

## **Appendix F**

### ***Economic Development Over-The-Counter (ED OTC)***

### ***Application Process***

The ED OTC project application process is separate from the competitive application process used to award funds for most CDBG eligible activities. CDBG ED OTC applications are accepted throughout the funding year, on a first come first served basis (based on when the “Project” is submitted to the Internal Loan Committee). ED OTC application forms, including the Project Inquiry Form, are provided on the [CDBG Current NOFA](#) page. The ED OTC application process is illustrated in the flow chart at the end of this document.

#### **PROJECT INQUIRY FORM SUBMITTAL:**

The first step in applying for ED OTC funding is to submit a Project Inquiry Form. This form must be completed, signed and submitted by a State CDBG eligible Jurisdiction. See NOFA Appendix A for a list of eligible Jurisdictions.

The ED OTC Project Inquiry Form is submitted directly to the CDBG Economic Development (ED) representative listed on the form. Upon receipt of a Jurisdiction’s inquiry form, the ED staff will review the project information for CDBG eligibility. The last pages of this document contain a list of things to consider when applying for ED OTC funds and the Application Process Overview, both of which should be reviewed as part of submitting a Project Inquiry Form.

***Note: While a jurisdiction may only apply for one Project within an ED OTC application, a jurisdiction can submit multiple ED OTC applications each funding year.***

#### **INITIAL CONFERENCE CALL AND THRESHOLD REVIEW:**

Once the Project Inquiry Form has been reviewed by the ED team, an initial project threshold review is done via a telephone conference call with the Jurisdiction. The first conference call is scheduled by the ED staff and typically only includes the Jurisdiction staff, without the business owner / developer. ED staff review the ED OTC process and go over roles, responsibilities and risks involved in funding CDBG ED projects.

On the call, OTC discussion topics will include: 1) what documentation will be required for the CDBG OTC application; 2) what the requirements are for compliance with CDBG ED standards; and 3) what federal overlay compliance will be triggered for project.

At the end of the call, if the Jurisdiction wishes to proceed with sponsoring the project for funding from an ED OTC application, then ED staff will complete a threshold review of project eligibility. ED staff may request additional information about the project and schedule a second conference call as part of doing a threshold review. The Department will issue a written decision on project eligibility based on the inquiry form and conference call.

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If the Jurisdiction decides they do not wish to proceed with an ED OTC application or if it is clear the project is not eligible for CDBG funding, the ED staff will send written confirmation of the decision not to proceed with an ED OTC application.

#### **WRITTEN CONFIRMATION OF PROJECT ELIGIBILITY:**

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ED staff will compile the project threshold information, make a determination of eligibility, and present a recommendation to CDBG program management for: an invitation to apply; denial of an application; or request further action to finalize eligibility. Based on one of the three (3) recommendations, the Jurisdiction will receive written notification from the Department of the ED OTC application eligibility. If approved, the letter will invite the jurisdiction to submit an ED OTC application. Upon issuing a written invitation to apply, the ED staff will schedule a project site visit.

#### **PROJECT SITE VISIT:**

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ED staff will arrange a meeting with the Jurisdiction at the project site. This will provide an opportunity to validate the information provided about the proposed project. It will also allow the ED staff to meet the project's business owner / developer and discuss details of the proposal.

At the site visit, additional questions are answered and CDBG requirements are again reviewed, such that a common understanding of CDBG compliance is established and the ED OTC application process with roles and responsibilities is clarified. A timeline for application preparation is informally developed, based on when the CDBG funds are needed and the different federal requirements to be addressed.

#### **DEVELOPING AND SUBMITTING AN ED OTC APPLICATION**

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As with all CDBG funding proposals, the Jurisdiction must follow the required public participation process. This consists of at least one, but preferably two, public hearings. See the *NOFA Appendix D Citizen Participation* for detailed guidance on compliance with this requirement.

ED OTC application activity forms for the three different types of OTC projects are included on the CDBG website under the current funding year's NOFA. The ED OTC Application Invitation letter will indicate what activity forms need to be completed. Each ED OTC project is unique, so each will have specific information that needs to be provided as part of completing the activity forms.

ED staff will work closely with the Jurisdiction's ED OTC development team to guide them through the documentation and underwriting process. Jurisdiction staff will always be the primary contact and have primary responsibility for completing the application process. In some cases, not all the information required may be available, i.e. final funding commitments. If so, those items will be made "Special Conditions" (see Contract

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Execution and Disbursement of CDBG Funds section below) of funding in the Department's approval and grant agreement. Most of the work involved in the ED OTC application process is the financial underwriting analysis and determining the terms and conditions for CDBG loan funds. Completing the final OTC application is a joint effort of all the parties: 1) ED staff; 2) Jurisdiction staff; 3) Jurisdiction's underwriter; 4) business owner / developer; 5) private banks and other funders.

**Note:** Any project "work" started before contract execution and the clearance of all conditions, regardless of the source of the funds used, is a risk to the project and it is highly recommended that all project team members stay in contact with their ED staff to ensure no federal overlay compliance issues occurs.

Cost of compliance with federal overlays is an eligible CDBG expense, so the Jurisdiction may wish to pay for the environmental review and get the Department's written approval, so the business can proceed with their project expansion, at their own risk, prior to CDBG funding award. This process requires the jurisdiction to submit a written request to incur costs, along with what project action the costs will pay for and who will be doing the work. The Department must respond in writing before the cost can be incurred. If the Department agrees, then a formal letter allowing CDBG project costs to be incurred, at the risk of the Jurisdiction, will be issued.

Once the activity forms are completed and financial underwriting is done, then the application can be presented to the Jurisdiction's governing body for approval via a formal resolution. Approval of the OTC application by the Jurisdiction's governing body must follow the same process as other CDBG applications, including: properly noticed citizen participation public hearing(s); adoption of resolution approving submittal of application and properly completed and signed application summary forms and certifications. All the information on the public hearing process and application summary / certification forms is contained in the current NOFA and Application located on the [CDBG Current NOFA](#).

#### **DEPARTMENT APPROVAL OF OTC APPLICATION**

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Once the activity application is submitted, along with a resolution, and Summary Application form, ED staff will present the ED OTC project proposal to the Department's Internal Loan Committee (ILC). The ILC is not a public meeting and Jurisdiction staff are usually not present. The ILC will decide if the project is funded or not, and if funded what, if any, Special Conditions should be included in the contract conditions. ED staff will incorporate any Special Conditions recommended by ILC members into the CDBG award package and state grant contract.

After ILC approval, a Department award letter is issued. Approval of the ED OTC project proposal by the Department's ILC can be done in approximately two weeks. ED staff will then work on developing a state grant agreement for the project.

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### *Economic Development Over-The-Counter (ED OTC) Application Process*

#### **CONTRACT EXECUTION AND DISBURSEMENT OF CDBG FUNDS**

The executed grant agreement will contain [General Conditions](#) (via an on-line checklist) and possibly some Special Conditions (conditions unique to this project) that the Jurisdiction must “clear” prior to release of any CDBG funding from the Department.

Once all the conditions of the grant agreement have been met, then the Department will issue a letter to the Jurisdiction stating that eligible CDBG costs paid for by the Jurisdiction may be submitted for reimbursement by the Department.

**Note:** It is important to note that ANY program income on hand must be spent on the reimbursement of project costs prior to drawing down any CDBG funds from under the grant contract.

#### **IMPORTANT CONSIDERATIONS**

- ✓ ED OTC Projects are processed on a first come first served basis (based on when application are submitted to the ILC) with no competitive rating and ranking.
- ✓ ED OTC Projects can take up to six (6) months to move through the review and approval process (from submission of the inquiry form to receiving an award letter). The more complex the project, the longer the review time.
- ✓ CDBG federal overlay compliance requirements, if not fully considered, can slow down the project timeline, or result in choice-limiting action?
- ✓ ED OTC Projects are each unique. The current application forms provide a general “framework” for review of projects; however, each project will require different sets of specific information to document CDBG compliance.
- ✓ ED OTC Projects are underwritten based on HUD underwriting standards.
- ✓ ED OTC Projects will generally require the submittal of financial spreadsheets, for the Department to review as part of documenting financial feasibility and CDBG compliance.
- ✓ ED OTC Projects will likely require a CDBG underwriting capacity, which can be done by jurisdiction staff or most likely a consultant. Regardless of who is doing the work, the underwriter must be knowledgeable in commercial project underwriting standards and CDBG underwriting/cash flow analysis.

# CDBG Economic Development Over-The-Counter (ED OTC) Application Process

