persons.

1) LMI Subcategories

a) Low/Moderate-Income Area Benefit (LMA)

An Area Benefit activity is an activity that is available to benefit all the residents of an area that is primarily residential. In order to qualify as addressing the National Objective of benefit to LMI persons on an area basis, the activity must serve the needs of LMI persons residing in an area where at least 51% of the residents are LMI persons. The benefits of this type of activity are available to all residents in the area regardless of income.

Examples of Area Benefit activities include:

- ✓ Public Infrastructure Projects
- ✓ Public Facilities
- ✓ Public Services

See **Appendix K** for detailed information on **determining Service Area**.

Note: *Applicants using this National Objective will be required to submit a map of the service area should the service area be greater or lesser than the jurisdictional boundaries.*

b) Low/Moderate-Income Limited-Clientele (LMC)

A LMC activity is an activity that provides benefit to a specific group of persons rather than everyone in an area generally.

To qualify under this subcategory, a LMC activity **must meet one** of the following tests:

I. Exclusively benefit a clientele who are generally **presumed** by HUD to be principally LMI persons, such as:

- Abused Children
- Elderly Persons
- Battered Spouses
- Homeless Persons
- Adults Meeting the Bureau of Census' Definition of Severely Disabled Adults (see http://www.census.gov/prod/2012pubs/p70-131.pdf)
- Illiterate Adults
- Persons Living with AIDS
- Migrant Farm Workers

Note: *This presumption may be challenged in a particular situation if there is substantial evidence that the persons in the actual group that the activity is to serve are most likely not principally LMI persons.*

II. Be a Public Service/Facility that is not open to all. For

example, Youth Services or a Youth facility, or other income qualified beneficiary activity. In this instance please see the Department's Income Calculation and Determination Guide for Federal Programs on our website at Income Manual, Chapter 7 - Self-Certification.

III. Be of such nature and in such location that it may be reasonably concluded that the activity's clientele will primarily be LMI persons. For example, a day care center that is designed to serve residents of a public housing complex.

IV. Be an activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of Census' definition of "severely disabled," **provided** 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 LMA benefit criteria;
- The rehabilitation of privately-owned nonresidential building or improvement that does not qualify under the LMA benefit criteria or the LMJ criteria; or
- The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under the LMH criteria.

V. Be a **Microenterprise (ME) Assistance** activity carried out in accordance with HCDA 105(a)(22) or 24 CFR 570.482(c) with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity during each program year who are LMI persons. *(**Note:** Once a person is determined to be LMI, he/she may be presumed to continue to qualify as such for up to a three-year period, but only when the activity is ME Technical Assistance or Services.)*

Other Important Considerations Regarding ME: The benefit types for ME Program services are divided into indirect benefit and direct benefit, and each have different income eligibility requirements and different income documentation requirements for beneficiaries of the program services.

Indirect Benefit: ME Technical Assistance and Support Services. Support Services provide indirect benefit; and,

as such, the service beneficiaries must be documented as income eligible using the Department's Income Self-Certification Form in the Department's Income Calculation and Determination Guide for Federal Programs on our website at **Income Manual.** This is similar to Public Service activities funded under CD funding category.

Direct Benefit: ME Financial Assistance (loans and grants) are considered direct benefit; and, as such, each beneficiary must be documented as income eligible using the Part 5 process as detailed in the Department's Income Calculation and Determination Guide for Federal Programs on our website at Income Manual. ME Financial Assistance income documentation using Part 5 is the same process as that used for HR activities funded under the CD funding category.

Documentation: Prior to providing services or funding to a ME Program participant, an original signed income Self-Certification Form or completed Part 5 eligibility process must be in the project file. Additionally, evidence of 5 or few employees, including the owners, must be in the file.

Important Tip: Should the indirect benefit (Technical Assistance) result in direct benefit (Financial Assistance) at a later date, the self-certifications from the indirect benefit activity are no longer sufficient, and each financially assisted beneficiary must be subject to full Part 5 Income Qualification.

c) Low/Mod-Income Housing (LMH)

HCDA 105(c)(3) requires that an activity which assists in the acquisition, construction or improvement of permanent, residential structures, and HA, may qualify as benefiting LMI persons only to the extent that the housing is occupied by LMI persons. Thus, for an activity under housing to qualify under the LMI Benefit National Objective, it must result in housing that will be **occupied** by an LMI household upon completion. The housing can be **either** owner- or renter-occupied and can be in either a single family or a multi-unit structure. When housing is to be rented in order for a dwelling unit to be considered to benefit a LMI household, it must be occupied by the household at **affordable rents**. [24 CFR 570.483(b)(3)]

Further, LMH benefit status is based on *households*, not *persons*. Thus, **total household income** must be at or below 80% of median income for the residing county, adjusted for family size.

Examples of activities that must meet LMH benefit standards include:

- ✓ Acquisition of property to be used for permanent housing;
- ✓ Rehabilitation of permanent housing;
- ✓ Conversion of nonresidential structures into permanent housing;
- ✓ Assistance to a household to enable it to acquire ownership of a home (HA); and,
- ✓ Hookups to connect residential structures to water and sewer systems.

Occupancy Rule: Occupancy of the assisted housing by LMI households under LMH is determined using the following general rules:

- ✓ *All* assisted *single unit* structures must be occupied by LMI households;
- ✓ An assisted *two-unit* structure (duplex) must have *at least one* unit occupied by a LMI household; and,
- ✓ An assisted structure containing *more than two units* must have *at least 51%* of the units occupied by LMI households. For this NOFA, multi-family housing activity applicants must show that at least 51% of the present tenants' in the project have household income meeting the LMI requirement.

Other Considerations: *Condominiums* - Where rehab of one or more units in a multi-unit building, that are owned on a condominium basis, is limited to the particular unit(s) and does not involve rehab of a portion of the property that are held in common ownership, the unit(s) are considered to be separate structure(s).

Important Tips:

- ✓ For any Housing Activity, compliance with the LMI benefit using LMH National Objective is based on meeting Part 5 Income Determination, using the Income Manual. Housing activities considered *programs* (HR 1-4 units, and HA) must address this requirement in their Guidelines as a program requirement.
- ✓ Tenant Occupied Units (1-4 units or multifamily projects) must use the income self-certification process for tenants occupying the units at the time of requesting assistance

(to determine if at least 51% of the tenants will meet the LMH requirement). Once "assisted," the units, at occupancy, must meet the full Part 5 requirement until the Rent Limitation Agreement (minimum period must be 5 years from completion of the CDBG funded work) expires.

- ✓ Eligibility for HA at HCDA 105(a)(24) requires that only LMI households be assisted. No other, less restrictive National Objective may be used for this activity.

d) Low/Mod Income Jobs (LMJ)

This National Objective applies *only* to ED BA (BA) – which includes both EF BA activities and ED OCT projects (the only differences, essentially, are the sizes of the loans/grants, and the application process.) ME, as noted above, is 100% LMC, so job creation/retention is not necessary.

ED BA activities are generally undertaken for the purpose of job creation or retention; thus, most of the time, job creation or retention activities are classified as eligible under one of several economic development-oriented eligibility categories.

Per HCDA 105(c)(1), one of the ways that LMI can be met is to "Involve the employment of persons, the majority (51%) of whom are L/M persons," which is what allows the LMJ National Objective subcategory to meet the LMI requirement.

Examples of Activities That Could Be Expected to Create or Retain Jobs:

- ✓ EF BA or OTC project that finances the expansion of a plant or factory (job creation).
- ✓ EF BA or OTC project for financial assistance to a business which has publically announced its intention to close; but, through the CDBG ED loan, it can update its machinery and equipment and thus remain open instead (job retention).
- ✓ OTC project upgrading an access road to serve a new distribution warehouse being built by a firm.

A *LMJ activity* is one which creates or retains permanent jobs. At least 51% of which, on a full-time equivalent (FTE) basis, are either held by LMI persons (retention) or who are LMI persons at the time of being hired (creation).

What Jobs Can Be Counted:

- ✓ Part-time jobs must be converted to full-time equivalents (FTE). State policy allows for a maximum of four (4) part-time jobs to be aggregated to one (1) FTE.
- ✓ Only permanent jobs count; temporary jobs may not be included.
- ✓ Seasonal jobs are considered to be permanent for this purpose only if the season is long enough for the job to be considered the employee's principal occupation.
- ✓ Jobs indirectly created or retained by an assisted activity may not be counted.

Jobs "Held By" LMI Persons:

- ✓ A job is considered to be held by a LMI person if the person is a member of a family whose income falls at or below 80% of county median income, adjusted for family size, *at the time their employment commences* (job creation). The entire family's income must be counted.

Special Rules for Retained Jobs: In order to consider jobs *retained* as a result of CDBG assistance, there must be clear and objective evidence that permanent jobs will be lost without CDBG assistance. For these purposes, "clear and objective" evidence that jobs will be lost can include:

- ✓ Evidence that the business has issued a notice to affected employees or made a public announcement to that effect; or,
- ✓ Analysis of relevant financial records which clearly and convincingly shows that the business is likely to have to cut back employment in the near future without the planned intervention.
- ✓ To meet the LMJ standard, at least 51% of the retained jobs must be known to be held by LMI persons at the time CDBG assistance is provided.

Note: In both retained and created jobs, the Income Manual must be used by using the Self-Certification Income Forms.

Provisions for Aggregating Jobs: See Section 11, Public Benefit Requirements.

2) Low/Mod Benefit Scoring for Applications

In scoring activities that are 100% income-qualified or LMC, Need/Benefit will be scored based on jurisdiction-wide HUD Low/Mod percentage. These percentages are listed in **Appendix A**.

If the jurisdiction uses a service area that is greater or less than the applicant's jurisdictional boundaries, for the purpose of proving LMA eligibility (51% or greater Low/Mod percentage) on activities that are not 100% income-qualified or LMC, the Department will score Need and Benefit on the same service area; and, therefore, the applicant will be required to submit a maps and L/M data per HUD's Low/Mod data at the Census Tract and Block Group levels. See **Appendix I** for more information on HUD's Low/Mod data.

When the service area (Low/Mod area) is the whole jurisdiction, the Department will use the jurisdictional data within **Appendix A**.

For those activities using Census or American Community Survey data for scoring, the Department will use the data provided in **Appendix A**.

3) Documentation Requirements

Each application must contain a discussion of how the proposed project will principally benefit the LMI group. The Department has provided jurisdiction-wide Low/Mod information in **Appendix A**. For activities using LMA benefit (for service area other than jurisdiction-wide), applicants should use HUD Low/Mod data by census tract and census block group (see **Appendix I**), or a valid income survey (as described in **Appendix F**) to document benefit. Links to the HUD website are provided at the end of **Appendix A and in Appendix I.**

Note: The use of Income Surveys may not be acceptable documentation of meeting Low/Mod Area (LMA). An Income Survey may be submitted as documentation for LMA, however, to be applicable the Department must review the Survey and determine that it is methodologically sound and accurate. Applicants are strongly encouraged to discuss the Income Survey that will be used by the applicant to meet the National Objective of LMA with their CDBG Representative. See Appendix F for further discussion of methodologically sound Income Surveys.

PREVENTION/ELIMINATION OF SLUMS OR BLIGHT

The State CDBG Program allows this National Objective to be used only in conjunction with Special ED activities under BA or an OTC project. HUD is very careful to make clear that this National Objective results in clearly eliminating objectively determinable signs of slums or blight in a defined Slum or Blight Area, or is strictly limited to eliminating specific instances of blight outside such an area ("Spot Blight").

Planning-only grants may be used if the plans are for a Slum or Blighted Area, or if all elements of the planning are necessary for and related to elimination of slums or blight. *Planning-only* means that planning is the only activity or the planning activity is unrelated to any other activity assisted by the grant. [24 CFR 570.483(c)(3)]

Accordingly, the subcategories under this National Objective are:

1) Area Basis - Aid in the Prevention or Elimination of Slums or Blight (24 CFR 570.483(c)(1))

Examples of Activities Designed to Address Blight on an Area Basis:

- ✓ Acquisition and clearance of blighted properties;
- ✓ Renovation and reuse of abandoned, historic buildings; and,
- ✓ Removal of environmental contamination on property to enable it to be redeveloped for a specific use (Brownfields).

To qualify under the National Objective of Slums/Blight on an **area** basis, an activity must meet ***all*** of the following criteria:

a) The area must be officially designated by the applicant jurisdiction and must meet a definition of a slum, blight, deteriorated or deteriorating area under State or local law. For these purposes, it is not necessary to formally designate or declare the area to be blighted, but the area must meet the definitions for designation. However, federal statute requires that the area have *"objectively determinable signs of blight," so* inappropriately zoned or vacant land by themselves do not qualify as evidence of blighted conditions.

b) The area must exhibit at least one of the following physical signs of blight or decay:

   i. There must be a substantial number of deteriorated or deteriorating buildings throughout the area. As a "safe harbor," HUD will consider this test to have been met if:

      - The proportion of buildings in the area that are in such condition is at least equal to that specified in the applicable State law for this purpose; **or,**
      - When applicable State law does not specify the percentage of deteriorated or deteriorating buildings required to qualify an area, then at least one quarter of all building in the area must be deteriorated or deteriorating.

Note: The State defines Slum and Blight at Health and Safety Code- 33030-33039.

c) Documentation must be maintained showing the boundaries of the area and the conditions that qualified the area at the time of designation.

d) CDBG funding must be limited to those activities that address one or more of the conditions that contributed to the deterioration of the area. (This does not limit the activities to those that address the blight or decay itself, but it allows an activity to qualify if it can be shown to address a condition that is deemed to have contributed to the decline of the area.)

With the project area being defined as an area of blight, the CDBG project must actually result in the *elimination* of blight. For example, if a project site contained a building which did not meet health and safety building codes or needed earthquake retrofit improvement because of safety concerns **and** the project development scope of work addressed and remedied these health and safety concerns, the project could qualify under this National Objective. If the project's building is not blighted, the project would not qualify even though it is in a blighted area. In the same way, a vacant parcel of land in a blighted area would not qualify under this National Objective just because it was vacant. However, a "Brownfield" development site, located in a blighted area, which is being cleared of toxics as part of project development, would be eligible. Department staff should be consulted as part of making a final determination of project compliance with this National Objective.

2) Documentation

a) For **Area Blight** the application must include:

- Documentation that the area surrounding the proposed project meets HUD's definition of blighted; and,
- Documentation that the CDBG-assisted project will contribute to the elimination of blighted conditions in the eligible area.

b) It is highly recommended that the documentation include, but not be limited to, date stamped photographs showing the area and property condition(s).

3) Spot Basis - Aid in the Prevention or Elimination of Slums or Blight (24 CFR 570.483(c)(2))

Examples of Activities Designed to Address Blight on a Spot Basis:

- ✓ Historic preservation of a blighted public facility;
- ✓ Demolition of a vacant, deteriorated, abandoned building; or,
- ✓ Removal of environmental contamination on a property to

enable it to be redeveloped for a specific use.

The elimination of specific conditions of blight or deterioration on a spot basis is to be used for the prevention of blight, on the premise that such action(s) serve to prevent the spread to adjacent properties or areas.

To comply with the National Objective of Elimination or Prevention of Slums or Blight on a Spot Basis, i.e., outside a slum or blight area, an activity must meet the following criteria:

a) The activity must be designed to eliminate specific conditions of blight or physical decay not located in a designated slum or blighted area; **and,**

b) The activity must be **limited to one** of the following:

- Acquisition (see Other Considerations below);
- Clearance;
- Relocation;
- Historic Preservation; or,
- Rehabilitation of buildings, but only to the extent necessary to eliminate specific conditions **detrimental to public health and safety.**

[24 CFR 570.483(c)(2)]

4) Other Important Considerations:

To be considered **detrimental to public health and safety**, a specific condition must pose a threat to the public in general. Public improvements cannot qualify under this standard, except for rehabilitation of public buildings (other than buildings for the general conduct of local government) and historic preservation or public property that is blighted.

As a general rule, National Objective compliance for the acquisition of real property must be based on the use of the property after the acquisition takes place. The initial determination is based on the *planned* use of the property, but the final determination is based on the *actual* use. **However**, when a property is acquired for the purpose of *clearance* to remove specific conditions of blight or physical decay, the **clearance is considered to be the actual use** of the property; but, any subsequent use made of the property following clearance, must be considered to be a "change of use" under 24 CFR 570.489(j).

In this case, the CDBG-funded ED project does not need to be in a documented area of blight. However, the project must be formally documented as blighted, i.e., having serious health and safety

violations, by the jurisdiction. In addition, the CDBG funds must pay for the correction of the code violations and eliminate the blighted conditions. This is a way to use the elimination of slums and blight on a project by project basis without having to designate an area as blighted. Department staff should be consulted as part of making a final determination of project compliance with this National Objective.

5) Documentation

a) For **Spot Blight**, the application must include:

- Documentation that the project site meets HUD's definition of blighted; and,
- Documentation that the CDBG funds will pay to eliminate the project's blighted conditions.

b) It is highly recommended that the documentation include. but not be limited to date stamped photographs showing the condition(s).

URGENT NEED

As noted at the beginning of this section, Urgent Need is not an eligible National Objective under this NOFA. The Department addresses urgent need in real-time on a case-by-case basis rather than only once a year under the NOFA. If an applicant believes they have an urgent need situation, please contact your CDBG Representative.

B. National Objectives Specific to PTA Activities

PTA activity funds must be spent on studies that meet one of the CDBG National Objectives listed below, as required by federal statutes and regulations. Any PTA activity must document compliance with:

1) Benefit to Low- or Moderate-Income (Low/Mod) Persons or Households by showing that at least 51% of the persons who would benefit from the implementation of the plan being studied by the PTA are Low/Mod income; **or**,

2) Elimination or prevention of slums or blight (area wide or spot basis) if the plans are for a slum or blighted areas, 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.

Documentation: Each application must contain a discussion of how the proposed study, if implemented into a program or project, would principally benefit the LMI group. For activities using LMA benefit, Census Tract/Block Group data **(Appendix I)** or a valid income survey **(Appendix F)** must be

included. For activities meeting the National Objective of eliminating or reducing slums and blight, applicants must describe how the study meets item B. above, and also submit proof of an identified blighted area. For ED PTAs, applicants must describe how the study would result in the creation or retention of jobs for Low/Mod individuals or businesses.

C. Beneficiaries

Beneficiaries may be measured using people, housing units, households or jobs. The type of beneficiary associated with an activity is stated within each specific Activity Application Package. When defining who the beneficiaries are, please also include a breakdown by Non-Low/Mod, Low/Mod, Very Low Income and Extremely Low Income, as requested in the Application. **Non-Low/Mod** income refers to individuals or households whose incomes are above 80% of county area median household income, adjusted for family size; **Low/Mod income** refers to individuals or households whose incomes are between 80% and 50% of county area median household income, adjusted for family size; **Very Low Income** refers to individuals or households whose incomes are between 50% and 31% of county area median household income, adjusted for family size; and **Extremely Low Income** refers to individuals or households whose incomes are below 30% of county area median household income, adjusted for family size.

Beneficiaries of grant funding must have received the benefit prior to expiration of the grant contract. The funded project or program must be in use by the intended beneficiaries prior to contract expiration to demonstrate that the benefit has been met. Under the Public Improvements In-Support-Of Housing New Construction (PIHNC) activity, completion of the infrastructure construction is not sufficient to meet benefit; the housing units associated with the project must be occupied. Additionally, the completion of a facility in which no services were provided before the expiration of the contract would also be considered not to have met benefit.

1) Determination of LMJ Beneficiaries

The Public Benefit requirement is met through the creation or retention of full-time (1,750 hours per year) and/or four (4) part-time aggregated jobs yielding a full-time equivalent (FTE), such that the activity does not exceed a $35,000 per job created/retained ratio.

Documentation of ED Beneficiaries: Documentation of beneficiaries of BA Programs and ME Programs is not required in the application, because they are future beneficiaries and are not known at the time of application submittal. Documentation of beneficiaries is required after funding and is included in all ME and BA Program Guidelines. Program guidelines are reviewed and approved by the Department prior to release of program funds.

2) Determination of LMI Beneficiaries

Low/Mod Group (Low/Mod) Determination:

a) Each application must provide information on the proposed beneficiaries for each activity.

b) Beneficiaries whose incomes are 80% or less of the county median income are determined to be Low/Mod.

c) HCD charts showing county median incomes can be found at: 2013 Income Limits

3) Presumed Benefit (Limited-Clientele)

HUD has determined that some beneficiaries are generally presumed to be principally low- and moderate-income persons. Activities that exclusively serve a group of persons in any one, of the following categories may be presumed to be Low/Mod:

Beneficiaries with **Presumed 100%** Low/Mod Benefit:

- ✓ **Severely disabled adults – (Very Low Income)*
- ✓ *Illiterate adults – (Very Low Income)*
- ✓ *Persons living with AIDS – (Very Low Income)*
- ✓ *Battered spouses – (Very Low Income)*
- ✓ *Abused children – (Extremely Low Income)*
- ✓ *Migrant farmworkers – (Very Low Income)*
- ✓ *Homeless persons – (Extremely Low Income*)

*Defined as: Adults meeting the Bureau of the Census Current Population Reports definition of "severely disabled".

Note: *Presumed benefit may be challenged if there is substantial evidence that the persons in the actual group that the activity is to serve are most likely not principally Low/Moderate-income persons.*

4) Documenting Beneficiaries in NOFA Applications

Each Activity Application Package has a section for Documentation of Beneficiaries. When filling out an activity application, please complete the tables as required. The table below is the same as what is in each application. Each proposed activity must show the intended beneficiaries by income category, as noted below. An activity must benefit all residents of the intended service area who are income qualified up to a county area median income, adjusted for family size (AMI) of 80%. An activity cannot solely benefit only one specific level of LMI beneficiary listed above. Thus, an activity

cannot only benefit the 51%-80% Low/Mod Group in the service area, for example.

Further, in the instance of senior citizen activities, beneficiary income levels are counted as follows:

- Seniors (over 62 years old) – If assistance is to acquire, construct, convert and/or rehabilitate a senior center, or to pay for providing senior services located at a senior citizen center, for reporting purposes, this group is considered Low/Mod (51 to 80% AMI).
- Seniors (over 62 years old) – If assistance is for other public services exclusively for seniors that are provided away from a senior citizen center (such as a Meals-on-Wheels program), for reporting purposes, this group is considered Very Low Income (31 to 50% AMI).
- If an activity serves a combination of these groups, estimate the number under each group and report those numbers under the appropriate income levels.

81% AND ABOVE *(Non-Low/Mod)*	**BETWEEN 51% - 80%** *(Low/Mod)*	**BETWEEN 31% - 50%** *(Very Low Income)*	**AT OR BELOW 30%** *(Extremely Low Income)*	**TOTALS** **Number of People**
-A-	**-B-**	**-C-**	**-D-**	**-E-**

Explanation of Income Levels:

Box A - Non-Low/Mod: Enter the proposed number of beneficiaries with incomes 81% and above (non-Low/Mod) of the county median income. If CDBG funds will be used on a project where non-Low/Mod will benefit, then show those non-Low/Mod numbers on this chart. If non-Low/Mod will not benefit from a CDBG activity, enter a zero in column A.

Box B - Low/Mod: Enter the proposed number of beneficiaries with incomes between 51% and 80% of the county AMI.

Box C - Very Low Income: Enter the proposed number of beneficiaries with incomes between 30% and 50% of the county AMI.

Applicants may not enter a zero in this column. Proposed activities may not exclude benefit to the Very Low Income group.

Box D - Extremely Low Income: Enter the proposed number of beneficiaries with incomes less that 30% of the county AMI.

Box E – Totals: Enter the total number of beneficiaries.

Contact the CDBG Representative assigned to your jurisdiction if you need more information on how this may apply to your activity.

*>>Please refer to **the Application Instructions** for further instructions on Beneficiaries<<*

APPLICATION REVIEW AND EVALUATION

11. PUBLIC BENEFIT REQUIREMENTS

Any federal funds used for BA (which includes ED OTC) activities are required to create jobs, unless the project can meet the National Objective using area benefit (LMA). In most cases, however, these activities will need to meet **both** LMJ National Objective *and* Public Benefit requirements.

A. Public Benefit for Special ED Activities (Assistance to For-Profit Businesses) and Over-the-Counter Projects

The Public Benefit requirement for these CDBG ED activities is typically met through documenting the creation or retention of one permanent full-time equivalent job position for each $35,000 in CDBG funds provided directly to an ED project. A permanent full-time equivalent (FTE) position is defined by the number of annual hours worked by a staff in that position, specifically defined by the Department as 1,750 hours per year. An FTE may be made of up to four (4) permanent part-time job positions. Seasonal jobs are not eligible. Owners of the company cannot be included in the count for number of jobs being created, specifically for startups. Like meeting a CDBG National Objective, projects receiving CDBG funds, but not documenting Public Benefit compliance, are ineligible activities. **An ineligible activity, not meeting Public Benefit requirements, will be required to repay those ineligible project expenses to the State and the State in turn will repay those funds to HUD.**

Additionally, it is important for Jurisdictions to be aware, that **in addition to the $35,000 per job test**, the State Regulations also allow ED Public Benefit to be calculated two other ways:

1) For the Aggregate Activity Calculation

On a Low/Mod Area (LMA) Benefit for providing goods or services to residents of an area, such that the number of low- and moderate-income persons residing in the areas served by the assisted businesses amounts to at least one low- and moderate-income person per $350 of CDBG funds used.

2) *For the Individual Activity Calculation*

Up to $1,000 per low- and moderate-income person to which goods or services are provided by the activity.

Because of this risk of repayment of CDBG funds with Special ED Project, the Department subjects these projects to a higher level of review. Applicants using CDBG funds for Special ED Activities to assist local businesses in expanding or staying in business must clearly document how the proposed loan program or OTC project will ensure compliance with HUD Public Benefit and National Objective regulations. In the application, the Department will require submittal of BA Program Guidelines and loan documents that include language requiring compliance with Public Benefit and National Objectives. The program guidelines will also describe the process to be used by the program administrator to document compliance of each project. Successful ED OTC applicants must develop their project application and complete the project underwriting using a partnership of the jurisdiction/applicant staff, commercial underwriting consultants and the business owners and staff. The Department will provide technical assistance during the underwriting process, and will review and approve the final underwriting as submitted.

B. *Documentation*

Prior to providing assistance to the business, documentation of job creation and/or retention, as well as, specifically, low-income job creation and/or retention must be provided using payroll records, financial proformas and underwriting analysis. After CDBG funds are provided to the business, the new hires (or retained employees) must complete the proper Income Self-Certification Forms. Original signed Income Self-Certification Forms must be in the project file for review at time of monitoring.

Further, documentation of Public Benefit requires that the business be profitable. Documenting the profitability of a business over the next two to three years is very challenging and poses greater risks in the complex process of underwriting a business loan/project. If assumptions about future growth of the business are not properly confirmed and documented in the project underwriting process, there is a good chance the business will not grow and thus be unable to support the permanent full-time job positions required to meet the Public Benefit requirement. . As a result, the Department oversees CDBG ED projects closely during project development and underwriting.

12. EVALUATION CRITERIA AND SCORING POINTS

A. *Overview of Method for Scoring Applications*

In conjunction with the changes to State Regulations pertaining to the CDBG Program, the Department has revised the scoring criteria and process for all activities. Applications are rated according to the criteria in the State CDBG Regulations, Section 7078.

- Each application will be scored using the new individual activity scoring system, which will rate and rank each activity against applications for the same activity. No blending of scores for multiple activities will take place.
- For applications that are applying for more than one activity within a single activity category (i.e., Housing Combo, more than one Public Service or EF Combo), each individual activity will be scored, then all the scores for that category will be averaged together to get a single category score (i.e., the scores for the ME application and BA application will be averaged together to come up with one total EF score). Averaging will occur only in the categories of Housing, Public Services and EF, as applicable.
- With this new scoring method, a jurisdiction will be awarded or denied funding based on scores for each activity. For example, it is possible to be awarded funds for one activity, but not another. This is possible if one activity is competitive and scores well and another does not.
- Points will be awarded in four main categories: *Need, Readiness, Jurisdictional Capacity/Past Performance and State Objective points*.
- Each of the four categories will be applied to all activities, although the type and weighting of the criteria within each category may differ for each activity.
- An application can receive a maximum of 950-1,000 points per Activity. This includes EF applications.

Applications are rated according to the criteria in the State CDBG Regulations, Section 7078. Pursuant to the Section:

- All applications will be evaluated for Threshold/Eligibility based on documentation of meeting National Objective and Beneficiary requirements.
- <u>Points will be awarded for this funding round in four main categories</u>:
  - Need
  - Readiness
  - Jurisdictional Capacity/Past Performance
  - State Objectives
- Each scoring category will be applied to each activity applied for, although the type and weighting of the criteria within each category may differ for each activity.

- The maximum possible score per activity for this funding round, 2014 NOFA, is 950 points, except for HA, Public Improvements, Public Improvements In-Support-Of Housing New Construction, and Public Services, where State Objective points allow for up to 1,000 points.

ECONOMIC DEVELOPMENT - ENTERPRISE FUND

Applications may seek funding for one of the following: BA Program, ME Assistance Program, or both. A combined application will be scored using of the scores for both BA and ME added together and averaged, regardless of the dollar amounts for each activity.

Each application will be:

A. Evaluated and scored;
B. Assigned a numerical score; then,
C. Ranked against all the other EF applications that have been scored.

A discussion of point allocation is below. A maximum score of 950 points is assigned according to the criteria chart in **Appendix M**.

Need/Benefit: *(Up to 400 Points)*

Need (up to 350 points out of 400) - includes point accumulation for unemployment percentage and market analysis.

Benefit (up to 50 points out of 400) - includes point accumulation for poverty percentage.

Readiness: *(Up to 300 Points)*

Readiness includes point accumulation for program description, description of program operators, and program operator status (what their role will be).

State Objectives: *(Up to 50 Points)*

Points will be awarded for applications from the previous year that were eligible and met a National Objective, but were below the available funding cut-off line.

See **Appendix M** for further details.

Jurisdictional Capacity – Up To 200 Points

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings. **This score will be determined for each applicant and will be added to each activity scored for a total applicant score.** See **Appendix M** for further details.

ECONOMIC DEVELOPMENT - OVER-THE-COUNTER

A. The Project Pre-Screening

Early communications between the project stakeholders and Department on the project design and underwriting help make a stronger project and ensures all parties (the jurisdiction, business/developer, and consultants) are aware of their responsibilities. Early involvement and communication also helps expedite the application process and ensures the applicant's ability to address issues likely to be raised by the Internal Loan Committee.

The pre-screening process starts with the jurisdiction and the business/developer filling out a Project Inquiry Form. ***(See the OTC Application.)*** One or more conference calls will take place with representatives of the jurisdiction, the business owner/developer and the Department to assess and determine if the project is a good match for OTC funding.

The Project Initial Inquiry Form will contain basic information about the proposed project:

1) The history of the business(s) being underwritten with historic sales, financial and management capacity.

2) A description of the structure of each business and ownership of business and any other businesses the owners have an interest in.

3) A Sources and Uses Form with all sources of financing needed for the project.

4) The total Sources and Uses, backed up with documentation of additional funding commitment when possible.

5) A job projection chart completed, and a description of federal overlay compliance.

The Project Initial Proposal Form is found within the OTC Application. This form allows the Department to evaluate the viability of the project, identify project issues and communicate the OTC program parameters and requirements.

B. Project Proposal Meeting

Upon receiving and reviewing the initial proposal, the Department will schedule a site visit or conference call with all parties to review the proposal. Attendees at the site meeting/conference call should include a representative of the applicant jurisdiction (including the underwriter), the developer and/or business owner receiving assistance, and CDBG ED staff. The private developer or business will be required to bring all pertinent

project and financial information to this meeting. If the outcome of the meeting/call is the project is deemed reasonable and eligible for CDBG funding and project sponsors are willing to provide additional information for a complete application, the Department will invite the jurisdiction to apply.

C. Invitation to Submit an Application

When the Department has determined the project is ready to move forward in the application process, the jurisdiction will be invited to submit a full application to the Department. An invitation to submit a full application is based on readiness factors, such as:

1) Market and financial feasibility of the project showing increased cash flow to cover all debt and job creation costs;

2) Full funding available for completion of the project activities;

3) Approval status of local regulatory agencies for the proposed project;

4) Ownership/control status of any real estate needed for the project;

5) Applicant staff financial underwriting and grant management capacity;

6) Public Benefit eligibility via project creation/retention of jobs; and,

7) National Objective eligibility via low-income jobs created / retained or elimination or prevention of slums and blight.

D. Application Submittal

ED OTC applications are accepted on a continuous basis until all funds are awarded for the funding year. Upon receipt of an application, the Department will review the application to consider:

1) **Completeness:** The application will first be reviewed for completeness. Incomplete applications will be returned to the applicant within **thirty (30) days** of receipt, along with a written explanation of deficiencies that must be corrected prior to resubmission.

2) **Threshold:** Upon passing the completeness process, the application will undergo a minimum-threshold test. If the application fails this test, it will be returned to the applicant with a written explanation of deficiencies that must be corrected prior to resubmission. The threshold review is conducted according to criteria specified in State CDBG Regulations, Section 7062.1 (c) (4). The application must attain at least 50 of the 80 threshold points. The factors are listed below:

FACTOR	MAXIMUM NUMBER OF POINTS
• Percent of countywide unemployment relative to the statewide average	25
• Ratio of CDBG funds per unit of Public Benefit: A maximum of $35,000 per job created or retained; or, • $350 per low-/moderate-income person served	15
• Ratio of private funds to CDBG funds	15
• Quality of applicant's past performance of CDBG ED grants	15
• Percent of funds allocated to applicant's general administrative costs	10
Total Points Possible:	**80**

3) **Underwriting Review:** Upon passing the threshold test, the application's financial underwriting will be reviewed using HUD underwriting guidelines. The evaluative factors used, specified in the State CDBG regulations, Section 7062.1, assess whether the following conditions or circumstances are present:

a) Project costs are reasonable;

b) All sources of project financing are committed;

c) To the extent practicable, CDBG funds are not substituted for non-federal financial support;

d) The project is financially feasible;

e) To the extent practicable, the return on the owner's equity investment will not be unreasonably high; and,

f) To the extent practicable, CDBG funds are disbursed on a pro-rata basis with other finances provided to the project.

4) **ILC Submission and Recommendation:** The final step is submission of the application to the HCD Internal Loan Committee (ILC) review and recommendation at a meeting held approximately **forty-five (45) days** from the receipt of a complete application.

This submission involves the Department preparing a staff report of the project, recommending approval or denial of the application. The ILC accepts, rejects or modifies the staff recommendation. The ILC votes on a funding recommendation to be provided to the Director of the Department who has final approval authority. The Director's funding decision is made **approximately sixty (60) days** from the receipt of a complete application.

Criteria for evaluating applications include: (1) Threshold Review; and, (2) Review for Activity Eligibility. Threshold Review results in a determination of jurisdictional eligibility. Eligible applicants/applications will then go through Activity Eligibility Review and scoring. Threshold requirements are listed in Section 8, *Eligible Applicants, Areas and Threshold.* Documentation supporting compliance with these requirements must be included in all applications, regardless of activities applied for.

Applications proposing eligible activities which meet a National Objective will be reviewed based on their proposed activities. The threshold review and evaluation/scoring process will produce a proposed funding eligibility list for each activity, with applicants listed according to their score, from highest to lowest. The Department will fund approved requests based on highest scores in each activity.

The Department will not evaluate or fund applications if all activities in the application are found to be ineligible. However, if only some of the activities in the application are not eligible, the Department may, at its sole discretion, disregard ineligible activities and consider funding eligible activities.

The Department may apply a tie-breaker process (if needed) to the PTA activity to determine PTA funding order, eligibility and amounts. This process will be followed until all funds in the activity allotment have been exhausted. There is no guarantee that all applications will be funded, either fully or partially.

A. Scoring Criteria and Totals

The process of scoring includes the following:

- Points will be awarded in four main categories: Need, Readiness, Jurisdictional Capacity /Past Performance, and State Objective points.
- Each category will be applied to all activities, although the type and weighting of the criteria within each category may differ for each activity.

Discussion of the point allocations is below. A maximum score of 950 or 1,000 points will be assigned according to the criteria detailed in **Appendix M**. And additional details regarding scoring and the documentation required to substantiate each criteria are explained in each Application.

HOMEOWNERSHIP ASSISTANCE (HA)

Need/Benefit: *(Up to 400 Points)*

Need (up to 250 out of 400 points) includes point accumulation for overcrowding and home ownership rate for HA.

Benefit (up to 150 out of 400 points) includes point accumulation for Low/Mod percentage (jurisdiction-wide only) and poverty percentage (jurisdiction-wide only). The applicant pool will set the range of points for Low/Mod and poverty.

Readiness: *(Up to 300 Points)*

Readiness includes point accumulation for activity specific operator experience, adopted program guidelines, and waiting list of pre-screened applicants.

Capacity/Performance: *(Up to 200 Points)*

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings.

Note: All applicants will receive the full 60 points for the Timely Clearance criterion. See explanation above in "What's New."

State Objectives: *(Up to 100 Points)*

A. Points will be awarded for applications from the previous year that were eligible and met a National Objective, but were below the available funding cut-off line.

B. Applications that apply for HA Program as the applicants sole Housing Program focus. The points will still be awarded if the applicant applies for HA and a Housing Project, but will not be awarded if the applicant applies for both the HA and HR program.

See **Appendix M** for further details.

HOUSING REHABILITATION (1-4 UNITS) (HR)

Need/Benefit: *(Up to 400 Points)*

Need (up to 250 out of 400 points) includes point accumulation for overcrowding and age of housing.

Benefit (up to 150 out of 400 points) includes point accumulation for Low/Mod percentage (jurisdiction-wide only) and poverty percentage (jurisdiction-wide only). The applicant pool will set the range of points for Low/Mod & Poverty.

Readiness: *(Up to 300 Points)*

Readiness includes point accumulation for activity specific operator experience, adopted program guidelines, and waiting list of pre-screened applicants.

Capacity/Performance: *(Up to 200 Points)*

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings.

Note: All applicants will receive the full 60 points for the Timely Clearance criterion. See explanation above in "What's New."

State Objectives: *(Up to 50 Points)*

Points will be awarded for applications from the previous year that were eligible and met a National Objective, but were below the available funding cut-off line.

See **Appendix M** for further details.

HOUSING PROJECT - MULTI-FAMILY HOUSING ACQUISITION, REHABILITATION OR ACQUISTION AND REHABILITATION

Note: *Multi-Family Housing projects may not be included in a Housing Combo program. MFH Activities may include no more than one project.*

Need/Benefit: *(Up to 400 Points)*

Need (up to 250 out of 400 points) includes point accumulation for overcrowding and rental vacancy rate.

Benefit (up to 150 out of 400 points) includes point accumulation for jurisdiction-wide Low/Mod percentage.

Readiness: *(Up to 300 Points)*

Readiness includes point accumulation for activity specific operator experience, all funding in place and site control.

Capacity/Performance: *(Up to 200 Points)*

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings.

Note: All applicants will receive the full 60 points for the Timely Clearance criterion. See explanation above in "What's New."

State Objectives: *(Up to 50 Points)*

Points will be awarded for applications from the previous year that were eligible and met a National Objective, but were below the available funding cut-off line.

See **Appendix M** for further details.

PUBLIC IMPROVEMENTS

Note: *Scoring will be on a sliding scale like previous years. Cease & Desist or Boil Water Order documentation gets full points. See "Scoring Guidelines for Public Improvements."*

Need/Benefit: *(Up to 400 Points)*

Need (up to 250 out of 400 points) includes points for severity of health and safety threat.

Benefit (up to 150 out of 400 points) includes point accumulation for Low/Mod percentage for either the jurisdiction-wide or target area, and poverty percentage, jurisdiction-wide.

Note: *The applicant pool will set the point range for both Low/Mod percentage and poverty percentage.*

See **Appendix M** for further details.

Readiness: *(Up to 300 Points)*

Readiness includes point accumulation for activity specific operator experience/ experienced in-house staff ready to start the procurement process, project approval status, site control, and all funding in place.

Capacity/Performance: *(Up to 200 Points)*

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy. Also includes cooperation/compliance in clearing monitoring and/or audit findings.

Note: All applicants will receive the full 60 points for the Timely Clearance criterion. See explanation above in "What's New."

State Objectives: *(Up to 100 Points)*

1. Points will be awarded for applications from the previous year that were eligible and met a National Objective, but were below the available funding cut-off line.

2. Public Improvement projects that address and provide for potable water.

See **Appendix M** for further details.

PUBLIC IMPROVEMENTS IN-SUPPORT-OF HOUSING NEW CONSTRUCTION

Need/Benefit: *(Up to 400 Points)*

Need (up to 250 out of 400 points) includes condition of approval for the project, and renter overpayment, vacancy rate, overcrowding, and Council of Governments (COG) Data.

Benefit (up to 150 out of 400 points) includes point accumulation for jurisdiction-wide Low/Mod percentage and poverty percentage.

Note: *The applicant pool will set the point range for both Low/Mod percentage and poverty percentage.*

Readiness: *(Up to 300 Points)*

Readiness includes point accumulation for activity specific operator experience/ experienced in-house staff ready to start the procurement process, project approval status, site control, and all funding in place.

Capacity/Performance: *(Up to 200 Points)*

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy. Also includes cooperation/compliance in clearing monitoring and/or audit findings.

Note: All applicants will receive the full 60 points for the Timely Clearance criterion. See explanation above in "What's New."

State Objectives: *(Up to 100 Points)*

1. Points will be awarded for applications from the previous year that were eligible and met a National Objective, but were below the available funding cut-off line.
2. Public Improvement projects that address and provide for potable water.

See **Appendix M** for further details.

PUBLIC FACILITIES

Need/Benefit: *(Up to 400 Points)*

Need (up to 300 out of 400 points) includes point accumulation for severity of problem, extent of solution and third party documentation supporting both.

Benefit (up to 100 out of 400 points) includes point accumulation for Low/Mod percentage in the service area, and poverty percentage, jurisdiction-wide.

Readiness: *(Up to 300 Points)*

Readiness includes point accumulation for activity specific operator experience/experienced in-house staff ready to start the procurement process, project approval status, site control, and all funding in place.

Capacity/Performance: *(Up to 200 Points)*

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing audit findings.

Note: All applicants will receive the full 60 points for the Timely Clearance criterion. See explanation above in "What's New."

State Objectives: *(Up to 50 Points)*

Points will be awarded for applications from the previous year that were eligible and met a National Objective, but were below the available funding cut-off line.

See **Appendix M** for further details.

PUBLIC SERVICES

Need/Benefit: *(Up to 400 Points)*

Need (up to 300 out of 400 points) includes point accumulation for severity of problem, extent of solution and third party documentation supporting both.

Benefit (up to 100 out of 400 points) includes point accumulation for Low/Mod percentage in the service area and poverty percentage, jurisdiction-wide.

Readiness: *(Up to 300 Points)*

Readiness includes point accumulation for operator experience/program readiness, and site control of facility for service; *or*, means to conduct the service.

Capacity/Performance: *(Up to 200 Points)*

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings.

Note: All applicants will receive the full 60 points for the Timely Clearance criterion. See explanation above in "What's New."

State Objectives: *(Up to 50 Points)*

1. Points will be awarded for applications from the previous year that were eligible and met a National Objective, but were below the available funding cut-off line.
2. Public Services that provide job training which results in the creation of jobs.

See **Appendix M** for further details.

In some cases, specific criteria will be scored in an "all or nothing" manner. No partial scoring will be provided.

PLANNING AND TECHNICAL ASSISTANCE

Up to $100,000 PTA funding is available. Maximum PTA award limit will be $100,000. No more than two studies per application, and may include either - two CD studies, two ED studies or one of each.

No more than two planning studies may be funded under this grant agreement, not to exceed a total of $100,000.

Applicants may apply for the PTA activity as a stand-alone application or as one of the three maximum activities within the application. The Department will create two PTA application pools: (1) applications for PTA only (PTA stand-alone); and, (2) applications that include both PTA and other activities. Both pools will be allocated funding from the amount available for PTA, based on demand. Each pool will require the Tie-Breaker Process, as described below, to be used if the demand is greater that the amount available. Therefore, no assurances can be made that an application including PTA activities will be funded, regardless if it is the sole activity in the application or part of a multi-activity application.

The cash match for all applicants, per Title 25, Section 7058(a)(5)(A), is 5% of the Total Amount Requested. See **Appendix J** for more information on the Cash Match requirement.

PTA TIE-BREAKER PROCESS

In the event of over-subscription for the PTA activity, a tie breaker process will be used. Specifically, PTA applications will be ranked according to jurisdiction-wide poverty levels. This may occur for PTA applications that are the sole activity being applied for, or for PTA applications for one activity in a multi-activity application.

In the case of over-subscription of applications seeking only PTA funding, all applications within each of the ED and CD allocations will be ranked by jurisdiction-wide poverty levels (per Appendix A), from highest to lowest, and will be funded in order of ranking. In the case of grant applications that include the PTA activity as one of two or three activities, the PTA activity may still be put into a Tie-Breaker Process in the event of over-subscription, and will be funded in accordance with the process described herein.

In the event PTAs are not over-subscribed, any funds remaining in the CD and/or ED PTA funding category will be rolled over to the respective allocation. The funds will, thereafter, be prorated into the activities in the same percentages as the overall demand for activity funding.

AWARD ANNOUNCEMENTS AND GRANT IMPLEMENTATION

13. AWARD ANNOUNCEMENTS

The Department anticipates Awards will be announced in July/August 2014. Until awards are announced the CDBG staff will be unable to discuss the status of a jurisdiction's application.

Unsuccessful applicants will have the opportunity to request, within 60 days from the award announcement date, an exit interview to discuss their application score.

14. GRANT CONTRACT PROCESSING

All funded applications will be processed through a Standard Agreement ("Agreement"). The Agreement will contain information about the terms and General Conditions, as well as Special Conditions (activity specific) of the award. Applicants may be permitted to incur GA costs upon receiving their award letter ***only if they have requested and obtained written approval from Department***.

Grantees must obtain clearance or approval for any special conditions and environmental requirements prior to beginning a CDBG-funded activity. This requirement also applies to activities which may include non-CDBG funding. Beginning any program or project activity prior to obtaining written clearance from the Department may cause the activity to become ineligible.

Term of Agreement: The Agreement shall expire no later than 60 months from the date of award; however, the expenditure deadline will be no more than 36 months from the date of the award.

PROGRAM REQUIREMENTS

15. FEDERAL OVERLAYS

The CDBG Program is administered under the rules and regulations promulgated primarily in Title 24 of the Code of Federal Regulations (CFR), Part 570. These primary regulations are known as the Federal Overlays, and form the basis of the programmatic requirements. The Department incorporates all Federal Overlays into the State CDBG Program, and the regulations in Part 570 are translated into required actions on the part of all grantees of the state program.

The link to 24 CFR Part 570 is:
24 CFR Part 570

The list below gives a summarized explanation of the Federal Overlays:

A. Environmental Standards (based on National Environmental Policy Act of 1969 (NEPA))
B. Labor Standards (Davis-Bacon and Related Laws)
C. Achieving a HUD National Objective
D. Public Participation Requirements
E. Fair Housing and Affirmatively Furthering Fair Housing
F. Equal Opportunity and Non-Discrimination in Federal Grant Programs
G. Federal Procurement Guidelines
H. National Flood Insurance Program Compliance
I. Relocation and Displacement Requirements
J. Employment and Contracting Opportunities
K. Lead-Based Paint Requirements
L. No Use of Debarred, Ineligible or Suspended Contractors or Subrecipients
M. Uniform Administrative Requirements and Cost Principles
N. Conflict of Interest Prohibitions
O. Compliance with the Architectural Barriers Act and the Americans with Disabilities Act
P. Compliance with Eligibility Restrictions for Certain Resident Aliens
Q. Federal Reporting Requirements
R. Grant and Subrecipient Monitoring Requirements

16. PUBLIC RECORDS ACT

Applications and Agreements are public information and are available for review upon request. Applicants are advised that information submitted to the Department may be made available to the public under the Public Records Act.

17. RELOCATION PLAN REQUIREMENT

Applicants engaging in project-specific activities that may or will cause the relocation and displacement of persons must provide a project-specific relocation plan. This plan must outline how they will manage the relocation and displacement activities for the project and estimate what relocation benefits will be required. When operating a single-family rehabilitation or acquisition program, which could cause temporary relocation of persons, the applicant must also provide a locally-adopted temporary relocation plan that outlines relocation benefits for owner-occupants and tenants.

18. PROCUREMENT

Pursuant to 24 CFR Section 570.489(g), all grantees must comply with federal procurement requirements. The Department will review the grantee's procurement documents for services (i.e., administrative sub-contractor, Davis Bacon consultant) prior to clearance of special conditions. To ensure compliance with these federal requirements grantees must not execute contracts without clearance from the Department. Please see CDBG Management Memo 13-05 at this link: http://www.hcd.ca.gov/fa/cdbg/mmemo/13-

05_State_CDGB_Program_Procurement_Requirements.pdf for procurement requirements.

19. FEDERAL DEBARMENT AND SUSPENSION

Pursuant to 24 CFR, Part 5, all CDBG grantees are required to verify they and their principals, or any/all persons, contractors, consultants, businesses, sub-recipients, etc., that are conducting business with the grantee are not presently debarred, proposed for debarment, suspended, declared ineligible, or voluntarily excluded from participation in the covered transaction or in any proposal submitted in connection with the covered transaction. Applicants must check the Excluded Parties List at https://www.sam.gov/portal/public/SAM/, print and maintain evidence of the search results. In the event that the search results indicate a prior or current debarment or suspension of the applicant, include the printout in the application.

The Department will not award any CDBG funds to applicants that are debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation from federally-assisted programs.

20. PROGRAM INCOME

All Program Income (PI) generated by CDBG funds shall remain at the local jurisdiction, pursuant to 25 CCR Section 7104. PI funds repaid from activities funded under this NOFA are considered CDBG PI and must be tracked and reported as such by the grantee's fiscal staff.

For further information on Program Income see **Chapter 14 of the current State CDBG Grant Management Manual**:

http://www.hcd.ca.gov/fa/cdbg/manual/chapter14.html.

The Chapter has been updated to accommodate CDBG changes pursuant to the CDBG Final Rule release by HUD in May, 2012.

For further important information regarding these updates, please also see:

- **Management Memo 12-3:** http://www.hcd.ca.gov/fa/cdbg/manual/CDBG_Program_Income_MM_Final_9-26-12.pdf
- **The new CDBG PI Reuse Plan:** http://www.hcd.ca.gov/fa/cdbg/manual/PROGRAM_INCOME_REUSE_FORM_REV_10-4-12.pdf.