

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE**

2020 West El Camino Avenue, Suite 500, Sacramento, CA 95833
P. O. Box 952054, Sacramento, CA 94252-2054
(916) 263-2771 / FAX (916) 263-2762
www.hcd.ca.gov



October 6, 2015

MEMORANDUM FOR: ALL POTENTIAL APPLICANTS

FROM: Laura A. Whittall-Scherfee, Deputy Director
Division of Financial Assistance

**SUBJECT: NOTICE OF FUNDING AVAILABILITY (NOFA)
COMMUNITY DEVELOPMENT BLOCK GRANT
PROGRAM - DROUGHT LATERALS FUNDING**

The State Department of Housing and Community Development is pleased to announce the availability of **approximately** \$5,000,000 in federal Community Development Block Grant (CDBG) Program funding for direct relief and mitigation of the effects of the California Drought Disaster, as declared by Governor Brown in his 2014 [Drought Declaration](#).

This NOFA applies to CDBG-eligible installation of water lateral connections to new or existing public water systems as part of the Housing Rehabilitation activity (HUD Matrix Code 14A).

The funding of applications will be on first come, first served basis, until all available funds are exhausted.

If you have any questions, please contact Stoyan Elitzin, at (916) 263-1622 or stoyan.elitzin@hcd.ca.gov.

Attachment

**COMMUNITY DEVELOPMENT BLOCK
GRANT PROGRAM (CDBG)**

2015 Drought Lateral Notice of Funding Availability



**State of California
Governor Edmund G. Brown Jr.**

**Susan Riggs, Acting Director
Department of Housing and Community Development**

**Laura Whittall-Scherfee, Deputy Director
Division of Financial Assistance**

NOFA Section, CDBG Program
2020 West El Camino Avenue, Suite 500, Sacramento, CA 95833
Telephone: (855) 333-CDBG (2324) / Fax: (916) 263-2762
Website: [CDBG Current NOFA](#)
CDBG Program Email: cdbg@hcd.ca.gov

**NOTICE OF FUNDING AVAILABILITY (NOFA)
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
DROUGHT LATERAL**

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OVERVIEW

A. NOTICE OF FUNDING AVAILABILITY (NOFA)

The Department of Housing and Community Development (Department) is pleased to announce the availability of approximately \$5,000,000 in federal Community Development Block Grant (CDBG) funding for direct relief and mitigation of the effects of the 2014 [California Drought Disaster](#), as declared by Governor Brown.

This NOFA applies only to the installation of CDBG-eligible water lateral connections to new or existing public water systems for homes that have no running water as a result of having a dry or contaminated well. Also included are water meters, system connection fees and the abatement of existing dry wells. The CDBG activity is Housing Rehabilitation (HUD Matrix Code 14A).

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 email subscription list 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, the Department 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.*

B. AUTHORIZING LEGISLATION AND REGULATIONS

The CDBG Program is authorized by the Housing and Community Development Act of 1974 (HCDA) as amended¹, and Subpart 1 of the Federal Community Development Block Grant regulations². 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.*

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.

Pursuant to 25 CCR 7056(a) and (c)(1), the Department has the authority to issue special NOFAs within any funding cycle.

Pursuant to 25 CCR 7065.5(a) when the Governor declares an emergency, the Department may issue Emergency Disaster Assistance funding subject to the following special conditions:

- (1) The project or activity shall be designed to alleviate existing conditions which pose a serious actual or impending threat to the health or welfare of the community.
- (2) The applicant shall demonstrate that it is unable to finance the project or activity on its own and that other sources of funding are unavailable.
- (3) The proposed project or activity shall be otherwise eligible for funding under this Subchapter, or eligible pursuant to HUD eligibility criteria related to the emergency.

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.*

C. APPLICATION TIMELINES

1. Key Dates

NOFA and Application Release:	October 6, 2015
HCD Starts Accepting Applications on:	October 30, 2015
Applications Deadline:	Until Funds Run Out
Awards Announced:	As Available
Potential Second NOFA:	1 st Quarter 2016 If Funds Available

2. Application Process

The Department will only accept applications through a mail carrier service such as U.S. Postal Service, UPS, Fed Ex or other courier services that provide date stamp verification confirming delivery to HCD's offices at:

Department of Housing and Community Development
Division of Financial Assistance
Attention: Stoyan Elitzin
2020 West El Camino Avenue, Suite 600
Sacramento, CA 95833

Facsimiles, incomplete applications, application revisions, electronically transmitted, or walk-in application packages will NOT be accepted.

In Addition:

- a) At least one original of the application signed by the Authorized Representative must be received by the Department.
- b) The application shall contain all the information required in the NOFA and shall contain a certified resolution adopted by the governing body of the eligible jurisdiction (see **Appendix B** for a sample resolution).
- c) Tele-faxed or e-mail transmitted applications will **not** be accepted.
- d) Only the eligible activity included in this NOFA will be considered for funding.
- e) Once the application has been reviewed, the Department will call each applicant to inform them of whether they were awarded funding or not.

For further information about this NOFA, please contact Stoyan Elitzin at (916) 263-1622 or stoyan.elitzin@hcd.ca.gov.

FUNDING PARAMETERS

A. FUNDING

The minimum application amount is \$150,000, while the maximum application amount will be \$750,000. All funds will be awarded on a first come, first served basis upon demonstration of need and eligibility.

Any unallocated funds from the CDBG 2015 Drought NOFA will be re-allocated to 2016 or future CDBG NOFA awards.

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

PI on hand, including any Housing Revolving Loan Funds, must be spent before any grant funds may be drawn down.

B. PROGRAM ADMINISTRATIVE AND DELIVERY COSTS

General Administrative (GA) Expenses

GA costs include staff and related costs required for overall contract and program management, coordination, monitoring, reporting and evaluation. For all contracts, grantees are allowed up to 7.5 percent of the total of all activity funds requested and awarded for reasonable GA expenses related to administering the activity.

Calculation of General Administration

Below is the formula to be used to calculate 7.5 percent GA based solely on the amount of activity funding being requested (activity funding includes Activity Delivery (AD)). In essence, GA is calculated only on the amount of dollars being requested for the activity. Examples of the calculation are below:

Formula:

Activity Total divided by 1.075 = Activity \$ Amount (including AD)
Activity Total – Activity \$ Amount = GA

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: $\$558,139 + \$41,861 = \$600,000$

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, such as the loan processing and recording for the tenant-occupied households, scope of work write-ups, obtaining and reviewing cost estimates, etc.

Up to **10 percent** of the activity amount will be allotted for AD costs.

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 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.

Project Eligibility

Project Eligibility will be based on the individual home having a water well that is dry, has low or inadequate water supply, or that has been determined to be unusable due to contamination. The home must have a commitment for water connection and service from a public water system. Any properties with failed or contaminated wells that require capping must be hooked up to a public water system.

Each application must document the number of homes within their jurisdiction that meet these criteria and the estimated costs for connection fees and installations of meters, valves and lateral connections. All failed/contaminated wells must be capped after connection to the public water system.

C. NOFA APPLICATION WORKSHOPS

In October 2015, the Department will present a one-day NOFA workshop and/or webinar. Information regarding the workshop dates, times and locations, as well as a NOFA Workshop RSVP are detailed in **Appendix C**.

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 ensure adequate seating is available for all participants.

The Workshop is 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 the eligible CDBG activity and meeting the National Objective; 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 the activity. Department staff will take project-specific questions after each Workshop.

Eligible applicants attending a Workshop are encouraged to review the NOFA and Application prior to attending. Applicants should come to the Workshop with a copy of the NOFA and Application Package, since neither electronic nor hard copies of these documents will be available at the Workshops.

D. ELIGIBLE APPLICANTS, AREAS AND THRESHOLD

ELIGIBLE APPLICANTS

1. CDBG - Non-Entitlement Cities and Counties in California

All Non-Entitlement Cities and Counties in California are eligible to apply, provided that they meet the following eligibility criterion:

Non-Entitlement Definition:

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.*

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.

2. Funding Beyond a Grantee's Jurisdictional Boundaries

Given the CDBG Final Rules at 24 CFR 570.486(b) and (c), the Department issued CDBG Management Memo 13-06 which details the federal language and the resulting associated Department policy.

As part of the eligible activities review process, the Department will review the documentation to ensure all activities meet the above requirements.

THRESHOLD REQUIREMENTS

State CDBG Regulations, Section 7060, lists the requirements that must be met at the time of submission for a regular State CDBG application to be considered eligible. However, based on the emergency need for this activity in addressing health and safety issues, the Department has determined that it is in the best interest of its stakeholders and the public to waive some of its threshold requirements as described below:

- a) ***City or County must be a Non-Entitlement Jurisdiction, and 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 of the application information required in State CDBG Regulations 7070 and 7072, as applicable, for the activities and funding allocations being applied for.***
- c) ***For purposes of this NOFA, compliance with State CDBG Regulations at 25 CCR 7060(a)(3) pertaining to the 50% Rule by the application due date are being waived.***
- d) ***For purposes of this NOFA, compliance with the state and federal submittal requirements of OMB Circular A-133, Single Audit Report by the application due date are being waived.***
- e) ***For purposes of this NOFA, compliance State CDBG Regulation, Section 7080 with regard to two public hearings prior to application submission is being waived. However, the Department is requiring that a minimum of one public hearing was held before application submission and a duly adopted resolution must be included in with the application. Applications must be in compliance with federal CDBG Public Participation regulations [24 CFR 570.486(a)] to be eligible for funding. For more details, please refer to Appendices A and B of this NOFA, or Chapter 18 of the CDBG Grant Management Manual at <http://www.hcd.ca.gov/fa/cdbg/manual/chapter18.html>.***
- f) ***For purposes of this NOFA, Housing Element submittal and adoption requirements under Health and Safety Code 50829 and 50830 are being waived.***
- g) ***At time of application submission, the Department will review all applications from eligible applicants, for the following eligibility criteria.***

All criteria below must be documented in the application:

- 1) Documentation substantiating a direct link between the current drought and the requested activity.
 - i. *For this criterion, the applicant must submit documentation showing the number of homes in their jurisdiction that currently have dry water wells and no access to **permanent** potable water, and that these wells have dried up after the date of the 2014 California Drought Declaration.*

- 2) Threshold Documentation
 - a) Documentation that the requested activity will alleviate the existing conditions which pose a serious and immediate threat to the health or welfare of the community, which are of recent origin (issue must not have existed prior to the 2104 Drought Declaration).
 - i. *For this criterion, the applicant must submit documentation that the impacted homes are near an existing or proposed water system that they can connect to, and that has committed to serving the residences (draft agreements are acceptable). If the water system is proposed, submit the timeline for completion, water use agreement, etc.*

 - b) Documentation that the Applicant is unable to finance the activity on its own.

 - c) Documentation that other sources of funding are not available to the Applicant to meet such needs.

*For criteria 2b. and 2c., the application must include either certification by the Authorized Representative named in the Resolution that the Applicant is unable to finance the activity on its own, and that there are no other sources of funding available to meet such needs, or this certification can be included in the Resolution adopted by the Applicant's governing body. **One of the certification types listed must be included with the application.***

- 3) Documentation that the applied for activity will meet the eligible National Objective of meeting an Urgent Need.
 - a) For requirements, see the Application Forms.

E. ELIGIBLE ACTIVITIES

Eligible Activities:

1. Installation of water lateral connections within the private property boundaries to existing or proposed water systems, as part of the Housing Rehabilitation activity (HUD Matrix Code 14A).

2. Utility Connection Fees – one-time fees for capital water improvements, such as providing a connection from the water main to the meter, as well as installing the water meter and valve.
3. Abatement (capping) of existing wells which are dry, contaminated or have inadequate water supply.

Definition of Water Lateral Connection: the line that extends from the private residence to the water meter.

Eligible Properties:

A Drought-impacted residential property with a private water supply that has failed within the past 18 months (a water well that has dried up, has inadequate water levels, or became contaminated due to depleted water levels). In addition, the property must be located within a public water system service area (existing or proposed) and eligible for hook up to that water system.

Ineligible Activities:

1. Drilling of new water wells or deepening of existing wells.
2. Installations of water lateral connection for households that are not near or cannot connect to a public water system that will serve the households.
3. Installations of water mains.
4. Pre-paid future maintenance costs, such as those included in the utility connection fees.

F. NATIONAL OBJECTIVES AND DOCUMENTING BENEFICIARY REQUIREMENTS

1. **Meeting a National Objective**

Due to the nature and urgency of the eligible activity in this NOFA, the applicable National Objective is Meeting an Urgent Need.

For more information on Urgent Needs, 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.

MEETING AN URGENT NEED

To comply with the National Objective of meeting community development needs having a particular urgency, an activity must be designed to alleviate existing conditions which the grantee certifies and the Department determines:

- pose a serious and immediate threat to the health or welfare of the community,
- are of recent origin or recently became urgent,
- the State grant recipient is unable to finance the activity on its own, and
- other sources of funding are not available to carry out the activity, as certified by both the State and the grant recipient.

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

2. **Records to be Maintained**

The records maintained should include:

- a description of the nature and degree of seriousness of the conditions requiring assistance;
- evidence that the state grant recipient certified that the CDBG activity was designed to address the urgent need;
- information on the timing of the development of the serious condition; and
- evidence that other financial resources to alleviate the need were not available.

3. **Beneficiaries**

Because this NOFA is based on the Urgent Need National Objective, grantees are not required to income qualify the beneficiaries being served.

4. **Types of Assistance**

The Department will require that all Grantees assist owner-occupied households in the form of a grant, while investor-owned properties must be assisted through a loan. The loan must have a minimum term of 5 years in which the balance may not be forgiven or waived; the interest rate may be zero percent or above; and payments may be deferred for the loan term.

APPLICATION REVIEW AND EVALUATION

A. EVALUATION CRITERIA

1. Method for Ranking Eligible Applications

This NOFA is Over-the-Counter and, as such, funding will be provided on a first come, first served basis.

2. Tie-Breaker

In the event of over-subscription of funds, or multiple applications are received on the same day, a tie breaker process will be used. Specifically, such applications will be ranked according to jurisdiction-wide poverty levels.

AWARD ANNOUNCEMENTS AND GRANT IMPLEMENTATION

A. AWARD ANNOUNCEMENTS

The Department anticipates awards will be announced within 45 days of receiving an application that has met the eligibility criteria. Until awards are announced Department staff will be unable to discuss the status of a jurisdiction's application.

If upon review a jurisdiction's application contains inadequate Threshold documentation or ineligible activities, the Department will contact the jurisdiction and allow them to revise the application. However, in that case the date of submittal of the revised application will count as the jurisdiction's date of application for award purposes.

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

B. 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, provided the Grantee has requested and **obtained written approval from Department.**

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

Term of Agreement: The Agreement shall expire no later than 36 months from the date of award; however, the expenditure deadline will be no more than 30 months from the date of the award.

Expenditure Milestone: The Department may terminate this Agreement if Contractor fails to drawdown at least 50 percent of the grant amount within eighteen months of Agreement execution.

PROGRAM REQUIREMENTS

A. 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:

1. Environmental Standards (based on National Environmental Policy Act of 1969 (NEPA) (this federal overlay is being waived under Urgent Need circumstances)
2. Labor Standards (Davis-Bacon and Related Laws)
3. Achieving a HUD National Objective
4. Public Participation Requirements
5. Fair Housing and Affirmatively Furthering Fair Housing
6. Equal Opportunity and Non-Discrimination in Federal Grant Programs
7. Federal Procurement Guidelines
8. National Flood Insurance Program Compliance
9. Relocation and Displacement Requirements
10. Employment and Contracting Opportunities
11. Lead-Based Paint Requirements
12. No Use of Debarred, Ineligible or Suspended Contractors or Subrecipients
13. Uniform Administrative Requirements and Cost Principles
14. Conflict of Interest Prohibitions
15. Compliance with the Architectural Barriers Act and the Americans with Disabilities Act
16. Compliance with Eligibility Restrictions for Certain Resident Aliens
17. Federal Reporting Requirements
18. Grant and Subrecipient Monitoring Requirements

Applicants are encouraged to pay particular attention to the following federal overlays:

B. PUBLIC PARTICIPATION

1. Pursuant to State CDBG Regulation, Section 7080, all applications must be in compliance with federal CDBG Public Participation regulations to be eligible for funding. A minimum of one public hearing is required prior to submitting an application. Refer to Appendix A for requirements and sample Public Notice.

C. 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.

D. 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 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.

This activity should not cause the displacement of any households since it will result in a permanent potable water source for the housing unit. However, if temporary relocation is considered necessary the applicant must submit documentation justifying the need for relocation.

E. PROCUREMENT

Procurement of Administrators

If a Grantee chooses not to administer the activity in-house, it is required to follow the normal process for procuring activity administrators.

Procurement of Contractors

Grantees will be allowed to conduct a tiered procurement process, whereby a Grantee releases a Request for Proposal (RFP) to solicit contractors meeting specific criteria in order to create an “eligible contractor panel.” Once the panel is established, Grantees will use the small-purchase procurement process (the lowest bid must be selected) for securing contractors for jobs that will install water laterals on up to 7 properties. The construction contract(s) are executed between the individual property owners and the selected contractor, since work will be predominantly taking place on private property.

F. PREVAILING WAGES (DAVIS-BACON)

According to federal CDBG regulations, a construction project that involves 8 housing units or more will trigger federal prevailing wages. This trigger is based on the actual contract executed with the contractor, and not on the total amount of units assisted by a jurisdiction.

G. 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.

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.