DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE
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November 1, 2018

MEMORANDUM FOR: **All Potential Applicants**

FROM: **Lisa Bates, Deputy Director**
Division of Financial Assistance

SUBJECT: **Notice of Funding Availability**
Community Development Block Grant Program
for Non-Entitlement Jurisdictions

The California Department of Housing and Community Development (HCD) is pleased to announce the availability of approximately **$29.6 million** in federal Community Development Block Grant (CDBG) funding allocated for funding year 2018 to the state from the U.S. Department of Housing and Urban Development (HUD), pursuant to the Housing and Community Development Act of 1974, as amended.

This NOFA applies to state CDBG non-entitlement cities and counties applying for funding under Community Development (CD) activities, Special Allocations for Economic Development (ED), Colonia, and Native American Communities.

The complete 2018 CDBG NOFA original application and one USB flash drive that includes a copy of the application with signatures must be received by HCD no later than **5:00 p.m. Pacific Standard Time on February 5, 2019**. Please note that Economic Development Over-the-Counter (ED OTC) applications are not subject to the above deadline. Applications, excluding the ED OTC applications, will only be accepted through a postal carrier service that provides date stamp verification of delivery such as U.S. Postal Service, UPS, FedEx, or other carrier services. Personal deliveries will not be accepted.

Application forms, regulations, and program information are available at **Current NOFAs-CDBG.**

HCD will hold three workshops to review the application requirements. The workshop schedule will be posted on HCD's website and sent to those on HCD's CDBG mailing list. To receive workshop notification and other important CDBG information, please subscribe to the CDBG listserv by completing and submitting the form on the following link **CDBG Mailing List.**

If during the application process you have any CDBG NOFA and application questions, please direct your inquiries to **cdbgnofa@hcd.ca.gov**.

Attachment

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

2018 Notice of Funding Availability

State of California
Governor Edmund G. Brown Jr.

Alexis Podesta, Secretary Business, Consumer Services and Housing Agency

Ben Metcalf, Director
Department of Housing and Community Development

2020 West El Camino Avenue, Suite 500, Sacramento, CA 95833
Telephone: (855) 333-CDBG (2324) / Fax: (916) 263-2764
Website: **CDBG Home Page**
NOFA Section Email: **cdbgnofa@hcd.ca.gov**

November 2018

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I. OVERVIEW

A. NOTICE OF FUNDING AVAILABILITY (NOFA)

The California Department of Housing and Community Development (HCD) is pleased to announce the availability of **$29.6 million** in federal Community Development Block Grant (CDBG) funding allocated for funding year 2018 to the state from the U.S. Department of Housing and Urban Development (HUD), pursuant to the Housing and Community Development Act of 1974, as amended.

This NOFA only applies to CDBG non-entitlement cities and counties applying for funding under the Community Development (CD) Allocation and Special Allocations for Economic Development (ED), Colonia, and Native American communities that are non-federally recognized tribes. Funding under each of the following activities and special allocations will primarily benefit low- and moderate-income persons/households 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

Upon receipt of funding availability, HCD will apply the statutory percentage requirements for each funding type, followed by the 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 statutorily allocated between CD and ED applications.

1. Economic Development (ED)

California Health and Safety Code 50827 and state CDBG Regulations, **25 CCR 7062.1,** requires HCD to set-aside 30 percent of the net annual federal CDBG award for ED activities. CDBG federal Regulations (24 CFR 570.494(b)(1)) require that CDBG funds are obligated within 15 months of the state signing its HUD grant agreement. All unused ED funds must roll to the CD activity type for award prior to the 15-month federal deadline. The 30 percent set-aside for ED funding in this NOFA is approximately **$9.2 million**. HCD must set aside approximately **$600,000** for ED PTA activities (see subsection 5 below), and the remainder will fund Enterprise Fund (Business Assistance and Microenterprise activities) and Over-the-Counter (OTC) activities. For more information, see 2018 CDBG NOFA Updates.

2. **Community Development (CD)**

The CD activity amount is estimated to be approximately **$18.5 million.** This amount is the balance of funds remaining after subtracting from the annual HUD allocation all set-asides (ED, Native American, and Colonia) and the state-allowed administration funding. This amount includes **$600,000** being set-aside for CD PTA activities (see subsection 5 below).

3. **Colonias**

Section 916 of the National Affordable Housing Act of 1990, as amended, establishes an annual set-aside for activities benefiting the residents of Colonias. In accordance with direction from HUD, the state will set aside 5 percent of the net annual federal allocation in this NOFA, estimated to be approximately **$1.5 million** for eligible Colonia activities. Unused Colonias funding will roll to the CD activity type for funding under this NOFA.

4. **Native American**

Pursuant to Health & Safety Code Section 50831 and state CDBG regulations, 25 CCR 7062, the state annually sets aside 1.25 percent of its net annual federal 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 **$382,600.** Any unused NA funding will roll to the CD activity type for funding under this NOFA.

5. **Planning and Technical Assistance**

Approximately **$1.2 million** is available for PTA activities under this NOFA. HCD anticipates this amount will be available for CD and ED PTA grants.

PTAs must meet a national objective of Low/Mod Area benefit (LMA) and be tied to an activity that has "proposed beneficiaries" if implemented. In limited ED cases, the national objective Slum and Blight may be used; however, applicants are strongly encouraged to contact HCD through the **cdbgnofa@hcd.ca.gov** inbox, requesting a review of their situation for any PTA applications that are not LMA.

Note:

- HCD 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, HCD will notify interested parties via its listserv email tool and website.
- Applicants and awardees acknowledge that the funding opportunities referenced in this NOFA, and all obligations of HCD herein, are expressly subject to and conditioned upon the ongoing availability of funds as well as the continued authority of HCD to operate the CDBG program. In the event that funds are not available to fund any, or all, activities offered herein, or if HCD's authority to operate the CDBG program or act under this NOFA is eliminated, or in any way restricted, HCD shall have the option, at its sole

discretion, to amend, rescind, suspend, or terminate this NOFA and any associated funding pursuant to the provision set forth immediately above.

- 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 HCD'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 amended[1], and Subpart 1 of the federal CDBG regulations[2]. The requirements of the state CDBG program are in Health and Safety Code, Sections 50825-50834, and Title 25 of the California Code of Regulations (25 CCR), Sections 7050-7126.

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.

[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.

C. APPLICATION TIMELINES

1. Timelines

NOFA release	**November 1, 2018**
ED Over-the-Counter (OTC) open date	**November 1, 2018**
Application due to HCD by 5:00 pm	**February 5, 2019**
Award announcement (non ED OTC)	**May 2019**
ED Over-the-Counter (OTC) close date	**June 30, 2019***

*based on funding availability

2. Application Submittal

A complete original application and one electronic copy on CD or flash drive with all applicable information must be received by HCD no later than **5:00 p.m**. Pacific Standard Time (PST) on **February 5, 2019.** Applications, excluding the ED OTC applications, will only be accepted through a postal carrier service that provides date stamp verification of delivery such as U.S. Postal Service, UPS, FedEx, or other carrier services 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

a) Applications **will not be accepted** after 5:00 p.m. on **February 5, 2019.**
b) Facsimiles, late, incomplete, revisions to, and electronically transmitted application packages **will not be accepted**.
c) **Personal deliveries will not be accepted.**
d) Please contact HCD if delivery is not completed by fault of the private courier/U.S. Postal Service.

ED OTC applications are not subject to the above deadline.

3. Initial Application Review Process

a) HCD will conduct a preliminary review of each application to determine whether the application meets all applicant threshold eligibility criteria.
b) If an application does not meet the applicant threshold eligibility criteria, HCD will send written notification.
c) Once the pool of eligible applications has been determined, the competitive scoring process commences. Pursuant to 25 CCR 7070, where a description or analysis includes quantified information, the source of the information and the method of computation must be described.
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 scored and ranked.
f) Once all scoring and ranking is completed, the award list will be compiled and HCD will call each applicant to inform them of whether or not they were awarded funding.
g) This year, HCD has implemented an Activity Self-score sheet to enable applicants to score and evaluate their respective activity applications. It is required for each activity, and **must** be submitted as part of the application package.

4. How to Contact the NOFA Unit

If you have any questions regarding the 2018 CDBG NOFA, the application, its process or other issues, please submit all inquiries via email to **cdbgnofa@hcd.ca.gov**.

II. 2018 CDBG NOFA *WHAT'S NEW*

A. NOFA AND APPLICATION FORMS (REVISED)

The NOFA was revised to eliminate redundancies and develop a streamlined document. The Activity Applications Instructions and Forms were condensed into one document, Activity Application.

These changes are intended to reduce unnecessary and repetitive narrative, without compromising the content of the application requirements and process.

B. APPLICATION AND ACTIVITY GRANT LIMITS (REVISED)

The 2018 NOFA application limit is $3 million.

CDBG activity funding limits are referenced on page 8, Funding and Activity Limits, Section A and are available at **2018 CDBG Funding Limits Chart**.

C. CDBG ACTIVITY APPLICATION SELF-SCORE (NEW)

In an effort to assist in the evaluation and scoring of the CDBG applications, HCD developed and implemented a self-score worksheet for each activity and state objective type. This replaces much of the scoring detail found in the NOFA and Appendix L. It condenses the evaluation and scoring information written in each **Activity Application & Instruction** form listed in the **CDBG Activity Applications and Instructions** section of the CDBG home webpage.

NOTE: All applicants must submit a completed self-score worksheet for each activity and state objective criterion applied for in the application.

D. MANDATORY HCD RESOLUTION (NEW)

In an effort to eliminate and cause delays in the application review, award and contracting processes, applicants are required to use HCD's *Sample Resolution of the Governing Body,* in accordance with Health and Safety Statute 40406(c). For reference, please see **Appendix D.**

E. APPEAL PROCESS FOR CDBG ACTIVITIES, THRESHOLD, AND SCORING PHASES (NEW)

The appeals process for threshold and scoring has been added to the 2018 NOFA. CDBG applications are evaluated in two phases, threshold review and activity scoring. If at either of these phases applicants do not meet the criteria, the applicant will be notified in writing. Applicants may appeal HCD's decision. For information on how to appeal, please refer to the Appeals section found on page 40.

F. HYPERLINK DISCLAIMER (NEW)

At the time the NOFA was released, all hyperlinks were verified; however, upon release, HCD cannot guarantee the link will continue to be valid due to content update and address changes by the external entity. Therefore, it is the responsibility of the applicant to research applicable content whenever needed.

G. OMB SUPER CIRCULAR UPDATES (UPDATE)

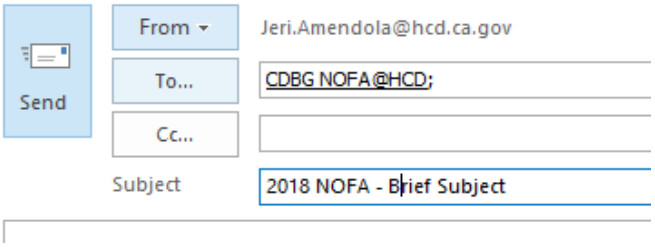
On December 26, 2013, Office of Management and Budget (OMB) created Super Circular regulations, known as **2 CFR Part 200**. The Super Circulars supersede, consolidate and streamline requirements from several pre-existing OMB Circulars, including Procurement and Cost Principles, Audits of States, Local Government and other items.

HCD has updated this NOFA in sections that address audit requirements and procurement practices to include information about relevant OMB Super Circulars. All applicants must be compliant with **2 CFR Part 200**.

H. NOFA APPLICATION INQUIRIES (NEW)

For consistency and transparency, HCD requires 2018 NOFA and application form inquiries to be submitted by email only to: **cdbgnofa@hcd.ca.gov**.

To send an email inquiry, please follow this format:



Note: January 7, 2019 is the last day to submit inquiries. Responses will post no later than January 11, 2019.

III. FUNDING PARAMETERS

A. FUNDING AND ACTIVITY LIMITS

Activity limits

1. Jurisdictions may submit only one application to include up to one Planning Activity (PTA), two non-PTA activities, and one Supplemental Activity. This includes any combination of two activities from the following list: Housing, Public Improvements (i.e., Infrastructure), Public Facilities, Public Services, and Enterprise Fund.

   Note: ED OTC activities, Colonia, and Native American activities are separate and not counted in the two non-PTA activity maximum or the maximum funding cap of $3 million.

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

3. A 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. In addition to the application maximum of two activities, the applicant can only apply for one PTA activity, either an ED or CD study.

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

6. A Public Service activity application may be comprised of no more than two eligible Public Service Programs and counts as one activity.

Maximum Award Limits for Each Allocation and Activity

Maximum total grant award limit is $3 million, including all activities except ED OTC, Colonia, and Native American. ED OTC is a stand-alone application subject to the ED OTC limits noted below and in the Appendix E - ED OTC Application Process.

1. Enterprise Fund (EF) Activity

BA and ME: This NOFA allows a single activity to be funded for up to $500,000. It also allows a combination of BA and ME activities to be funded for up to $500,000, in any combination of funding under the EF set-aside.

2. Economic Development Over-the-Counter (ED OTC) Funding

Per 25 CCR 7062.1(c)(2), awards from the ED OTC component to a single city or county in a single program year shall not exceed $3 million 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, referenced in 25 CCR Section 7062.1 (a) (6). The minimum funding request for ED OTC is $300,000.

3. Housing Activity

A maximum of $1,000,000 encompassing the two housing program categories listed in subsection a) below, or up to $3 million for one multifamily housing project (with or without acquisition) under either subsection b) or c) below:

a) Housing Rehabilitation Program– (1-4 Units) (HR) or Homeownership Assistance Program (HA), or Housing Combo - HA and HR, up to $1 million.
b) Housing Project - Multifamily Rental (5 or more Units) Rehabilitation with or without Acquisition, up to $ $3 million.
c)
d) Housing Project - Acquisition of Real Property - for multifamily housing projects, up to $3 million.

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

A maximum of $3 million is allowed and only one project per application.

5. Public Facility Activity

A maximum of $3 million is allowed and only one project per application.

6. Public Service Activity

A maximum of $500,000 may be requested for up to two separate Public Service Programs, which includes code enforcement Programs. An application containing up to two Public Service Programs counts as one activity in the application.

7. Planning and Technical Assistance (PTA) Activity

Up to $100,000 in funding is available for a PTA activity. Only one planning activity per application is allowed for this NOFA. The dropdown menu in the Application Summary for PTAs makes it clear that the PTA being applied for must be either a CD-PTA (20A-CD) or an ED-PTA (20A-ED).

PTAs must meet a national objective of Low/Mod Area (LMA) benefit and be tied to an activity that has "proposed beneficiaries" if implemented. In limited ED circumstances, Slums and Blight may be used; however, applicants should forward inquiries to the CDBG NOFA email, **cdbgnofa@hcd.ca.gov**.

8. Colonias and Native American Communities 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 $3 million 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 $3 million.

The total number of activities awarded may be more than two; however, all awarded activities will be contained in one contract. Activities funded must be expended within 36 months of the award letter date. In addition, the 50 Percent Rule applies to all activities under the contract. The **Request for Waiver of the 50 Percent Rule** will be considered for these awardees; however, programs are not eligible for waivers. See **Appendix N**.

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

Due to HUD's PI rules, all PI must be expended prior to drawing grant treasury funds. PI may **not** be "set aside" to fund a particular activity awarded in the contract. To use PI on a grant-funded activity, HCD will compare the amount of local PI available, as reported on the Semi-Annual PI Report and Funds Request, and require PI be expended first. When all PI is expended, grant funds may be drawn.

If a jurisdiction has an approved Revolving Loan Fund(s) (RLFs) and has applied for the same activity(ies) in the respective RLFs; then, the applicant must expend available RLF funds prior to requesting grant funds for the RLF activity.

Note: In order for PI to be expended on Supplemental Activities, the Supplemental Activities must be requested and submitted at the time of application. If not, Supplemental Activities **will not** be added to the Standard Agreement, and the applicant will be required to expend available PI funds on awarded activities prior to requesting and expending grant funds.

It is important that jurisdictions review and thoroughly understand Program Income Management Memo 14-05, **PI 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 forward your inquiry to **cdbgnofa@hcd.ca.gov, no later than January 7, 2019.**

Limited Number of Awards

When more funds are requested than are available, each activity, **except** for those contained in ED OTC applications, will be competitively rated and ranked. Funding will be awarded to applicants that score the highest in each specific activity until the funding available for that activity is exhausted.

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 the previous years' calculation method and, although there is a detailed discussion of the calculations below, the Summary Application Form is in an Excel format and will calculate these amounts automatically.

Option: As part of the application, the applicant has the option to request that the GA amount be less than the allowable maximum and apply the difference towards an activity.

<u>Example</u>
$3,000,000/ 1.075 = $2,790,698 available for activity (including AD)
$3,000,000- $2,790,698= $209,302 GA allowed

For instance, if the applicant chooses to use $100,000 of the GA allowance, the remaining $109,302 may be expended on the awarded activity. Please note that the amount will be rounded in the Summary Application Form.

Calculation of General Administration (GA)

Below is the formula to calculate 7.5 percent GA based on the amount of activity funding being requested, including AD. GA is calculated on the amount of dollars being requested for each activity. Examples of the calculation are below:

Formula: Activity Total divided by 1.075 = Activity $ Amount (including AD) Activity Total – Activity $ Amount = GA
Total Application Example: Application amount of $3,000,000 $3,000,000 / 1.075 = $2,790,698 available for all Activities (including AD) $3,000,000 - $2,790,698 = $209,302 GA Verification: $209,302 / $2,790,698 = 7.5% Also: $2,790,698 + $209,302 = $3,000,000
Single Activity Example: Application for a $1,000,000 Housing Rehab Program Activity: $1,000,000/ 1.075 = $930,233 available for Activity (including AD) $1,000,000- $930,233= $69,767 GA Verification: $69,767/ $930,233= 7.5% Also: $930,233+ $69,767= $1,000,000

Note: In the application review process, the GA amount will be calculated for each activity. However, in the Standard Agreement, GA will appear as one amount based on the total of the award. During the scoring process, it will not be known what the GA award will be since an applicant may not be awarded for all requested activities. Therefore, HCD will calculate GA for each activity, adding each activity's GA together, which will result in the final GA amount 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 HCD.

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.

AD percentage allowances vary depending on the activity type. The allowable percentage for each activity type is converted to a numerical "factor" by which the activity funding amount is divided.

- Housing Rehabilitation Program (1-4 Units) — up to 19 percent (1.19%)
- Multifamily Housing Rehab Project (5 or more units) — up to 15 percent (max $50,000)
- Homeownership Assistance — up to 8 percent (1.08%)
- Multifamily Housing (Acquisition only) — up to 8 percent (1.08%)
- Enterprise Fund: Micro Loan/Grant Program — up to 15 percent (1.15%)
- Enterprise Fund: Business Assistance Program — up to 15 percent (1.15%)
- Public Facilities or Public Improvement Projects — up to 12 percent (1.12%)

The following activities include AD 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 GA costs

ED OTC Calculation:

Activity Award – GA = Activity Funds
Activity Funds / Factor = Remaining Activity Amount
Activity Funds – Remaining Activity Amount = Allowable AD Amount

Single Activity Example:

For a $1,000,000 Homeownership Assistance Program with AD costs of 8%, AD will be calculated in the Summary Application using the formula above, as follows:

$ 1,000,000 – $ 69,767 (7.5% GA using 1.075 Factor) = $ 930,233; activity funds including AD.
$ 930,233 / 1.08 (AD Factor for HA Activity) = $ 861,326; available solely for the HA activity.

$ 930,233 - $ 861,326 = $ 68,907; allowable AD Amount

Verification: $ 68,906 / $ 861,326 = 8%
Also: $ 861,326 + 68,907 = $ 930,233 Activity Amount; and
$ 930,233 + $69,767 GA = $ 1,000,000

- As noted above, the final GA amount will be based on activities awarded and will be shown in the Standard Agreement as a total amount for GA rather than an amount tied to any specific activity.
- In the event AD costs are drawn down during implementation of an activity, and the activity does not proceed to its completion and a National Objective is not achieved by the Standard Agreement expenditure date, all expended Activity Funds and AD Funds must be returned to HCD.

Activity Delivery (AD) 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 transfer approval. If AD remains because the AD percentage is less, the remaining AD funds may be added to the activity amount or be disencumbered.

C. NOFA APPLICATION WORKSHOPS

HCD will present NOFA workshops in various locations in the state. For a list of workshop dates, times, locations and registration information go to HCD's CDBG webpage, **CDBG Home Page** separately from this NOFA.

The workshops are designed to review and discuss the NOFA and its components, to assist eligible applicants on important program topics, and discuss how best to assemble and submit a complete application.

Eligible applicants are strongly encouraged to review the NOFA and Application Forms prior to attending a workshop. It is highly recommended that applicants arrive at the workshops with a complete set of NOFA documents and the appropriate Application Forms. HCD will not provide electronic or hard copies of these documents.

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. A listing of the eligible non-entitlement cities and counties for the CDBG program is located in **Appendix A**. 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 in the state CDBG program 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.

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

2. Federal Debarment Status

Jurisdictional debarment status is required as part of the application and may be obtained by conducting a search of the Excluded Parties List System (EPLS), which is now part of the System of Award Management **(SAM)**. Applicants must include a copy of the search in the application.

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

3. Application Eligibility - 50 Percent Expenditure Rule

Pursuant to state CDBG Regulation 7060(a)(3), an applicant with one or more open CDBG contracts, for which the expenditure deadline established in such contract(s) 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 Rule is known as "The 50 Percent 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** open CDBG contracts, except for ED OTC, the jurisdiction is ineligible to apply for additional CDBG funds. The 50 Percent Rule does not apply to grant contracts that are past their 36-month expenditure milestone since they can no longer draw any grant funds. Jurisdictions with grant contracts that are past their expenditure deadline date are encouraged to submit grant contract closeout documents prior to application submittal.

Note: If a contract passes the 36-month expenditure deadline and receives an extension, then The 50 Percent Rule is applicable.

"Expended" definition: For purposes of The 50 Percent Rule, the term expended means that 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 HCD. HCD may request evidence of the above to ensure compliance with The 50 Percent Rule.

Examples of expended:

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

4. Applying The 50 Percent Expenditure Rule

The 50 Percent Rule applies to contracts awarded under the 2012 – 2017 CDBG NOFAs, with the exception of ED OTC.

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 2018 NOFA application due date, January 30, 2019.

- Because certain jurisdictions are eligible to receive funds greater than the maximum grant award, it is important to note that if a grantee receives Community Development, Economic Development, Native American, and Colonia funds, they will be all-inclusive in one contract. The jurisdiction is still required to expend 50 percent of its contract award before being eligible to apply again.

  Example: 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 is in contract for $2,600,000; therefore, the jurisdiction must have expended $1,300,000 (50 percent) to be eligible to apply for any additional CDBG funding, with the exception of ED OTC.
- The 50 Percent 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.

5. Request for Waiver of the 50 Percent Expenditure Rule

Chapter 552, Statutes of 2016 (AB 723) allows the Director to waive the 50 Percent Rule under given circumstances. For waiver requirements and instructions, **see Appendix N**. Waivers are granted only to those applicants that submit a Request for Waiver Form with the application **and** either:

a) Received a 2017 CDBG Award; **or**
b) Received a 2016 Special Drought and/or Disaster NOFA award; **or**
c) Submit an application to fund a "**shovel ready**" project, as defined in Appendix N.

The Request for Waiver Form is located in the CDBG Application, Subsection H, Tab 12 (Request for Waiver to the 50 Percent Expenditure Rule).

Under no circumstances shall a waiver be granted without the Request for Waiver being included with the 2018 CDBG application, made part of the public hearing notice, *and,* be stated in the Resolution adopted by the local governing body to submit the CDBG application.

Eligible Areas

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

Effective May 23, 2012, HUD issued the **CDBG Final Rule** at 24 CFR 570.486 (b) and (c) that details the federal language to ensure eligibility of a proposed activity that will serve 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 distributing 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 demonstrating that their citizens will significantly benefit from the activity being applied for. As part of the eligible activities review process, HCD will review the documentation to ensure all activities meet the above requirements.

2. 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) Pursuant to **25 CCR 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."
b) 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.
c) Further, pursuant to 25 CCR 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, HCD shall utilize these funds for the same purposes as those specified in Section 50828. Section 50828 states that not less than 51 percent of the funds be used for the purpose of providing or improving housing opportunities for persons and families 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 submit an inquiry, **on or before December 7, 2018**, to **cdbgnofa@hcd.ca.gov** to confirm the targeted community and proposed activity are eligible.

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

3. Colonias Set-Aside - Eligible Areas and Activities

Eligible jurisdictions that 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 million; **and**
b) Any identifiable community that is designated by the state in which it is located as Colonias.
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.

In compliance with **HUD 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 Low/Mod or Low/Mod Area benefit.

Threshold Requirements

Pursuant to **CCR 25 7060**, in order to be eligible to submit a funding application, 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 **25 CCR 7062.1, 7070, 7072, and 7078**, as applicable, for the activities and funding allocations being requested.

3. By the NOFA application due date, the applicant must demonstrate, to the satisfaction of HCD, that it is in compliance with the state and federal submission requirements of **2 CFR 200.512**.

   The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal Awards (Uniform Guidance) **2 CFR 200.512** requires non-federal entities that expend $750,000 or more in federal awards in a fiscal year to have a single or program-specific audit conducted for that fiscal year.

Local governments that expend $750,000 or more in federal funds during the fiscal year are required to submit a Single Audit in compliance with **2 CFR 200.512** to the **California State Controller's Office (SCO)**. Guidance on determining federal awards expended is provided in **2 CFR 200.512**.

Jurisdictions that are exempt from filing Single Audit because the level of federal funds expended is below the threshold must submit in their CDBG application a copy of the letter submitted to the SCO notifying of their exempt status. More information on the content of the letter is available at **SCO - Exempt Entities**.

It is strongly recommended that each applicant confirm their submission is properly reflected on SCO's status list and SCO is in receipt of the Single Audit Report Package by the NOFA application due date.

Per the State Administrative Manual **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 Single Audit Report Package is complete.

For purposes of eligibility under this NOFA, HCD requires that a complete Single Audit Reporting Package is submitted to the SCO for the most recent ending fiscal year.

The OMB Super Circulars 2 CFR Part 200 consolidates OMB Circular A-133 requirements in 200.331. This section addresses pass-through funds requirements, and most requirements are the same.

For more information or to review the reporting requirements, visit the **SCO at https://www.sco.ca.gov/aud_single_audits.html. If, by the 2018 NOFA application due date, the SCO deems an applicant non-compliant with the Single Audit requirement, the applicant will be deemed ineligible for 2018 CDBG NOFA funding.**

4. Pursuant to **25 CCR 7080**, applications must be in compliance with federal CDBG Public Participation regulations to be eligible for funding. Refer to **Appendix C and 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 and 50830 regarding housing element law. State CDBG Regulations **25 CCR 7060** allow jurisdictions to be eligible applicants when they have (1) submitted their draft housing element to HCD for comment, (2) received and considered findings, and (3) adopted the housing element by the application due date. Pursuant to the law, CDBG will not reject an application based on either the content of the housing element or HCD'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 HCD's Division of Housing Policy Development (HPD).

HCD strongly recommends contacting Paul McDougall, Section Chief, HPD, at **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 the Funding Parameters Section, Item E (13).

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 Super Circular, **2 CFR - Part 200**, 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 Super Circular **2 CFR - Part 200**, 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 that is 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 **2 CFR - Part 200)**, as applicable for such items when necessary for use by a recipient or its sub-recipients 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 is 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 potholes 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/Mod Housing **(LMH)** 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 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 American with Disabilities Act (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 National Environmental Policy Act (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 (ME) 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 start-up 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 be an income-qualified participant using HCD's current **CDBG Self Certification Instructions** posted on its 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 be an income-qualified 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 be an income-qualified participant using HCD's **CDBG Self Certification Instructions**):

- 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 percent Adjusted Median Income (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.

Reference: 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 that 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.

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 HCD.

Community Development

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

Single-Family Residential, as applied to eligible **program** activities such as the Housing Rehabilitation or Homeownership Assistance Programs, is defined as one to four residential unit(s) on a single property.

Multifamily Residential applies to the eligible **project** activities of Multifamily Housing (MFH) Rehabilitation and MFH Acquisition/Rehabilitation, and is defined as five or more residential units 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 standpoint 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 program guidelines are required.
- Multifamily Housing Acquisition and/or Rehabilitation are project activities where, at the time of application, there is a specific address assigned to the funding, no guidelines are needed and HCD is more involved in oversight of the project (e.g., environmental review, Davis-Bacon, etc.).

These are critical differences when applying for these activities, as the application requirements and scoring criteria are significantly different. Housing Program activities require Program Guidelines be approved by the local governing body and authorized by Resolution, which must be submitted as part of the application. Projects do not require Program Guidelines. Please follow the instructions in the Application for these activities and provide the specific documents and information required.

1. Housing Project - Property Acquisition for Multifamily 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 percent) of units of which are occupied by Low/Mod persons.
- Resident purchase, with or without rehabilitation, 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 correct application to use is the Housing Rehabilitation Project – Multifamily Application Form.

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 HCD.

2. Housing Program - Homeownership Assistance (HA)

a. **Eligible Uses of Funds**

Homeownership Assistance Programs provide direct assistance to Low/Mod homebuyers for the acquisition of an existing housing unit. New housing units must be completed prior to the homebuyer submitting an offer to purchase. **Low/Mod is defined as total income that is at or below 80 percent of Area Median Income (AMI) adjusted for family size.**

The maximum allowable CDBG down payment assistance cannot exceed more than 50 percent of the minimum required down payment for the specific loan type, plus closing costs. For compliance purposes, the borrower's loan file must contain the lender's loan instructions specifying the loan type and minimum down payment required at time of loan funding.

Example:

A home is in contract to be purchased by a Low/Mod household at a sales price of $300,000. The borrower is approved for an FHA loan, minimum required down payment is 3 percent, plus closing costs of $6,200.

Minimum down payment requirement: $300,000 x 0.03 = $ 9,000
CDBG allowable assistance: ($9,000 X 0.50) $ 4,500
Closing costs: 6,200
Maximum CDBG down payment assistance $**10,700**

Assistance may be used to:

- Subsidize interest rates and mortgage principal amounts;
- Finance the acquisition of housing by Low/Mod purchasers that will own and occupy the housing;
- Acquire guarantees for mortgage financing obtained by Low/Mod homebuyers from private lenders;
- Provide up to 50 percent of any down payment required from the Low/Mod homebuyer; or
- Pay reasonable closing costs incurred by Low/Mod homebuyers.

b. **Ineligible Uses of Funds**

- Benefit **non**-Low/Mod persons or assist in the purchase of a non-owner occupied home.
- Provide assistance for a unit not yet built and considered housing new construction. CDBG regulations allow for assistance 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 the costs of repairs and general property improvements to owner- and non-owner 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).
- Refinancing existing debt secured by a property rehabilitated with CDBG funds if such financing is determined by the grantee to be necessary or appropriate to achieve the locality's community development objectives.
- Water or sewer laterals from the main water line to the dwelling, regardless if the main water line or any part of the lateral is located in a public right of way.
- 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.
- Temporary relocation payments for homeowners are optional and, if allowed, must be explained in the program guidelines. Temporary relocation payments are required for tenants that need a motel short-term apartment and/or require storage services during rehabilitation or construction.
  Tenants not allowed to return to their original units will be eligible for permanent relocation benefits. The loan documents should mandate that a landlord will 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 that 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-Low/Mod 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 HCD 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 a 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 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).
- 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 showerheads 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, 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.
- Projects with less than 51 percent of the units occupied by or restricted for Low/Mod households.

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

c. **Other Considerations**

Housing Projects - Multifamily (MFH) are for properties with five or more units, and adopted 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 Rehabilitation 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 HA and HR programs. It provides greater flexibility by allowing grantees to transfer CDBG funds between the two programs without having to execute an amendment. Grantees are required to submit a written request to HCD to transfer funds, and receive written approval from HCD prior to the transfer.

For details on eligible and ineligible activities, please refer to the aforementioned HA and HR 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 and then rehabilitate single-family properties. **Furthermore, a housing combination program application requires forms and supporting documentation for each activity.**

b. **Ineligible Uses of Funds**

For ineligible activities, please refer to the Housing Assistance (HA) and Housing Rehabilitation (HR) referenced above in Sections 2 and 3, respectively.

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

6. Housing - Housing New Construction

a. **Very Limited Eligible Uses of Funds**

The Housing and Community Development Act (HCDA) of 1974, as amended, 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 allowable when a jurisdiction is providing a displaced person with a comparable replacement dwelling unit, and can only be accomplished by new construction. Last resort housing provisions are set forth in federal regulations Title 24 CFR, Part 42, Subpart I, **24 CFR Part 42**. 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 housing new construction projects are eligible under Public Improvements In-Support-of Housing New Construction which provide for the off-site infrastructure needed in order for the new housing units be constructed.

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 Multifamily Housing project.

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 type, the project must be located in and serve a predominantly residential area.
- The applicant must attach a map indicating the properties in the service area that will benefit from the project. The service area must also be located in an area where at least 51 percent of the residents are Low/Mod households.

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 PIHNC. The non-specific Public Improvement application will be evaluated for eligibility and scored based on Low/Mod 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 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/Mod.
- Temporary Housing: For housing-related activities to be eligible as a public facility, both the facility and the services therein must be designed for use in providing temporary shelter for persons having special needs. Such shelters

would include, but not be limited to, nursing homes, convalescent homes, shelters for victims of domestic violence, shelters and transitional facilities for the homeless, halfway houses for runaway children, drug offenders, or parolees, group homes for the developmentally disabled, and seasonal housing for migrant farmworkers.

- Permanent relocation costs can be 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 that promote the energy efficiency of the proposed public facility activity may be included.
- If a public facility contains multiple uses, including both eligible and ineligible uses, it can 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; and
  - 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 below 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 HCD 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 food, clothing, rent, utilities or other income payments (subsistence payments) beyond three months
- Activities for the general promotion of the community, e.g. a 100-year anniversary celebration

c. Other Considerations

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.

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; or
3) The service is **currently funded with CDBG grant funds** and the service will remain at substantially the same level; or
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.** 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.

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, design standards, and uniform building and fire codes. CDBG Code enforcement funds may be used for code enforcement only 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. These enforcement actives may only take place in a primarily residential areas where 51 percent of the residents are low- and moderate-income.

Note: Code enforcement is not a Public Service Activity. It is a stand-alone activity under 42 USC 5305(a)(3) with IDIS Matrix Code 15. However, state CDBG regulations allow for this activity to be considered a Public Service and scored accordingly, like job training programs.

12. Jurisdiction-wide Code Enforcement

Grantees may not use CDBG funds to pay for code enforcement in every area of a 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 payment of code enforcement staff salaries and overhead costs directly related to the enforcement of state and/or local codes.

b. **Ineligible Uses of Funds**

- Costs of correcting code violations; and
- Code enforcement work outside of the defined deteriorating or deteriorated 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 be 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.

Reference: HCDA 105(a)(3)

13. Planning and Technical Assistance

a. **Eligible Uses of Funds**

CD planning studies focus on research, analysis, and planning for community needs concerning housing, public improvements, public 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 the 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 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 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 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 actions that will implement plans
- Preliminary plans and specifications, and/or
- 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 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 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 National Objective of Low/Mod Benefit. HCD will evaluate each PTA for eligibility based on the application's supporting documentation confirming the PTA will meet one of the National Objectives.

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

1) Meet either the LMA, LMC, or another Low/Mod qualification;
2) Be consistent with the work product applied for in the PTA application; and
3) Be submitted to HCD at time of grant closeout.

The activity may be deemed ineligible and funding shall be returned to HCD if the work-product produced by the PTA grant is:

1) Not consistent with the work-product approved in the original application;
2) Not as described in the contract;
3) If implemented, will not meet a National Objective; or
4) Is not submitted at the time of grant closeout.

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. Applicants are directed to email PTA eligible activity inquiries to **cdbgnofa@hcd.ca.gov**

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 provides examples of ineligible activities, with possible exceptions. Applicants are strongly encouraged to email inquiries to **cdbgnofa@hcd.ca.gov**, to verify if the activity is eligible for PTA.
   - **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 American Census Survey (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 planning activity requires local matching funds to be committed to the activity, per Health and Safety Code Section 50833. Per 25 CCR 7058(a)(5)(A), all jurisdictions applying for a planning activity will be required to commit **5 percent** of the total funding amount - including GA - as a required cash match. For more information on this requirement, see **Appendix I** and the PTA activity section of the Application.

F. APPEAL CRITERIA AND PROCESS

1. Criteria

   a) Upon receipt of HCD's notice that an application has been determined to be incomplete, failed the threshold, or has a reduction to the preliminary point score, applicants under this NOFA may appeal such decision(s) to HCD pursuant to this section.
   b) No applicant shall have the right to appeal a decision of HCD relating to another applicant's eligibility, point score, award, denial of award, or any other matter related thereto.
   c) Prior program NOFAs. The appeal process provided herein applies solely to decisions of HCD made in this program NOFA and does not apply to any decisions made with respect to any previously issued NOFAs or decisions to be made pursuant to future program NOFAs.

2. Appeal process and deadlines

   a) Process. To file an appeal, applicants must submit to HCD by the deadline set forth in subsection b) below, a written appeal that states all relevant facts, arguments, and evidence upon which the appeal is based. Furthermore, the applicant must provide a detailed reference to the area or areas of the application that provide clarification and substantiation for the basis of the appeal. No new or additional information will be accepted if this information would result in a competitive advantage to an applicant. Once the written appeal is submitted to HCD, no further information or materials will be accepted or considered thereafter.

      Appeals are to be submitted to HCD either via email at **cdbgnofa@hcd.ca.gov** or at the following address:

      Nicole' McCay, Section Chief
      CDBG Program Appeals
      Division of Financial Assistance
      Department of Housing and Community Development
      2020 W. El Camino Avenue, Suite 500
      Sacramento, California 95833

      HCD will accept appeals through a carrier service that provide date stamp verification of delivery such as the U.S. Postal Service, UPS, FedEx, or other carrier services. Deliveries must be received during HCD weekday (non-state holiday) business hours of 9:00 a.m. to 5:00 p.m. Pacific Standard Time. Emails to the email address listed above will be accepted as long as the email time stamp is prior to the appeal deadline.

   b) Filing deadline. Appeals must be received by HCD no later than three (3) business days from the date of HCD's eligibility, threshold review or preliminary point score determination letters, representing HCD's decision made in response to the application.

3. Decision

It is HCD's intent to render its decision in writing within fifteen (15) business days of receipt of the applicant's written appeal. All decisions rendered shall be final, binding, and conclusive and shall constitute the final action of HCD with respect to the appeal.

4. Effectiveness

In the event that the statute, regulation, and/or guidelines governing this program contain an existing process for appealing decisions of HCD with respect to NOFA awards made under such programs, this section shall be inapplicable and all appeals shall be governed by such existing authority.

G. SUPPLEMENTAL ACTIVITIES

If the applicant submits an application for an eligible Supplemental Activity, any contract funds that are supplanted by PI funds may be used to fund Supplemental Activities.

For the 2018 NOFA **only one** Supplemental Activity may be requested. A Supplemental Activity may be requested by filling out the Supplemental Activity tab on the Application Summary, and submitting the Supplemental Activity Form and any required documentation that corresponds to the type of activity being requested (Project or Program). Only one Public Service is allowed when requested as Supplemental Activity. Planning Activities are not eligible as a Supplemental Activity or part of the ED OTC program.

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

Important Considerations:

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

H. 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/Mod persons;
- 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 most commonly used benefit is Low/Mod persons or households, 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 more information of the 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 four ways to meet the National Objective to benefit Low/Mod persons or households based on: (1) Low/Mod Area (LMA); (2) Limited Clientele (LMC); (3) Low/Mod Housing (LMH); and (4) Low/Mod Job (LMJ).

Each of these methods is designed to document that households or persons benefiting from CDBG eligible activities are at or below HCD's most recent published income limits of 80 percent or less of county area median income (AMI), adjusted for family size. Below is a description of how documentation for meeting the National Objective to benefit Low/Mod persons is achieved.

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

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

Beginning in July 2014, HUD began using the ACS data to calculate Low/Mod percentages by census tract/block groups and by Census Designated Place(s). The data for eligible cities and counties is in **Appendix A**.

For those service areas that are not jurisdiction-wide and that do not fall within the census tract/block group(s) model, HUD provides "2016 LMISD by state" based on the

2006-2010 ACS and can be found at **HUD Exchange ACS Data 2006-2010.** This provides Low/Mod data for Census Designated Place (CDP) areas. HUD's LMISD Map Application can be found **HUD Maps ARCGIS** and HUD's updated LMISD Excel data files are posted at **HUD's Low/Mod Summary Data** page. 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 AMI, adjusted for family size. The criteria for how an activity may be considered to benefit Low/Mod persons are divided into four subcategories: LMA; LMC; LMH; and LMJ; detailed on the following page.

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/Mod persons (see 24 CFR 570.483(b)). This does not mean that each CDBG-assisted activity must involve both Low/Mod 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. **Low/Mod Subcategories**

1) Low/Moderate 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 Low/Mod persons on an area basis, the activity must serve the needs of Low/Mod persons residing in an area where at least 51 percent of the residents are Low/Mod 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 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 Low/Mod persons, such as:
   - Abused children
   - Elderly persons
   - Battered spouses
   - Homeless persons
   - Adults meeting the Bureau of Census' definition of Severely Disabled Adults, such as Illiterate Adults, Persons Living with AIDS, Migrant Farm Workers.

   Note: This presumption may be challenged if there is substantial evidence that the Low/Mod persons in the actual group are most likely not principally Low/Mod 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 HCD'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 Low/Mod persons. For example, a day care center 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 rehabilitation 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 Low/Mod persons.

   Note: Once a person is determined to be Low/Mod, 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 HCD's Income Self-Certification Form in Income Calculation and Determination Guide for federal programs on HCD'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 HCD'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 Income Qualification eligibility process must be in the project file. Additionally, evidence of five 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-certification is no longer sufficient, and each beneficiary is subject to a full Part 5 Income Qualification.

3) Low/Mod Housing (LMH)

HCDA 105(c)(3) requires any assisted activity that involves the acquisition or rehabilitation of property to provide housing shall benefit persons of Low/Mod income only to the extent such housing will, upon completion, be occupied by such persons.

The housing can be **either** owner- or non-owner occupied and can be a single-family or a multi-family structure. In order for rental units to be considered a benefit to a Low/Mod household, it must be occupied by Low/Mod households at **affordable rents** [24 CFR 570.483(b)(3)].

Further, LMH benefit is based on households, not persons. Thus, **total household income** must be at or below 80 percent of AMI 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 purchase a home (HA); and
- Laterals to connect residential structures to public water and sewer systems.

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

- All assisted single unit structures must be occupied by Low/Mod households;
- An assisted two-unit structure (duplex) must have at least one unit occupied by a Low/Mod household; and
- An assisted structure containing more than two units must have at least 51 percent of the units occupied by Low/Mod households.

Other Considerations:

Condominiums - Where rehabilitation of one or more units in a multifamily building are individually owned, such as a condominium, rehabilitation is limited to the particular unit(s) and shall not provide CDBG funding to rehabilitate any property held as common area ownership.

Important Tips:

- For any Housing Activity, Low/Mod benefit is based on using the LMH National Objective in compliance with Part 5 Income Determination, using the **Income Manual.**
- Housing activities that are 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 multi-family projects) must use the income self-certification process for tenants occupying the units at the time of application to verify that at least 51 percent of the tenants will meet the LMH requirement. Once “assisted,” the units, at occupancy, must meet the full Part 5 Income Qualification requirement until the Rent Limitation Agreement terminates.
- Eligibility for HA at HCDA 105(a)(24) requires that only Low/Mod households be assisted.

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 Low/Mod 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 that has publicly announced its intention to close, but through the CDBG ED loan, 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 that creates or retains permanent jobs. At least 51 percent of these, on a full-time equivalent (FTE) basis, must be either held by Low/Mod persons (retention) or held by Low/Mod persons at the time of being hired (creation).

What Jobs Can Be Counted:

- Part-time jobs must be converted to full-time equivalents (FTE). Per 25 CCR 7054 (Definitions), "Permanent job" allows for a maximum of two part-time jobs to be aggregated to one FTE.
- Only permanent FTE job counts consist of job hours equal to 1,750 hours for full time, 875 hours for part-time and must be considered permanent. Jobs classified as "temporary" do not meet the federal job creation requirement, only jobs considered to be permanent are counted.
- 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" Low/Mod Persons:
A job is considered to be held by a Low/Mod 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 that 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 Low/Mod persons at the time CDBG assistance is provided.

Note: Please refer to the **2018 CDBG Income Limits** to determine the household income limits for completing the Self-certification form.

Provisions for Aggregating Jobs: See Application Review and Activity Evaluation, Public Benefit requirements found in Section III. A.

Economic Development Project Public Benefit Requirements
Note: ED Project Public Benefit require the project meet **both** the LMJ National Objective and Public Benefit requirements. However, some Business Assistance (BA) (which includes ED OTC) are not required at the time of application to create jobs, if the project can meet the National Objective using area benefit (LMA). If you have questions regarding Public Benefit requirements, please refer to **Appendix E** (ED OTC Application Process). If you should have questions, please forward to **cdbgnofa@hcd.ca.gov.**

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 identifies a service area that is greater or less than the applicant's jurisdictional boundaries, then HCD will score Need and Benefit on the same service area. The applicant will be required to submit a map showing the HUD Census Tract and Block Group Low/Mod data. For more information, see **Appendix H**.

When the service area is the whole jurisdiction, HCD will use the data within **Appendix A**.

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 Slums and Blight at Health and Safety Code Sections 33030-33039.

a. Slums and Blight – Area Basis

Currently, HCD will not allow Slums and Blight National Objective to be used on an area-wide basis for any activity.

b. Slums and 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 of blight 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 the activity must be limited to one of the following:
   - Acquisition (see Other Important Considerations below)
   - Clearance/demolition
   - Relocation
   - Historic preservation
   - 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. HCD 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 that the CDBG funds will pay to eliminate the project's blighted conditions.

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

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. HCD determines 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, please email **cdbgnofa@hcd.ca.gov** on or before **January 7, 2019**.

To comply with the National Objective of meeting community development needs having a particular urgency, an activity must be designed to alleviate existing conditions that 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 (within the last 18 months);

- 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 HCD 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/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 LMA must be documented. In other cases, the study may be for persons under presumed benefit or "limited clientele" (e.g. homeless or farmworkers or seniors) whom are categorized as Low/Mod persons.

   Note: LMJ cannot be used as the National Objective for ED PTA.

Documentation
Each application must contain a discussion of how the proposed study would principally benefit the Low/Mod-income group. For activities using LMA benefit, applicants should refer to **Appendix H**, Census Tract/Block Group data, or to prepare a valid income survey, reference, **Appendix M.**

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** refers to individuals or households whose incomes are above 80 percent of county area median household income, adjusted for family size.
- **Low/Mod** 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.
- **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 receive the benefit prior to expiration of the grant contract. The funded project or program must be benefitting the intended beneficiaries prior to contract expiration in order to demonstrate that the National Objective benefit has been met.

In order to meet the National Objective benefit for PIHNC, the housing units to be serviced by the infrastructure must be occupied. Completion of the infrastructure construction is not sufficient to meet the benefit. Additionally, the completion of a facility in which no services are provided prior to the expiration of the grant contract shall be considered to have no National Objective benefit.

b. **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 25 CCR 7054, Definitions, “Permanent job”.

Documentation of ED Beneficiaries: BA and ME program applications do not require that documentation of beneficiaries be submitted at the time of application. Beneficiaries of these programs are not known at the time of application. According to the ME and BA program guidelines, documentation of beneficiaries is required after funding award and general conditions are cleared for eligible projects.

c. **Determination of Low/Mod Beneficiaries**

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 **2018 Income Limits**.

d. **Presumed Benefit (Limited-Clientele)**

HUD has determined that the following exclusively served groups are beneficiaries presumed to be at least 51 percent Low/Mod:

- Severely disabled adults*
- Elderly persons
- Illiterate adults
- Persons living with AIDS
- Battered spouses
- Abused children
- Migrant farmworkers
- Homeless persons

*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 51 percent Low/Mod persons.

e. **Documenting Beneficiaries**

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 shown on the next page 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 80 percent of the county area median income (AMI), adjusted for family size. An activity cannot solely benefit only one specific level of a Low/Mod beneficiary listed above. Thus, an activity cannot only benefit the 51-80 percent Low/Mod Group in the service area.

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

- Seniors (60 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 (51-80 percent AMI).
- Seniors (60 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.

If an activity assists seniors for housing, HUD defines ‘seniors’ as 62 years and older. If you have questions about meeting the presumed Limited-Clientele national objective for different activity types, **please click this link to review CDBG Management Memo 15-01**. This memo reviews the state CDBG program and senior activities.

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

Explanation of Income Levels:

Box A - Non-Low/Mod: Enter the proposed number of beneficiaries with incomes 81 percent and above (non-Low/Mod) of the county AMI. 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 NOFA unit by email, **cdbgnofa@hcd.ca.gov** to determine how this applies to your activity.

IV. APPLICATION REVIEW AND ACTIVITY EVALUATION

Overview of Scoring Methodology

All applications are required to pass threshold requirements. Applications that pass threshold will be scored according to the evaluation criteria in **25 CCR 7078**. The 2018 CDBG Activity Application Self-Score Worksheet is also required as part of the evaluation criteria.

- 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 request 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 in 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.

- Points will be awarded in four main scoring categories:
  - Need
  - Readiness
  - Jurisdictional capacity/Past performance
  - 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.

- State CDBG regulations state that an application can receive a maximum of 1,000 points per activity, depending whether the activity has state objective points or not. This includes EF applications.

  For scoring criteria, refer to **Activity Self-Score Sheet.**

V. AWARDS ANNOUNCEMENT AND GRANT IMPLEMENTATION

A. AWARD ANNOUNCEMENTS

HCD anticipates awards will be announced within 90 days of the application deadline. Until awards are announced, the CDBG staff will not be able to discuss the status of applications.

Within 60 days from the award announcement date, unsuccessful applicants will have the opportunity to request an exit interview to discuss their application. Applications and agreements are public information and are available for review upon request. Applicants are advised that information submitted to HCD 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, HCD will provide an Agreement for the Grantee to sign/execute within 60 days of funding award.

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

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. General Conditions Checklists are a complete and final list of required items 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 HCD may cause the activity to become ineligible.

Term of Agreement: The Agreement shall expire no later than 60 months from the effective date of Agreement; however, the contract expenditure deadline for all activities under the Agreement will be no more than 36 months from the effective date of the Agreement.

VI. FEDERAL 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), **24 CFR Part 570.** These primary regulations are known as the federal overlays and form the basis of the programmatic requirements. HCD 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.

This following is a summary 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 Sub-recipients;
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 Sub-recipient 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 HCD 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 temporary or permanent relocation and displacement of persons, property, or businesses must provide a project-specific relocation plan as part of meeting General Conditions Checklist, i.e. prior to start of the project or displacement activity. Applicant should include relocation costs in project budget and sources and uses.

They are also encouraged to provide General Information Notices (GIN) 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. HCD will review the grantee's procurement documents for services (i.e., administrative sub-contractor Davis Bacon consultant) at time of monitoring.

The Code of Federal Regulations (CFR), **e-CFR** explains the procurement standards (2 CFR Part 200.317-200.326 of the OMB Super Circulars).

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** **and** print and submit evidence of the search results in the application.

HCD 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.

F. ANTI-LOBBYING CERTIFICATION

The following anti-lobbying certification will be included in the Standard Agreement between HCD and all successful Applicants receiving awards under this NOFA:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer of employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

G. EXCESSIVE FORCE CERTIFICATION

All successful local government Applicants receiving awards under this NOFA shall be required to certify in the Standard Agreement with HCD that such Applicant has adopted and is enforcing: (1) a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and (2) a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

H. OTHER FEDERALLY-REQUIRED CERTIFICATIONS AND ASSURANCES

In addition to the certifications required by subsections F and G above, additional federally required certifications and assurances shall be included in the Standard Agreement with successful Applicants, which certifications and assurances may include, but are not limited to, those which have been given by HCD to HUD in connection with the federal grant agreement pursuant to which CDBG funds are provided to the state.