

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

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May 17, 2016

MEMORANDUM FOR: All Potential Non-Entitlement Applicants

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

SUBJECT: **NOTICE OF FUNDING AVAILABILITY (NOFA) FOR 2016
COMMUNITY DEVELOPMENT BLOCK GRANT
PROGRAM (CDBG)**

The State Department of Housing and Community Development (Department) is pleased to announce the availability of approximately \$27,000,000 in federal Community Development Block Grant (CDBG) Program funds for funding year 2016. The funding has been allocated to the State of California (State) by the U.S. Department of Housing and Urban Development (HUD) pursuant to the Housing and Community Development Act of 1974, as amended.

This NOFA is applicable to State CDBG non-entitlement cities and counties to apply for funding under Community Development (CD) activities, Special Allocations for Economic Development (ED), Colonia, and Native American Communities. The following is a list of the eligible activities which must meet a National Objective:

A. Activities

1. Housing Assistance
2. Public Facilities
3. Infrastructure and Infrastructure in Support of Housing
4. Public Services
5. Planning and Technical Assistance
6. Economic Development (Business Assistance and Micro Enterprise Assistance including Over-the-Counter)

B. Special Allocations

1. Economic Development (ED)
2. Native American Communities
3. Colonias

All Potential Non-Entitlement Applicants
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The following table indicates important application due dates:

DUE DATES	DATE
2016 NOFA Availability Date	May 17, 2016
CDBG Application Release Date	May 20, 2016
Application Due Date	July 27 at 5:00 p.m.
Award Announcement	October 2016

**The 2016 CDBG NOFA will be available for download from the HCD website at [California Department of Housing and Community Development \(HCD\)](#) on May 20, 2016.*

The application deadline is Wednesday, July 27, 2016 at 5:00 p.m. for the 2016 CDBG NOFA. Any applications received after 5:00 pm will not be accepted. Please note that Applicants for Economic Development Over-the-Counter applications are not subject to the above deadline.

The Department has scheduled application training workshops throughout the State beginning May 2016 for CDBG non-entitlement applicants. A notice of the workshop schedule was sent out using the Department's CDBG mailing list. You can subscribe to the CDBG mailing list by clicking on the link and completing the form, [CDBG Mail Listing](#) to receive notices on the NOFA workshops and other important CDBG program information. The workshop will cover the following areas:

1. What's new in the 2016 CDBG NOFA;
2. Provide guidance and instructions to complete the application;
3. Review changes to the application, activities and/or rating and ranking criteria; and
4. Answer any questions about the application you will be submitting to the Department.

Please contact the following NOFA Award (CDBG) staff if you have any questions on the 2016 CDBG NOFA and CDBG Program:

Mimi Bettencourt, Manager	(916) 263-1014	Mimi.Bettencourt@hcd.ca.gov
Diane Moroni	(916) 263-1675	Diane.Moroni@hcd.ca.gov
Jim Miwa	(916) 263-1644	Jim.Miwa@hcd.ca.gov
Jon Diedesch*	(916) 263-2561	Jon.Diedesch@hcd.ca.gov

**If you have questions regarding CDBG Over-the-Counter projects, please contact Jon at the number listed above.*

Attachment

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

2016 Notice of Funding Availability



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

**Ben Metcalf, Director
Department of Housing and Community Development**

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

Tom Bettencourt, Branch Chief
Planning & Evaluation Branch

2020 West El Camino Avenue, Suite 500, Sacramento, CA 95833
Telephone: (855) 333-CDBG (2324) / Fax: (916) 263-2764
Website: [CDBG Current NOFA](#)
NOFA Section Email: CDBGNOFA@hcd.ca.gov

MAY 2016

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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 \$27,000,000 in federal Community Development Block Grant (CDBG) funding allocated to the State from the Department of Housing and Urban Development (HUD) for funding year 2016.

This NOFA applies to CDBG-eligible activities funded under the Community Development (CD) Allocation and Special Allocations for Economic Development, Colonia, and Native American. Funding under each of the following activities and special allocations will primarily benefit low- and moderate-income residents/persons in California:

Community Development

1. Housing Assistance
2. Public Facilities
3. Infrastructure and Infrastructure in Support of Housing
4. Public Services
5. Planning and Technical Assistance

Special Allocations

1. Economic Development (Business Assistance and Microenterprise Assistance)
2. Native American Communities
3. Colonias

The final amounts available for each activity 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. The amount of funds available for Planning and Technical Assistance (PTA), as announced in this NOFA, shall be allocated between sole PTA applications and PTA applications submitted in combination with other eligible activities based on the relative amount requested. Applications will be ranked, if needed, per Section 7078(d) (7) to resolve a tie-breaker. For example, if the aggregate amount of funding requests for housing activities is 40 percent of the total amount of funding requested overall, then 40 percent of the NOFA funding will be made available for housing activity awards.

1. Economic Development (ED)

California Health and Safety Code 50827 and State CDBG Regulations, Section 7062.1, requires the Department to set-aside 30 percent of the annual federal CDBG award for ED activities. The entire 30 percent 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 percent set-aside in this NOFA for ED is approximately \$8,200,000. The split between the Enterprise Fund (EF) and the Over-Over-the-Counter (OTC) allocations will be initially set at 70/30 percent respectively, but may be adjusted by the Department based on demand.

The projected ED allocation amount previously noted includes \$600,000 for ED PTA activities, as noted below.

2. **Community Development (CD)**

The CD activity amount is estimated to be \$17,000,000. 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, and Colonia) and the State's allowed administration funding. This amount reflects \$600,000 being set-aside for CD PTA activities (see #5 below).

3. **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 five percent of the allocation in this NOFA; estimated to be \$1,400,000 for eligible Colonia activities. Remaining Colonia funding will roll to the CD activity category for funding under this NOFA.

4. **Native American (NA)**

Pursuant to Health & Safety Code Section 50831 and State CDBG Regulations, Section 7062, the State annually sets aside 1.25 percent of its CDBG award for grants for 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 \$400,000. Any unused NA funding will roll to the CD activity category for funding under this NOFA.

5. **Planning and Technical Assistance**

Approximately \$1,200,000 is available for this NOFA. The Department anticipates this amount will be 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.

Note:

- *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 website.*
- *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.*

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 (25 CFR), Sections 7050-7126.

Reference Note: *The 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	May 17 & 20, 2016
ED Over-the-Counter (OTC) Open Date	May 17, 2016
Application Workshops	May 12, 2016 thru June 10, 2016
Applications due to HCD by 5:00 P.M.	July 27, 2016
Awards Announced	October, 2016
ED Over-the-Counter (OTC) Close Date	July 31, 2017*

*based on Funding Availability

2. Submitting 2016 CDBG to the Department

- a) The application deadline is Wednesday, July 27, 2016 at 5:00 p.m. for the 2016 CDBG NOFA. Any applications received after 5:00 pm will not be accepted. Please note that Applicants for ED OTC applications are not subject to the above deadline.
- b) Facsimiles, late, incomplete, revisions to, and electronically transmitted application packages will not be accepted.
- c) The Department will accept applications through a mail carrier service such as the U.S. Postal Service, United Parcel Service (UPS), Federal Express (FEDEX) or other mail carrier services that provide a date stamp verification confirming the date of delivery/arrival of the application package at the Department by the application due date. The Department will allow applications to be delivered in person. **Note: This is different than other Department funding application receipt policies.**

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.

3. **Deliver the 2016 NOFA application to the following address:**

Department of Housing and Community Development
Division of Financial Assistance
NOFA AWARD SECTION (CDBG PROGRAM)
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833

In Addition:

- a) 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.
- b) 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.
- c) Once the pool of eligible applications has been determined, the competitive scoring process commences. Pursuant to 25 CCR 7070 in State regulations, where a description or analysis includes quantified information, the source of the information and the method of computation must be described. If the Department determines that the methods of computation are inaccurate or misleading, it may, after consultation with the applicant, adjust this information during the evaluation process. There will be no further contact between the application review staff and the applicants until the award list has been finalized.
- d) Applications that meet all of the threshold criteria will be reviewed for activity eligibility. If an activity is deemed ineligible, that specific activity in the application will not be scored, though other eligible activities in the application will be scored.
- e) Only eligible activities from eligible applicants will be rated and ranked.
- f) 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.

4. **For Further Information About This NOFA**

If you have any questions regarding the CDBG Program and 2016 NOFA application process, please contact the following NOFA Award (CDBG) staff via CDBGNOFA@hcd.ca.gov or directly at:

Mimi Bettencourt, Manager	(916) 263-1014	Mimi.Bettencourt@hcd.ca.gov
Diane Moroni	(916) 263-1675	Diane.Moroni@hcd.ca.gov
Jim Miwa	(916) 263-1644	Jim.Miwa@hcd.ca.gov
Jon Diedesch*	(916) 263-2561	Jon.Diedesch@hcd.ca.gov

**If you have questions regarding CDBG ED OTC projects, please contact Jon at the number listed above.*

D. WHAT'S NEW IN THE NOFA

The following are changes to the 2016 CDBG NOFA:

1. Application Submittal Process

Applicants can either drop-off or send the application using a mail carrier service such as U.S. Postal Service, UPS, FedEx or other carrier services that provide date stamp verification confirming delivery to the Department. **Note: This is not the same application acceptance policy as other Department funding programs.**

2. Increased Number of Public Service Programs

The number of public service programs allowed under the competitive part of the application is still three. Up to three public service programs make up one Activity in the application. New for this year, public service programs are now eligible as supplemental activities. Public service programs can now be funded under the competitive portion of the application (maximum of three) and/or under the supplemental portion of the application (maximum of three), as long as the total number of public service programs within the application does not exceed four.

3. Program Income (PI)

HUD regulations require that all CDBG PI funds held at the local level be expended prior to drawing down awarded grant funds. Although spending down PI is not a threshold requirement, the availability of PI can impact a grantee's ability to meet the 50 percent expenditure rule. As such, it is important that applicants read and apply all aspects of [Management Memo 14-05](#) as part of its planning process and funding strategy prior to completion and submittal of the application. Also, due to the updated PI policy, the Department is continuing its implementation of the Supplemental Activities process as a separate part of the application, as noted in the Funding Parameters section, Item F. If you have any questions about Management Memo 14-05, please contact your CDBG Contract Representative.

4. Supplemental Activities

The Department will allow applicants to propose public service programs as supplemental activities. This is a new policy starting with this NOFA. This new policy is connected to the increase in the number of public service programs allowed in an application, as discussed above in Number 2.

Last year, the Department implemented a process by which an eligible activity could be included in the application identified as a "Supplemental Activity". These activities are in a separate part of the application and are not competitively rated or ranked. Supplemental activities are submitted with the application and are reviewed only for eligibility and must meet a National Objective.

Allowing supplemental activities to be requested during the application process provides a mechanism by which the applicant may expend on-hand PI funds on supplemental activities first or spend PI on grant-funded activities first. If PI is spent first on grant-funded activities, then any remaining balance of funds in the grant-funded activity can be spent on supplemental activities identified in the contract. Therefore, at the end of the milestone expenditure period, all PI and grant funds may be expended prior to contract expiration and reduce the need to disencumber grant funds.

Supplemental activities must be included in the original application and will be identified as such in the grant contract. Applicants must fill out the proper supplemental activity forms and include them in the public participation notice and the applicant's resolution.

Eligible public service activities will be allowed as a supplemental activity for this NOFA. The maximum number of supplementals requested in an application is now four. Supplementals will not be rated or ranked but proper documentation to establish the activity is eligible and will meet a National Objective must be included in the application.

The Department will allow grantees to use program income on any of the activities identified in the contract, either awarded or approved supplementals. On-hand program income may be expended on any activity that is ready to commence and has cleared general and special activity-specific conditions. After all program income funds are expended, the grant funds are available to expend on any remaining awarded activities in the contract.

5. **Low/Mod Income Summary Data (LMISD) – ACS 5-Year File 2006-2010**

Pursuant to [HUD CPD Notice 14-10](#), as of July 1, 2014, HUD grantees using LMISD to qualify area benefit activities shall use the updated LMISD based upon the American Community Survey (ACS).

For all State CDBG applicants, the updated data is included in the 2016 NOFA - Appendix A, and can also be accessed from [HUD's website](#). The Department will update this data whenever HUD provides an update.

The new HUD LMISD data has resulted in significant changes to applicants' Low/Mod percentages, as shown in Appendix A. Please refer to the new LMISD data in Appendix A for the 2016 CDBG NOFA and [Management Memo 14-07](#) when deciding which activities to apply for and completing the application.

6. **New Application Process, Forms and Funding Amounts for ED OTC**

The ED OTC application process was revised last year. The Project Inquiry Form starts the formal tracking of each application. Written correspondence will be used to formally acknowledge when a proposed project is deemed eligible or ineligible or requires more information. Once the proposed project activities are deemed CDBG eligible, the jurisdiction will receive an Invitation to Apply and submit a full ED OTC application.

For complete OTC Application Process, see Appendix E and Economic Development Over-the-Counter (OTC) Application Flowchart.

The ED OTC application process will include similar forms as the competitive application received annually by the Department. The applicant must complete an Application Summary, which includes requirements for threshold, certifications, statements of assurances, and submittal of a resolution with public hearing requirements. **Note:** The Application Summary is included on the Department's website under the CDBG Program - Current NOFA's- APPLICATION SUMMARY – REQUIRED FOR ALL APPLICATIONS. The applicant must complete activity forms which highlight crucial parts of the project. The applicant must provide source documentation to substantiate that the project meets all HUD requirements. All project information required for Department staff to present the funding proposal to the Department's Internal Loan Committee (ILC) must be provided as part of the application. Upon recommendation of the ILC and Director's approval, the jurisdiction will receive an award letter.

Forms on the current NOFA page for OTC have also been revised - the **ED OTC Project Inquiry Form** has been updated, and will provide for eligibility and benefit review. The **ED OTC Project Inquiry Form** will require information allowing the Department to reach a preliminary determination of whether the project is: (1) eligible; (2) will meet a National Objective; and (3) will provide public benefit.

A tab for OTC has been added to the **Summary Application (not needed when submitting the ED OTC Project Inquiry Form)** and must accompany any **ED OTC Application** (for more detail, see Appendix E).

7. State Objective Points

One hundred (100) State Objective points will be awarded for any proposed activity that addresses/mitigates impacts from a State or federally declared disaster, active at the time of application submittal due date. Please note that the proposed activity must be CDBG eligible and meet a National Objective.

One hundred (100) State Objective points will be awarded for any proposed activity that meets the Urgent Need national objective. The activity must address a community development need having a particular urgency, and must be designed to alleviate existing conditions which the local government certifies and the State determines:

- Pose a serious and immediate threat to the health or welfare of the community,
- Are of recent origin or recently became urgent,
- The jurisdiction is unable to finance the activity on its own, and
- Other sources of funding are not available to carry out the activity, as documented and certified by the jurisdiction and determined by the State.

One hundred (100) State Objective points will be awarded for Fair Housing Services (Public Service), such as counseling or housing discrimination.

Fifty (50) State Objective points will be awarded for a Homeownership Assistance Program activity. The points will not be awarded if the application includes both Homeownership and Housing Rehabilitation Programs.

8. **Income Surveys**

Instructions on completing a valid income survey have been added into the NOFA. These instructions are found in Appendix N. Support documents for income surveys are found on the Department's CDBG webpage under [Forms and Reports](#).

Note: Income Surveys that are determined to be not methodologically sound could result in the Department's determination that the activity does not meet a National Objective and, therefore, is ineligible.

9. **Activity Delivery for Projects**

The activity delivery (AD) budget line item amounts shown in the application and grant contracts will be changed for public facilities, public improvements, and public improvements in support of housing new construction. As such, these activities will again have an activity delivery cap of 12 percent. For more detail on activity delivery amounts for different activities, see the Funding Parameters Section, Item B.

10. **Activity Delivery for OTC Projects**

The activity delivery (AD) budget amount line item shown in the application and grant contracts will be removed for OTC projects. Activity Delivery costs are still eligible but will now be included with other eligible project activity costs and be subject to HUD's Public Benefit Standard. As such, the Sources & Uses section of the application forms for these project activities will be expanded to require a more detailed breakdown of the proposed development costs to include activity delivery. For more details, see the Funding Parameters Section, Item B.

11. **General Administration**

General Administration may be used for application preparation for federal funding, including Continuum of Care funding.

FUNDING PARAMETERS

A. FUNDING AND ACTIVITY LIMITS

1. Jurisdictions may apply for up to three 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, Enterprise Fund, and PTA.

***Note:** ED OTC activities, Colonia, and Native American activities are separate and not counted in the three activity maximum or the maximum funding cap of \$2,000,000.*
2. A “Combo Program” of Housing Rehabilitation and Homeownership Assistance counts as one activity.
3. The Multi-Family Residential Rehabilitation (five or more units) activity allows for only one project.
4. An Enterprise Fund “Combo Program” of Business Assistance (BA) and Microenterprise (ME) counts as one activity.
5. Within the application maximum of three activities, one PTA activity, with up to two studies may be applied for, up to a maximum request of \$100,000.
6. A Public Service activity application may be comprised of no more than three individually eligible Public Service programs.
7. Depending on the activity, an application can receive a maximum of 1,000 points per activity.
8. 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

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

1. Enterprise Fund (EF) Activity

BA and ME: A single activity can be funded up to \$300,000 (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.

2. **Economic Development Over-the-Counter Funding**

Per 25 CCR 7062.1(c)(2) of the State CDBG Regulations, awards from the OTC Component to a single city or county in a single program year shall not exceed \$3,000,000, regardless of the number of applications. The State statute (Health and Safety Code 50832) provides flexibility on the amount of ED OTC funding which can be awarded to a jurisdiction by allowing multi-year funding and allowing the ED OTC award limit to be waived based upon available economic development funds after September 1 of each year. Minimum funding request is \$300,000.

3. **Housing Activity**

A maximum of \$1,000,000 encompassing any two categories listed below:

- a) Housing Rehabilitation – (1-4 Units) (HR) or Homeownership Assistance (HA) (up to \$600,000); Housing Combo - HA and HR (up to \$1,000,000).
- b) Housing Project - Multi-Family Rental (5 or more Units) Rehabilitation with or without Acquisition (up to \$1,000,000).
- c) Housing Project - Acquisition of Real Property - for Multi-Family Housing Projects (up to \$600,000).

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

A maximum of \$1,500,000 is allowed and only one project per application.

5. **Public Facility Activity**

A maximum of \$1,500,000 is allowed and only one project per application.

6. **Public Service Activity**

A maximum of \$500,000 may be requested for three separate public service programs (which includes code enforcement programs). An application containing up to three public service programs counts as one activity in the application.

7. **Planning and Technical Assistance Activity**

Up to \$100,000 in funding is available for PTA activities. There can be 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 an ED-PTA (20A).

8. **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, such that all activities funded must have all funds expended within 36 months of award letter date. In addition, the 50 percent rule applies to all funded activities under the contract.

9. **Use of Program Income for Activities in an Application**

Due to HUD's PI rules, all PI must be expended prior to drawing down grant funds and may not be "set aside" to fund a particular activity awarded in the contract. To use PI on a grant-funded activity, the Department will compare the amount of local PI available, as reported on the Semi-Annual PI Report and the Funds Request, and require PI to be expended first. After all PI has been expended, grant funds may be drawn down to make up any difference.

If a Revolving Loan Fund (RLF) has been established, then RLF funds will be expended first, if the awarded grant contract has the same program activity as is contained in the approved RLF.

It is important that jurisdictions review and thoroughly understand Program Income Management Memo 14-05. PI expenditures (current balance and future revenue) must be planned for and scheduled as part of implementing activities under a grant activity. If there are outstanding questions or you require further clarification, please contact your Contract Management Representative prior to submitting your application.

Limited Number of Awards

When there are more funds requested than are available, each activity, **except** ED-OTC's, will be competitively rated and ranked. **PTA applications will not be scored**, but will be ranked via the tie-breaker process, if the PTA activity is oversubscribed. Funding will be awarded to applicants that score the highest in each specific activity, until the funding available for that activity is exhausted.

Limited Funding for Public Service Activities

Federal statute [42 USC 5305(a)(8)] limits the expenditure of public service funds to no more than 15 percent of the State's annual CDBG funding award from HUD and is calculated each year based on actual public service expenditures.

B. PROGRAM ADMINISTRATIVE AND ACTIVITY DELIVERY COSTS

General Administrative Expenses

General Administrative (GA) costs include staff and overhead costs required for overall contract and program management. All awarded activities (other than ED OTC), allow up to 7.5 percent of the total funds awarded for reasonable GA expenses related to the

administration of the CDBG Program. This is the same as previous years' calculation method; and, though there is a detailed discussion of the calculations below, the Summary Application Form is in an Excel format and will calculate these amounts automatically.

Calculation of General Administration (GA)

Below is the formula to calculate 7.5 percent GA based on the amount of activity funding being requested, this includes Activity Delivery (AD). GA is calculated on the amount of dollars being requested for each activity, not the entire application. Examples of the calculation are below:

<p><u>Formula:</u> Activity Total divided by 1.075 = Activity \$ Amount (including AD) Activity Total – Activity \$ Amount = GA</p>
<p><u>Total Application Example:</u> Application amount of \$2,000,000: $\\$2,000,000 / 1.075 = \\$1,860,465$ available for <u>all</u> Activities (including AD) $\\$2,000,000 - \\$1,860,465 = \\$139,535$ GA <u>Verification:</u> $\\$139,535 / \\$1,860,465 = 7.5\%$ <u>Also:</u> $\\$1,860,465 + \\$139,535 = \\$2,000,000$</p>
<p><u>Single Activity Example:</u> 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 <u>Verification:</u> $\\$41,861 / \\$558,139 = 7.5\%$ <u>Also:</u> $\\$558,139 + \\$41,861 = \\$600,000$</p>

Note: *In the application process, a GA amount will be calculated for each activity. 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 requested, there is no way to know at the application stage the total GA award amount. Thus, the Department will calculate the GA for each activity, and add the GA for all the awarded activities. This will result in the amount of GA awarded to the grantee.*

ED OTC General Administration Expenses

GA is calculated at 7.5 percent of requested activity funds (see formula above), not to exceed \$100,000, unless there is a written request submitted for an exception to this maximum including supporting documentation and approved in writing by the Department.

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 for activities with separate activity delivery budget are as follows:

- Housing Rehabilitation Program (1-4 Units): up to 19%
- Multi-Family Housing Rehab Project (5 or more units): up to 15% or \$50,000 (whichever is less)
- Homeownership Assistance: up to 8%
- Multi-Family Housing (Acquisition only) up to 8%
- Enterprise Fund: Micro Loan/Grant Program: up to 15%
- Enterprise Fund: Business Assistance Program: up to 15%
- Public Facilities or Public Improvement Projects: up to 12%

The following activities incorporate activity delivery costs into the activity budget:

- Enterprise Fund: Micro TA or Support Program: Included in program costs
- ED Over-the-Counter Project: Included in project costs
- Public Service Program: Included in program costs
- PTA: Included in general admin 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.

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 Micro Financing or BA Activities:	1.15%
Housing Rehabilitation Program:	1.19%
Homeownership Assistance:	1.08%
Public Facilities and Public Improvements:	1.12%
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	
<u>Verification:</u> $\$20,672 / \$258,398 = 8\%$	
<u>Also:</u> $\$258,398 + \$20,672$ AD = \$279,070 Activity Amount; and,	
$\$279,070 + \$20,930$ GA = \$300,000	

- As noted above, the final amount of GA awarded in a contract will be based on activities awarded, will be shown in the contract as a total amount for GA rather than an amount tied to any specific activity.
- In the event AD costs are drawn down in the course of implementing an activity, and ultimately the activity does not proceed to its completion and a National Objective is not

achieved by the contract expiration date, all expended Activity Funds and Activity Delivery Funds must be returned to the State.

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 maximums noted above. If the applicant is awarded funding for a 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 based on activity funds at the time of approval.

C. NOFA APPLICATION WORKSHOPS

The Department will present one-day NOFA workshops in locations around the State in May and June, 2016.

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 how to meet a National Objective. Other topics include what's new this year, discussion of the application evaluation criteria for each eligible activity, methods for submitting required documentation, and general information regarding the major federal overlay requirements that may affect funded activities. State NOFA/Award Section staff will be available to address project-specific questions from potential applicants after each workshop.

Eligible applicants are encouraged to review the NOFA and Application Forms prior to attending a workshop. Applicants may want to come to the workshops with a print--out of the NOFA and the appropriate Application Forms, since neither electronic nor hard copies of these documents will be available.

NOFA training announcement and registration information will be released separately from this NOFA by the NOFA/Award Section staff.

D. ELIGIBLE APPLICANTS, AREAS AND THRESHOLD

Eligible Applicants

1. CDBG - Non-Entitlement Cities and Counties

In general, incorporated cities with populations of less than 50,000 and counties with an unincorporated area population of less than 200,000 persons are eligible to participate in the State CDBG Program.

The following exceptions apply:

- *If a city with a population of less than 50,000 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 with a population of less than 50,000 has been declared to be the central city of a Standard Metropolitan Statistical Area (SMSA), 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.*

A listing of the population eligible non-entitlement cities and counties for the CDBG Program is located in **Appendix A**. Jurisdictional debarment status may be obtained by conducting a search at this [website](#). A copy of the search is required to be included in the application. Also, please note 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.

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

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

2. Fifty Percent Rule for Application Eligibility

Pursuant to State CDBG Regulation 25 CCR 7060(a)(3), an applicant with one or more open CDBG contracts, for which the expenditure deadline established in the contract has not yet passed, shall be ineligible to apply for additional CDBG funds unless the applicant has expended at least 50 percent of all CDBG funds awarded. The 50 percent 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 percent of **all** funds awarded in all of its open contracts, except for ED OTC, the jurisdiction is not eligible to apply for additional CDBG funds. This 50% Rule does not apply to grant contracts that have passed the 36th month expenditure milestone, as they cannot draw any grant funds. Jurisdictions with grant contracts that have passed their expenditure milestone date are encouraged to submit grant contract closeout documents prior to application submittal.

“Expended” definition: By the NOFA application due date, the work is complete, the invoice has been paid by the applicant, and a Funds Request for reimbursement has been received by the Department. The Department may request evidence of the above to ensure compliance with the 50% Rule.

Some examples of expended can include:

- a) Escrow has closed on a homebuyer assistance loan **and the applicant has the final HUD-1; or,**
- b) The work on a single-family rehabilitation project has been completed, inspected, and approved by the applicant and the homeowner, the invoice has been paid, and a funds request for reimbursement has been received by the Department.

3. Applying the 50% Rule

- *The 50% Rule applies to contracts awarded under the 2012 CDBG NOFA and later, with the exception of OTC. As an example, if a grantee was awarded \$50,000 for PTAs, \$1,500,000 for an infrastructure project, with a total contract amount of \$1,550,000, the grantee must have expended a minimum of \$775,000 (50 percent of the total \$1,550,000) by the 2016 NOFA application due date.*
- *It is important to note that Community Development, Economic Development, Native American, and Colonia funds are in one contract. If a jurisdiction receives an award for \$1,500,000 for a Public Improvement Project, \$500,000 for a Business Assistance Program, and \$600,000 under the Native American Allocation, the jurisdiction would be required to expend \$1,300,000 (50 percent of the total contract amount of \$2,600,000) to be eligible to apply for any additional CDBG funding, with the exception of ED OTC.*
- *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 two to get to the amount to be expended prior to the application due date.*

Eligible Areas

1. Eligibility Issues Related to Serving Areas Outside a Jurisdiction’s Boundaries

Given the CDBG Final Rule at 24 CFR 570.486(b) and (c) posted below, the Department issued **CDBG Management Memo 13-06** which details the federal language and the resulting associated Department policy. Please review the Memo to ensure eligibility of a proposed activity serving areas outside a jurisdiction’s boundaries.

Final Rule at 24 CFR 570.486(b) and (c):

“(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.

2. Special Allocation of Native American Set-Aside - Eligible Areas and Activities

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. These communities must be properly identified to be eligible. 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.

- a) 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 activities or Public Infrastructure in support of new or existing housing.
- b) 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.”
- c) 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 51 percent 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.

- d) Eligible activities are limited to housing and infrastructure that supports 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*.
- e) Applicants applying for Special Allocation of Native American Set Aside funds are encouraged to work closely with State Contract Management staff to confirm that the targeted community is eligible and that the proposed activity is eligible well before applications are due.

Note: *If funding for this set-aside is not fully awarded, funds will be reallocated to fund additional Community Development activities.*

3. **Colonia Set-Aside - Eligible Areas 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:

- a) 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**,
- b) Any identifiable community that is designated by the State in which it is located as Colonia; **and**,
- c) 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**,
- d) 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 HUD’s CPD Notice 12-008, 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:

- 1. 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.**
- 2. 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 requested.**
- 3. 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/application due date. *It is strongly recommended that each applicant check with SCO to confirm receipt of a 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, access SAM at:

http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap20000/20070.pdf or SCO at 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.

- 4. 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 for requirements and sample governing body resolutions.**

5. ***The applicant must have complied with all the requirements listed in Health and Safety Code Sections 50829, 50830, regarding Housing Element law.*** State regulations 25 CCR 7060 allow jurisdictions to be eligible applicants when they have submitted their draft housing element to the Department for comment and then had the Governing body adopt it. 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 housing element compliance will be made by the Department's Division of Housing Policy Development (HPD).

The Department strongly recommends contacting Paul McDougall, Manager, HPD, at (916) 263-7420 or Paul.McDougall@hcd.ca.gov to verify housing element compliance with CDBG requirements. For Housing Element and Growth Control Requirements, refer to **Appendix B**.

E. 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.
- 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.
- PTA is an eligible activity and may be applied for and funded for either ED or CD purposes. Details on planning activity eligibility are discussed in Funding Parameters Section, Item E.

1. Ineligible Activities

The general rule is that any activity that is not authorized under the provisions of 42 USC 5305 is ineligible to be assisted with CDBG funds.

This section identifies specific activities that are ineligible and provides guidance in determining the eligibility of other activities frequently associated with housing and community development.

a) The following activities may not be assisted with CDBG funds:

- 1) ***Buildings or portions thereof, used for the general conduct of government*** cannot be assisted with CDBG funds. This does not include, however, the removal of architectural barriers involving any such building. Also, where acquisition of real property includes an existing improvement which is to be used in the provision of a building for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible, provided such acquisition meets a national objective.

- 2) **General government expenses:** Except as otherwise specifically authorized in this subpart or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.
 - 3) **Political activities:** CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.
- b) CDBG may not fund the following activities unless authorized under provisions in Special Economic Development (and in some cases Public Services) as otherwise specifically noted herein.
- 1) **Purchase of equipment:** The purchase of equipment with CDBG funds is generally ineligible.
 - (i) **Construction equipment:** The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to OMB Circulars A-21, A-87 or A-122 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible since it is an integral part of a public facility.
 - (ii) **Fire protection equipment:** Fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible.
 - (iii) **Furnishings and personal property:** The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with OMB Circular A-21, A-87 or A-122, as applicable) for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as firefighting equipment, or when such items constitute all or part of a public service.
 - 2) **Operating and maintenance expenses:** The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of operating and maintaining a facility used in providing a public service would be eligible, even if no other costs of providing such a

service are assisted with such funds. Examples of ineligible operating and maintenance expenses are:

- (i) Maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with disabilities, parking and other public facilities and improvements. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs; and
 - (ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.
- 3) ***New housing construction:*** For the purpose of this paragraph, certain provisions of site improvements, public improvements and housing pre-construction costs are not considered as activities to subsidize or assist new residential construction and therefore **are eligible**. These include activities in support of the development of low- or moderate-income housing including clearance and site assemblage. CDBG funds **may not** be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction, except:
- (i) As provided under the last resort housing provisions set forth in 24 CFR Part 42;
 - (ii) As authorized under 42 USC 5305(2) that will meet the National Objectives of Low/Mod Housing (LMH) or Limited Clientele (LMC).
- 4) ***Income payments:*** The general rule is that CDBG funds may not be used for income payments. For purposes of the CDBG program, “income payments” means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

Economic Development

1. Enterprise Fund

a. Business Financial Assistance Program

Funds under this activity are provided to eligible for-profit 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.

1) **Eligible Uses of Funds**

- Paying for program marketing, loan threshold review, federal overlay compliance, business underwriting and loan approval (referred to as activity delivery and subject to public benefit standard).
- Financing of working capital to pay for marketing costs, operating expenses, and inventory.
- 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 real property acquisition costs.
- Financing of demolition and reconstruction or repair of blighted buildings where the business will operate.
- Financing may be used for refinancing existing business indebtedness.
- Financing of relocation costs of any displaced persons due to project development are also eligible under this program.
- Financing of some offsite public improvements.

2) **Ineligible Uses of Funds**

- Projects that do not meet any Public Benefit or National Objective standard.
- Projects that assist housing development.
- Projects which are “speculative in nature”, high risk, 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).

Reference: ED Assistance to For-Profit Business: HCDA 105(a)(17)

b. **Microenterprise Assistance Program**

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.

1) **Eligible Use of Funds**

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

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

Financial Assistance (must income-qualify participant using the Part 5 method):

- Using grant or loan financing to pay for working capital or to pay for marketing costs, operating expenses, and inventory.
- Financing for furniture, fixtures, and equipment (FF&E). Also, purchase and installation of 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 CDBG project development are also eligible under this program.
- Assistance to non-profit agencies, only for the purpose of real property acquisition and/or construction.

Support Services Assistance (must income-qualify using Department Income Self-Certification Form):

- 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.

2) **Ineligible Uses of Funds**

- Projects that assist development of housing.
- Payment of project costs incurred prior to NEPA review completion.
- Financial assistance to persons/families above 80% AMI by county, adjusted for household size.
- Assistance to a business with more than five (5) employees including the owners.

Reference: HCDA 105(a)(22)

2. **Economic Development Over-the-Counter (OTC)**

ED OTC funding is provided to a specific project and as a CDBG-eligible activity, normally 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 a single business or a large number of assisted businesses served by common infrastructure. The most common form of an OTC project is a single business with a single project where funds are provided as a loan from the jurisdiction/grantee 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.

a. **Eligible Uses of Funds**

- 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.
- 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 tenant 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.
- Financing used for relocation of any displaced persons due to CDBG project development funding is also eligible under this program.

b. **Ineligible Uses of Funds**

- Projects that do not meet any Public Benefit or National Objective.
- Projects that assist housing development.
- Projects speculative in nature with no firm basis for sales projections and loan repayment.
- Project costs incurred prior to 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).

NOTE: Financing to non-profits is limited to payment for acquisition of real property or construction costs.

General administration (GA) costs for an ED - OTC application is capped at 7.5 percent of the requested activity funds, but not to exceed \$100,000, unless there is a written request submitted for an exception to this maximum with supporting documentation and approved in writing by the Department.

Community Development

A. Housing Definitions for Single-Family Residential and Multi-Family Residential

Single-Family Residential, as applied to eligible **program** activities such as Housing Rehabilitation programs, is defined as one (1) to four (4) residential unit(s) 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 residential units or more on a single property or within a single development complex.

While the number of units 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:

- Housing Rehabilitation and Homeownership Assistance are programs where, at the time of application, there are no specific addresses assigned to the funding and guidelines are required.
- Multi-Family Housing 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 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, with or without rehab, of mobile home parks.
- Acquisition of vacant land as part of an affordable housing development project.
- Temporary and permanent relocation costs provided to existing tenants/“persons”, e.g., business, non-profit, farm, or family, displaced by an assisted project, and can be provided as grant funds to a project that is using CDBG funding for development costs.

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.
- A jurisdiction providing CDBG funding as a grant to a rental housing project owner to pay for eligible CDBG project acquisition or site improvement costs. This includes a “forgivable loan”, which is considered a grant by the Department.

2. Housing Program - Homeownership Assistance

a. Eligible Uses of Funds

Housing Assistance (HA) **Programs** provide direct assistance to Low- or Moderate-Income (LMI) homebuyers for the acquisition of an existing housing unit. New housing units must be completed prior to the homebuyer submitting an offer to purchase. **LMI is defined as total income that is at or below 80 percent 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 if done in conjunction with the rehabilitation of the unit itself, regardless if the main water line or any part of the lateral is located in a public right of way.
- 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 saving faucets, water saving showerheads, 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.
- Temporary relocation payments for homeowners are optional and, if allowed, must be explained in program guidelines. Temporary relocation payments are required for tenants that need a motel short term apartment and/or require storage services during rehab construction. Tenants not allowed to return to their original units will be eligible for permanent relocation benefits, so loan documents should mandate that landlord allow tenants to return. Relocation payments are available for projects that use CDBG funds for project development costs.

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.
- A jurisdiction providing CDBG funds as a grant to a rental housing project owner to pay for eligible CDBG project construction costs. This includes “forgivable loan” which is considered by the Department as a grant.

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 saving 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 percent of the units occupied by or restricted for low/mod households.
- Temporary and permanent relocation costs provided to existing tenants / "persons" e.g., business, non-profit, farm or family, displaced by an assisted project, and can be provided as grant funds to the project when CDBG funds are used for development costs.

b. **Ineligible Uses of Funds**

- Installation of luxury items, such as a swimming pool.
- Costs of equipment, furnishings, or other personal property that are not integral structural fixtures, like 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.
- A jurisdiction providing CDBG funds as a grant to a project developer to pay for eligible CDBG project costs. This includes "forgivable loan" which is considered by the Department as a grant.

c. **Other Considerations**

Housing Projects - Multi-Family (MFH) are for properties with five or more units, and formal *program guidelines* are not applicable. There must be a clear need for CDBG funds for a MFH project. 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 aforementioned HR and HA sections.

Note: *The “Combo” program is merely a means to apply for both programs together; however, both programs cannot be used on the same address. In other words, CDBG funds cannot be used to acquire, rehabilitate and resell 1-4 Unit properties. Furthermore, a housing combination program application requires forms and supporting 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 or purchase of real property, or abatement/demolition activities required for the project.*

b. **Other Considerations**

- **Project Completion**: Construction of all housing units must be completed and the housing units 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 a housing new construction activity, and is eligible under HR.

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

7. **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)

8. **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 based on 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)

9. **Public Facilities**

a. **Eligible Uses of Funds**

- Acquisition, rehabilitation or new construction of buildings and grounds used to provide one or more eligible CDBG public service: Public services, such as employment 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, or provide eligible public services as described in this section.
- 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, and 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 farmworkers.

- Permanent relocation costs provided to existing tenants / “persons” (e.g., business, non-profit, farm or family, displaced by an assisted project, and can be provided as grant funds to the project). Projects must be using CDBG funds for development costs.

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 (see note on next page regarding Section 504 compliance).
- The costs of maintaining or operating a public facility, including furniture fixtures, are not eligible as a public facility activity, but may be eligible under a public service program 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.
- A jurisdiction providing CDBG funds as a grant to a project developer to pay for eligible CDBG project costs. This includes “forgivable loan” which is considered by the Department as a grant.

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 G**).

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

10. **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, including Coordinated Entry activities
- Drug and Alcohol Abuse Counseling and Testing
- Transportation Services
- Nutrition Services
- Energy Conservation Counseling and Testing
- Emergency Assistance Payments
- Neighborhood Cleanup

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; and
- Activities for the general promotion of the community, i.e. 100 year anniversary celebration.

c. Other Considerations

Federal statute allows for the use of CDBG funds for Public Services only under any of the following four 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 final filing date of the application; **or**,
- 2) The proposed service must show 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)

11. Code Enforcement

Code enforcement is defined as a process whereby local governments gain compliance with ordinances and regulations regarding health and housing codes, land-use and zoning ordinances, sign standards, and uniform building and fire codes. Code enforcement may only take place in primarily residential areas where 51 percent of the residents are low- and moderate-income.

Note: *Code Enforcement is not actually a Public Service Activity, it is a stand-alone activity under 42 USC 5305(a)(3) with IDIS Matrix Code 15. However, CDBG State NOFA currently provides for the activity under the Public Services section of the regulations for scoring, like job training programs.*

Jurisdiction-wide Code Enforcement

Grantees may not use CDBG funds to pay for code enforcement in every area or neighborhood or **for a grantee's entire jurisdiction** (e.g., city- or county-wide). In addition, Code Enforcement **cannot** qualify under the Slums & Blight National Objective – it can only qualify under Low/Mod Area Benefit, provided that it is well documented (see Application for required documentation).

a. **Eligible Uses of Funds**

- CDBG funds may be used to provide Code Enforcement of state and/or local codes.
- It *must only pay* for the *enforcement* of state and/or local codes which is limited to staff salaries for Code Enforcement Officers issuing citations for code violations.

b. **Ineligible Uses of Funds**

- Costs of correcting code violations; and
- Code Enforcement work outside of the defined residential service area.

c. **Other Considerations**

To be eligible, the Code Enforcement Activity must:

- Only be carried out 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*.
- Clearly *identify measurable outcomes and supported by documented success*.
- CDBG-funded code enforcement activities can trigger the Uniform Relocation Act (URA) and its Section 104(d) if the follow-up activity involves the acquisition, rehabilitation or demolition of property with other federal *or private funding*, and requires that individuals move on a temporary or permanent basis. Applicants engaging in code enforcement 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.

References: HCDA 105(a)(3)

12. **Planning and Technical Assistance (PTA)**

a. **Eligible Uses of Funds**

CD planning studies focus on research, analysis, and planning for community needs concerning housing, public improvements, community facilities, public services, and local planning issues. PTA funds can be used for planning activities to support homeless prevention and rapid rehousing activities such as Point in Time Count, planning for coordinated entry, planning for improved data collection, and other costs eligible under the categories listed below. Planning study final products must show a connection to assisting with an eligible CDBG activity that, if implemented, meets a National Objective.

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 for Low/Mod persons.

Planning-only grants or activities can meet the Low/Mod Income Benefit objective if it can be shown that at least 51 percent of the persons who would benefit from implementation of the plan are Low/Mod-income persons. Such a determination is not dependent on the planned-for activity or project actually being implemented at some point.

Reference: 24 CFR 570.483(b)(5). Meeting Low/Mod Income benefit for planning grants includes use of "Limited Clientele".

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

- Studies;
- Analysis;
- Data gathering;
- Preparation of plans;
- Identification of action that will implement plans;
- Preliminary plans and specifications; and
- Comprehensive plans

Comprehensive planning is allowed if the planning is carried out in a geographic area in which 51 percent 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.

Note: Grant/application writing, including ED OTC activities, 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 the above mentioned National Objective of Low/Mod Benefit. The Department will evaluate each PTA for eligibility based on the application's supporting documentation confirming the PTA will meet one of the aforementioned National Objectives.

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

- 1) Be consistent with the work product applied for in the PTA application;
- 2) Be submitted to the Department at time of grant closeout; and
- 3) Meet either the Low/Mod Area, Limited Clientele or other Low/Mod qualification.

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 applications for federal funding.**

Under HCDA Section 105(a) (14), planning activities may also be carried out by public or private nonprofit entities. Call your CDBG representative if you have any questions about eligible PTA activities.

b. **Ineligible Uses of Funds**

1) Planning and capacity building activities do not include:

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

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

- **Ineligible: Income Survey** costs. The cost of conducting an Income Survey is not an eligible CDBG cost.
- **Ineligible: Housing Element** preparation for jurisdictions in which fewer than 51 percent of residents are Low/Mod as documented by the federal ACS census data.

Exception: *Costs incurred for the preparation of that portion of the Housing Element in which affordable housing is addressed is eligible.*

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 **5 percent** of the total funding amount as a required cash match. For more information on this requirement, see **Appendix I** and the PTA activity section of the Application.

F. SUPPLEMENTAL ACTIVITIES

If the applicant submitted eligible Supplemental activities, any contract funds that get supplanted by PI funds may be used to fund Supplemental Activities.

For the 2016 NOFA a maximum of **three** Supplemental Activities may be requested. Supplemental Activities may be requested by filling out the Supplemental Activities tab on the Application Summary and by submitting the Supplemental Activity Form and any required documentation that corresponds to the type of activity(ies) being requested (Project or Program). Public service programs may be used for supplemental activities. Each public service program counts as one Supplemental activity. As such, an applicant can propose up to three public service programs as supplemental activities. Supplemental Activities cannot include Planning Activities. The reason for this is that planning activities are part of the General Admin expenditure cap. Supplemental Activities are not applicable to ED OTC applications.

The Department will review these documents for eligibility and will confirm that a National Objective will be met. If the activities are determined to be eligible and will meet a National Objective when implemented, they will be added to the grant contract. Once part of the contract, the grantee may choose to spend PI first on supplemental activities or competitively awarded activities, as long as PI is spent prior to drawing down grant funds.

Important Considerations:

- 1) Supplemental Activities must be an eligible activity and meet a National Objective; otherwise they will not be added to the grant contract.
- 2) Supplemental Activities must be able to be completed by the end of the expenditure milestone period of the contract.
- 3) All Supplemental Activities being applied for must be included, by name, in the applicant's citizen participation process prior to application submittal.

G. NATIONAL OBJECTIVES AND DOCUMENTING BENEFICIARY REQUIREMENTS

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 (requires state or federal disaster declaration) and other financial resources are not available to meet such needs. The Urgent Need National Objective is allowed under this NOFA.*

CDBG statutes and regulations allow for three National Objectives to be met by eligible 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 on a spot basis is only allowed for certain ED project activities.

For State CDBG Program, see the HUD Guide to National Objectives and Eligible Activities 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 80 percent or less of county median income, adjusted for family size. Below is a description of how documentation for meeting the National Objective to benefit low- and moderate-income persons is achieved.

ED activities documentation for meeting Public Benefit requirements is discussed in the Application Review Section, Item A.

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

1. Benefit to Low- and Moderate Income Persons (LMI)

As noted in the "What's New" section, beginning in July 2014, HUD began using the American Community Survey (ACS) data to calculate Low/Mod percentages by census tract/block groups and by Census Data Place. This data is in **Appendix A**.

For those service areas that are not jurisdiction-wide and that do not fall neatly within the census tract/block group(s) model, HUD has provided Summary level 160 which is titled "Local Government Summaries by State" and can be found at <https://www.hudexchange.info/manage-a-program/acs-low-mod-summary-data-block-groups-places>. This Summary level also provides low/mod data for Census Designated Place (CDP) areas. HUD provides a very useful tool, which combines mapping of

Census Tract/Block Groups with LMI Area Data (FY'14) by Block Group, Place, County Subdivision and County for use by CDBG grantees to assist with Low Moderate Income Area Benefit compliance determinations. This tool along with a video tutorial can be found [here](#). For more details on defining service area, see **Appendix J**.

Seventy percent of all CDBG funding must be spent for the benefit of persons, families or households with incomes at or below 80 percent 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); 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.

a. **LMI Subcategories**

1) **Low/Moderate-Income Area (LMA) Benefit**

An LMA 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 percent 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 LMA Benefit activities include:

- Public Infrastructure Projects
- Public Facilities
- Public Services

For detailed information on determining Service Area, see **Appendix J**.

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.*

2) **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:

a) 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; or
- 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.*

- b) 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, see Income Calculation and Determination Guide for Federal Programs on the Department's website at Income Manual, Chapter 7 - Self-Certification.
- c) 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.
- d) 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.
- e) 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 Income Calculation and Determination Guide for Federal Programs on the Department's 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 Income Calculation and Determination Guide for Federal Programs on the Department's 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.

3) **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 percent* of the units occupied by LMI households. For this NOFA, multifamily housing activity applicants must show that at least 51 percent of the present tenants in the project have household income meeting the LMI requirement.

Other Considerations:

Condominiums - Where rehabilitation 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 rehabilitation 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 percent 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 ends.
- 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.

4) **Low/Mod Income Jobs (LMJ)**

This National Objective applies *only* to ED BA (BA) – which includes both EF BA activities and ED OTC projects (the only differences, essentially, are the sizes of the loans/grants, and the application process.). ME, as noted above, is 100 percent 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 percent) 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 percent 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 regulation 24 CCR Section 7054 Definitions, “Permanent job” allows for a maximum of two part-time jobs to be aggregated to one FTE.
- Only permanent jobs count consisting of job positions that require 1,750 hours for full time or 875 hours for part time are considered permanent; 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.

Note: *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 percent 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.
- 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 percent 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 Application Review and Evaluation Section, Public Benefit Requirements.

5) **Low/Mod Benefit Scoring for Applications**

In scoring activities that are 100 percent 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 percent or greater Low/Mod percentage) on activities that are not 100 percent 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 maps and L/M data per HUD’s Low/Mod data at the Census Tract and Block Group levels. For more information on HUD’s Low/Mod data, see **Appendix H**.

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

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 H**), or a valid income survey to document benefit. Links to the HUD website are provided at the end of **Appendix A** and in **Appendix H**.

Note: The use of Income Surveys may not be acceptable documentation of meeting Low/Mod Area (LMA). 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 Contract Representative.

2. Prevention/Elimination of Slums and Blight

The State CDBG Program allows this National Objective to be used generally in conjunction with Special ED activities under an OTC project. HUD is very careful to make clear that this National Objective results in clearly eliminating specific conditions of blight, physical decay, or environmental contamination. Spot blight is for specific projects not located in an area that has been designated as blighted.

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

a. Slums & Blight – Area Basis

Until the State Regulations are revised to provide sufficient clarity on the issue of Slums & Blight, **the Department will not allow the Slums & Blight National Objective to be used on an Area Basis for any activity.**

b. Slums & Blight – 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 or other public hazard from 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:

- 1) The activity must be designed to eliminate specific conditions of blight or physical decay, not located in a designated slum or blighted area; and,
- 2) The activity must be limited to one of the following:
 - Acquisition (see Other Considerations);
 - Clearance/demolition;
 - Relocation;
 - Historic Preservation; or,
 - Rehabilitation of buildings, but only to the extent necessary to eliminate specific conditions detrimental to public health and safety.

Reference: 24 CFR 570.483(c)(2)

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 must not 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. Department staff should be consulted as part of making a final determination of project compliance with this National Objective.

Documentation

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

- Documentation that the project site meets HUD's definition of blighted; and
- Documentation 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).

3. Urgent Need

As noted at the beginning of this section, Urgent Need is now an eligible National Objective per 25 CFR 570.483(d) under this NOFA. The Department addresses urgent need in real-time on a case-by-case basis rather than only once a year under an annual NOFA. If an applicant intends to use Urgent Need in their application, the NOFA staff should be consulted prior to application submittal.

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 local government certifies and state determines:

- Pose a serious and immediate threat to the health or welfare of the community;
- Are of recent origin or recently became urgent;
- The local government 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 Department and the jurisdiction.

Reference: 24 CFR 570.483(d)

4. National Objective Specific to PTA Activities

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

- a. Benefit to Low- or Moderate-Income (Low/Mod) Persons or Households, specifically for planning only grants that are not associated with a specific project. By documenting that at least 51 percent of the persons who would benefit from the implementation of the plan being studied by the PTA are Low/Mod income, the planning study will meet Low/Mod national objective. In some cases, a community wide study may benefit the community as a whole, so Low/Mod area benefit must be documented. In other cases, the study may be for persons under presumed benefit or "limited clientele" (homeless or farmworkers or seniors) whom are categorized as Low/Mod persons.

b. **Documentation**

Each application must contain a discussion of how the proposed study would principally benefit the LMI group. For activities using LMA benefit, Census Tract/Block Group data (**Appendix H**) or valid income survey (see <http://www.hcd.ca.gov/fa/cdbg/manual/>) must be included.

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 percent of county area median household income, adjusted for family size; **Low/Mod income** refers to individuals or households whose incomes are between 80 and 51 percent 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 percent of county area median household income, adjusted for family size; and **Extremely Low Income** refers to individuals or households whose incomes are below 30 percent 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.

a. **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 two 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. This is an aggregation required by State regulation, Title 25, CCR Section 7054. Definitions. "Permanent job".

Documentation of ED Beneficiaries: Documentation of beneficiaries of BA 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 award, general conditions are cleared and eligible projects are processed, per ME and BA Program Guidelines.

b. **Determination of LMI Beneficiaries**

Low/Mod Group (Low/Mod) Determination:

- 1) Each application must provide information on the proposed beneficiaries for each activity.
- 2) Beneficiaries whose incomes are 80 percent or less of the county median income, adjusted for family size, are determined to be Low/Mod.

HCD charts showing county median incomes based on family size can be found at [2016 Income Limits](#).

c. **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 percent** 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.*

d. **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 percent. An activity cannot solely benefit only one specific level of LMI beneficiary listed above. Thus, an activity cannot only benefit the 51-80 percent 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 (62 years old and above) – 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 percent AMI).
- Seniors (62 years old and above) – 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 percent 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.

<u>81% AND ABOVE</u> <i>(Non-Low/Mod)</i>	<u>BETWEEN 51 - 80%</u> <i>(Low/Mod)</i>	<u>BETWEEN 31 - 50%</u> <i>(Very Low Income)</i>	<u>AT OR BELOW 30%</u> <i>(Extremely Low Income)</i>	<u>TOTALS</u> 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 percent 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 percent of the county AMI.

Box C - Very Low Income: Enter the proposed number of beneficiaries with incomes between 31 and 50 percent 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 than 30 percent 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.

**>>For further instructions on Beneficiaries,
refer to the Application Instructions<<**

APPLICATION REVIEW AND ACTIVITY EVALUATION

A. PUBLIC BENEFIT REQUIREMENTS

ED Projects are required to meet **both** the LMJ National Objective *and* Public Benefit requirements. However, some BA (which includes ED OTC) are not required to create jobs, if the project can meet the National Objective using area benefit (LMA). Please consult with the NOFA ED Representative.

1. 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. Public benefit standard is separate from national objective standards, so it will apply to an ED project regardless of which of the three national objectives the project is meeting. A permanent full-time equivalent (FTE) position is defined in state regulation Title 25 CCR Section 7054. Definitions, under “Permanent job” as the number of annual hours worked by a staff in that position, specifically defined as 1,750 hours per year. An FTE may be made of up to two permanent part-time job positions, where each part time position requires at least 875 hours annually. Owners of the company cannot be included in the count for number of jobs being created. 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.

Public benefit standard applies to all project costs, loan origination soft costs (often referred to as “activity delivery”) and project implementation hard costs. This is true for both Business Assistance and OTC projects. As such, sources and uses tables for ED projects need to include both soft and hard costs and all these costs are subject to the current public benefit standard of providing up to \$35,000 in CDBG assistance per each new permanent full time position created or retained by the business.

It is important to understand that public benefit standard compliance happens at the loan origination stage. Based on the financial underwriting of the ED project, the jurisdiction documents the “proposed” public benefit standard, not to exceed the \$35,000 maximum. After loan execution and project completion, if the “actual” public benefit standard is less than proposed, then there is not a risk of CDBG repayment by the jurisdiction for non-compliance (as long as some public benefit was achieved and a national objective was met). However, if the jurisdiction originates a number of ED loans and a significant number of those loans do not meet the proposed public benefit standard, then the Department may review the jurisdiction’s project underwriting process to determine why most projects are not meeting the proposed public benefit standard.

Additionally, it is important for Jurisdictions to be aware, that **in addition to the \$35,000 per job test**, the federal regulations also allow ED Public Benefit to be calculated in another way for a business providing goods or services:

a. **For the Aggregate Activity Calculation**

On a project proposing to meet the Low/Mod Area (LMA) Benefit (i.e., providing goods or services to residents within its service area which is documented as primarily LMA), the public benefit calculation is based on the number of Low/Mod Income (LMI) persons being served. Specifically, CDBG assistance of up to \$350 per LMI person in the service area may be provided to the business.

Because of this risk of repayment of CDBG funds with Special ED Projects, the Department subjects these projects to a higher level of financial feasibility review than other project activities. The Department requires applicants using CDBG funds for Special ED Activities, assisting for profit businesses in expanding or staying in business, to document how the loan program or OTC project will ensure compliance with HUD Public Benefit and National Objective regulations. In an application requesting Business Assistance (BA) program, the Department will require submittal of BA Program Guidelines 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 skills of 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.

2. **Documentation**

Documentation of Public Benefit requires the business be profitable. Projecting and documenting the potential success of a business in the future (projections are required for a minimum of 3-5 years) is critical in determining the likelihood the proposed business will meet the Public Benefit requirement. If assumptions about future growth of the business are not properly confirmed and documented during the underwriting process the business may 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 underwriting process.

ACTIVITY EVALUATION CRITERIA AND SCORING POINTS

1. **Overview of Method for Scoring Applications**

Applications that have passed eligibility threshold review are rated according to the criteria in the State CDBG Regulations, Section 7078.

- Applications will be evaluated for activity eligibility based on documentation of meeting National Objective and Beneficiary requirements.

- Each application will be scored using an 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.
- 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 for this funding round in four main scoring categories:
 - Need;
 - Readiness;
 - Jurisdictional Capacity/Past Performance; and
 - State Objectives
- Each of the four scoring categories will be applied to all activities in the application, although the type and weighting of the criteria within each category may differ for each activity.
- An application can receive a maximum of 1,000 points per Activity, depending whether the Activity has State Objective points applied to it or not. This includes EF applications.

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 the scores for both BA and ME added together and averaged, regardless of the dollar amounts for each activity.

Each application will be:

- *Evaluated and scored;*
- *Assigned a numerical score; and,*
- *Ranked against all the other EF applications that have been scored.*

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: (100 Points)

One Hundred (100) points will be awarded for a proposed activity that addresses impacts from a state or federally declared disaster active at the time of application submittal due date. For example, a community with a declared fire disaster may apply for CDBG funding to help local businesses rebuild their business.

One Hundred (100) points will be awarded for a proposed activity that meets the Urgent Need national objective. Please see the **What's New** section of the NOFA for details on what is required to meet this national objective.

For further details, see **Appendix L**.

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.** For further details, see **Appendix L**.

Economic Development – Over-the-Counter

Below is an overview of the OTC application process. For further detail, see Appendix E of the Current NOFA page on the CDBG website.

1. Project Inquiry Form and Threshold

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 (ILC).

The initial formal threshold process will still start with the ED OTC Project Inquiry Form, which will start the tracking of each application. Written correspondence will be used to formally acknowledge when a proposed project is deemed eligible or ineligible or requires more information. Once the proposed project activities are deemed CDBG eligible, the Jurisdiction will receive a formal letter inviting a full OTC application.

2. Invitation to Apply

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 review of project as an eligible CDBG activity, with eligible costs, that can meet required national objective

and public benefit standards. In addition, the jurisdiction must document that the project is in compliance with other federal overlays: environmental review, relocation, prevailing wage compliance, etc., and meet demonstrate compliance with the following requirements:

- a. Market and financial feasibility of the project showing increased cash flow to cover all debt and job creation costs;
- b. Full funding available for completion of the project activities;
- c. Approval status of local regulatory agencies needed for the proposed project;
- d. Ownership/control status of any real estate needed for the project;
- e. Applicant staff financial underwriting and grant management capacity;
- f. Public Benefit eligibility via project creation/retention of jobs; and,
- g. National Objective eligibility via low-income jobs created/retained, goods or services benefitting all residents in a community or elimination or prevention of slums and blight on a spot basis.

3. **Application Submittal**

The OTC application process includes similar forms to the competitive application received annually by the Department. The applicant must complete an Application Summary, which includes requirements for threshold, certifications, statements of assurances, and submittal of a resolution with public hearing requirements. The applicant must complete activity forms, which highlight crucial parts of the project. The applicant must provide source documentation to substantiate the project meets all HUD requirements. All project information required for Department staff to present the funding proposal to the Department's ILC must be provided as part of the application.

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:

- a. **Completeness**: The application will first be reviewed for completeness. A written response outlining and explaining any deficiencies in the application requiring correction prior to resubmission will be provided to the applicant within **thirty days** of receipt.
- b. **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)(9). The application must attain at least 50 of the 80 threshold points.

The factors are listed below:

FACTOR	MAXIMUM NUMBER OF POINTS
<ul style="list-style-type: none"> Percent of countywide unemployment relative to the statewide average 	25
<ul style="list-style-type: none"> 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
<ul style="list-style-type: none"> Ratio of private funds to CDBG funds 	15
<ul style="list-style-type: none"> Quality of applicant's past performance of CDBG ED grants 	15
<ul style="list-style-type: none"> Percent of funds allocated to applicant's general administrative costs 	10
Total Points Possible:	80

c. **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 the following:

- Project costs are reasonable;
- All sources of project financing are committed;
- To the extent practicable, CDBG funds are not substituted for non-federal financial support;
- The project is financially feasible;
- To the extent practicable, the return on the owner's equity investment will not be unreasonably high; and,
- To the extent practicable, CDBG funds are disbursed on a pro-rata basis with other finances provided to the project.

HCD Project Approval: The final step is submission of the application to the HCD ILC for review and recommendation. This submission involves the Department preparing a staff report for 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. Assuming the ILC votes to approve the application, the Director's funding decision is made **approximately sixty days** from the date of the ILC meeting.

Community Development

Criteria for evaluating applications includes: (1) Threshold Review; and, (2) Review for Activity Eligibility. Threshold Review results in a determination of jurisdictional eligibility. Eligible applicants/applications will then receive an activity eligibility review and scoring. Threshold requirements are listed in the Funding Parameters Section, *Eligible Applicants, Areas and Threshold*. Documentation supporting compliance with these requirements must be included in all applications, regardless of the activities requested.

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** score or fund applications if **all** activities in the application are found to be ineligible. However, if some of the activities in the application are eligible, the Department may, at its sole discretion, disregard ineligible activities and continue to score the 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 PTA activity allotment have been exhausted. There is no guarantee that all PTA applications will be funded, either fully or partially.

1. Scoring Criteria and Totals

The process of scoring includes the following:

- Points will be awarded in four main categories: Need, Readiness, and 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. Additional details regarding scoring and the documentation required to substantiate each criteria are explained in Appendix L and each activity 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 general and special conditions, jurisdictional capacity, timely and accurate reporting, and cooperation/compliance in clearing monitoring and/or audit findings.

Note: Like the 2015 NOFA, and until a CDBG regulation change process has been completed, all applicants will receive the full 200 points for the Capacity/Performance category.

State Objectives: (100 Points)

1. One Hundred (100) points will be awarded for a proposed activity that addresses impacts from a state or federally declared disaster active at the time of application submittal due date. For example, an applicant that is located in a declared disaster area for drought may use homebuyer assistance funds to help a renter living in a property with no potable water to buy a new house with potable water.
2. One Hundred (100) points will be awarded for a proposed activity that meets the Urgent Need national objective. Please see the **What's New** section of this NOFA for details on what is required to meet this national objective.
3. Fifty (50) points will be awarded for a Homeownership Assistance Program activity if a Housing Rehabilitation Program activity is not included in this application for funding.

For further details, see **Appendix L**.

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 200 points for the Capacity/Performance category.

State Objectives: (100 Points)

One Hundred (100) points will be awarded for a proposed activity that addresses impacts from a state or federally declared disaster active at the time of application submittal due date. For example, an applicant in an area covered by a drought declaration may use housing rehabilitation program funds to assist a household with a failed private well by installing a private lateral to hook them to a potable water system.

One Hundred (100) points will be awarded for a proposed activity that meets the Urgent Need national objective. Please see the **What's New** section of this NOFA for details on requirements for meeting this national objective.

For further details, see **Appendix L**.

Housing Project – Multifamily Housing Acquisition, Rehabilitation or Acquisition and Rehabilitation

Note: Multifamily Housing projects may not be included in a Housing Combo program. Multifamily housing application 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 200 points for the Capacity/Performance category.

State Objectives: (100 Points)

One Hundred (100) points will be awarded for a proposed activity that addresses impacts from a State or federally declared disaster, active at the time of application submittal due date. For example, a jurisdiction in an area under a declared fire disaster may assist in the rehabilitation of an eligible multifamily project (including mobilehome parks).

One Hundred (100) points will be awarded for a proposed activity that meets the Urgent Need national objective. Please see the **What's New** section of this for details on requirements for meeting this national objective.

See **Appendix L** 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.*

For further details, see **Appendix L**.

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 200 points for the Capacity/Performance category.*

State Objectives: (100 Points)

One Hundred (100) points will be awarded for a proposed activity that addresses impacts from a state or federally declared disaster, active at the time of application submittal due date. For example, an eligible community water system in a jurisdiction located in a declared drought disaster area may wish to have their wells improved for more water production and replace old leaking water lines in their system.

One hundred (100) points will be awarded for a proposed activity that meets the Urgent Need national objective. Please see the **What's New** section of this NOFA for requirements of meeting this national objective.

For further details, see **Appendix L**.

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 200 points for the Capacity/Performance category.*

State Objectives: (100 Points)

One Hundred (100) points will be awarded for a proposed activity that addresses impacts from a state or federally declared disaster, active at the time of application submittal due date. For example, a jurisdiction that is in a fire disaster declared area may request funds for an eligible multi-family project that needs public infrastructure improvements to be rebuilt.

One Hundred (100) points will be awarded for a proposed activity that meets the Urgent Need national objective. Please see the **What's New** section of this NOFA for requirements of meeting this national objective.

For further details, see **Appendix L**.

Public Facilities

Need/Benefit: (Up to 400 Points)

Need (up to 300 out of 400 points) – score 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 200 points for the Capacity/Performance category.

State Objectives: (100 Points)

One Hundred (100) points will be awarded for a proposed activity that addresses impacts from a State or federally declared disaster, active at the time of application submittal due date. For example, a jurisdiction in a declared fire disaster area may need to purchase a new fire truck for an eligible community that needs additional fire protection.

One Hundred (100) points will be awarded for a proposed activity that meets the Urgent Need national objective. Please see the **What's New** section of this NOFA for requirements of meeting this national objective.

For further details, see **Appendix L**.

Public Services (and Code Enforcement)

Need/Benefit: (Up to 400 Points)

Need (up to 300 out of 400 points) – score 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 200 points for the Capacity/Performance category.

State Objectives: (100 Points)

One Hundred (100) points will be awarded for a proposed activity that addresses impacts from a State or federally declared disaster, active at the time of application submittal due date. For example, a jurisdiction in a drought declared disaster area may provide a public service of water efficiency education for local residents.

One Hundred (100) points will be awarded for a proposed activity that meets the Urgent Need national objective. Please see the **What's New** section of this NOFA for requirements of meeting this national objective.

One Hundred (100) points will be awarded for Fair Housing Services such as counseling on housing discrimination.

For further details, see **Appendix L**.

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

Note: Code Enforcement Scoring will use the scoring categories above but has applied points to different applicable criteria where appropriate.

Planning and Technical Assistance

The maximum PTA award will be \$100,000. No more than two studies per application will be allowed, which 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 cash match for all applicants, per Title 25, Section 7058(a)(5)(A), is 5% of the Total Amount Requested. See **Appendix I** 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 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

A. AWARD ANNOUNCEMENTS

The Department anticipates Awards will be announced within 80 days of the application deadline. 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. 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.

B. GRANT CONTRACT PROCESSING AND RELEASE OF FUNDS

Standard Agreement: All funded applications will receive 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. Per AB 325, the Department will provide an Agreement for the Grantee to sign/execute within 60 days of funding award.

Release of General Administration Funds: Applicants may be permitted to incur GA costs upon receiving their award letter only if they have requested and obtained written approval from Department.

Release of Activity Funds: *Grantees must obtain written clearance of the General Conditions Checklist for each activity funded under the Agreement, including any special conditions or environmental requirements, prior to incurring CDBG eligible costs. These General Conditions Checklists are a complete and final list of items that need to be addressed before starting an activity. The restriction on incurring costs also applies to non CDBG funds being used on an activity. 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 contract expenditure deadline for all activities under the agreement will be no more than 36 months from the date of the award.

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](#)

This list gives a summarized explanation of the Federal Overlays:

- 1) Environmental Standards (based on National Environmental Policy Act of 1969 [NEPA]);
- 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; and
- 18) Grant and Subrecipient Monitoring Requirements

B. 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.

C. RELOCATION PLAN REQUIREMENT

Applicants engaging in project-specific activities that may or will cause the permanent relocation and displacement of persons must provide a project-specific relocation plan as part of meeting General Conditions Checklist, i.e. prior to start of the project activity.

Applicant should include relocation costs in project budget and sources and uses. They are also encouraged to provide General Information Notices to persons that may be displaced if the activity in the grant application is funded. This plan must outline how the grantee will enforce and manage the project's temporary relocation and displacement activities for the project and estimate what relocation benefits will be required so those benefit costs can be included in the project's development budget.

D. 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) at time of monitoring. Please see CDBG updated Procurement Chapter 8 in the grant management manual.

E. 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, and declared ineligible or voluntarily excluded from participation from federally-assisted programs.