

South Carolina Community Development Block Grant

2022 Application Guidelines



South Carolina
Department of Commerce

Just right for business.

Community
Development
Block Grant

**State of South Carolina
Community Development Block Grant Program
2022-2023 Application Guidelines**

**State of South Carolina
Department of Commerce
Grants Administration
1201 Main Street, Suite 1600
Columbia, South Carolina 29201
Telephone (803) 734-0429 • Fax (803) 734-0385 • TDD (803) 734-1046
www.cdbqsc.com**

February 2022

POLICY OF NON-DISCRIMINATION

The State of South Carolina does not discriminate on the basis of age, race, color, religion, sex, national origin, disability or familial status in the admission or access to, or treatment or employment in, its federally assisted programs or activities. Barry Butler, Department of Commerce, Grants Administration, 1201 Main Street, Suite 1600, Columbia, SC 29201, Phone (803) 734-0555 (TTY 711), has been designated to coordinate compliance with the non-discrimination requirements of the CDBG program.

CONTENTS

Grants Administration Staff Contact List

Overview	1
CDBG Program Goals and Outcomes	1
Eligible Applicants.....	2
Types of Applications	2
Eligible Activities	4
Community Development Program Categories	4
Application Process.....	19
Phase One: Determine Community Needs	21
Citizen Participation.....	21
Community Development Needs Assessment	26
Phase Two: Project Identification	28
Phase Three: Project Development.....	29
Phase Four: Application Development	30
Requesting an Application.....	30
Meeting a National Objective	31
Developing Project Design	46
Developing Cost Estimates and Preliminary Budgets	69
Requirements and Certifications	75
Submit Application to Grants Administration	82
Phase Five: Selection Process.....	84
Other Program Categories.....	86
Regional Planning Program	86
Business Development Program	87

Attachments

Eligible Activities

Eligible Activities from the Housing & Community Development Act

Requesting an Application

Community Development

Business Development

Determining Community Needs

Notice of Citizen Participation Plan Public Hearing

Notice of Citizen Participation Plan Availability for Review

Notice of Public Hearing Concerning Needs Assessment

Notice of Public Hearing Concerning Application

Meeting a National Objective

2021 Income Limits (effective until updated by HUD)*

Sample Local Income Survey for CDBG Applications

Sample Ordinance Defining Slum and Blighted Area

Sample Resolution Declaring Slum and Blighted Area

Preparing Budgets

Fees for Professional Engineering

Housing Initial Property Assessment

Other Requirements

Residential Anti-Displacement Plan

Determination to Demolish (H-1)

Business Development Assistance Program

2022 Jobs Tax Credit Designations for County Status

County Per Capita Incomes & Average Wages

Business Development Applicant/Employee Information and EEO Reporting

** The 2021 Income Limits were effective June 1, 2021. New 2022 income limits will likely be published in the Spring or Summer and will supersede the 2021 limits.*

GRANTS ADMINISTRATION STAFF CONTACT LIST

Name, Title	Phone Number	Email Address
Barry Butler Environmental, Acquisition, Relocation, Fair Housing/Equal Opportunity and Section 504 Disability Requirements	803-734-0429	bbutler@sccommerce.com
Nate Foutch Grants Manager: Catawba, Upper Savannah and Santee-Lynches Regions	803-737-0097	nfoutch@sccommerce.com
Caroline Griffin Grants Manager & ARC: Appalachian Region	803-737-0472	cgriffin@sccommerce.com
Lisa Kalsbeck Assistant Director, Federal Programs	803-734-0452	lkalsbeck@sccommerce.com
Keely McMahan Program Administrator	803-734-1125	kcmcmahan@sccommerce.com
Jennifer Newlands Administrative Assistant	803-734-0429	jnewlands@sccommerce.com
Liese Ross Program Planning, Data Management and Reporting	803-737-1988	lross@sccommerce.com
Stefanie Smith Derwort Grants Manager: Lower Savannah and Lowcountry Regions	803-737-1993	ssmith@sccommerce.com
Tina Thomas Compliance Specialist - Procurement, Contracts and Labor	803-734-0709	tthomas@scccommerce.com
Martha Whitaker Grants Manager: Central Midlands, Pee Dee, Waccamaw, and BCD Regions	803-734-2466	mwhitaker@sccommerce.com

OVERVIEW

The South Carolina Community Development Block Grant (CDBG) Program is designed to provide assistance to units of general local government in improving economic opportunities and meeting community revitalization needs, particularly for persons of low and moderate income. The CDBG program has been funded through the State since 1982 by the U.S. Department of Housing and Urban Development (HUD) under the Housing and Community Development Act of 1974, as amended (Title I).

The CDBG program is governed by Title I of the Housing and Community Development Act of 1974, as amended, and its implementing regulations for the State Program at 24 CFR Part 570, Subpart I. All CDBG activities must be carried out in accordance with the requirements of Title I, Subpart I, the State Consolidated Plan and this Program Description.

Grants Administration, a division of the SC Department of Commerce, administers the annual allocation from HUD for the CDBG program. Throughout this Program Description, the term "State" generally refers to the entity administering the CDBG program, i.e., Grants Administration.

In the following sections, a description of the State of South Carolina's CDBG Program is presented along with the amount of funds available and the method of distribution of those funds. Also presented are the categories of grants to be made available, selection criteria, eligible activities, and the eligibility requirements for applicants.

The State will conduct workshops to assist local governments and other interested parties in the preparation of grant applications and the administration and management of funded projects in accordance with program requirements. In addition, the State is available to provide technical assistance to local governments and non-profit organizations regarding the CDBG program.

CDBG Program Goals and Outcomes

The Department of Commerce seeks to improve the well-being of all South Carolinians in a manner that supports and enhances a high quality of life. The State CDBG Program supports the agency's efforts to strengthen communities through revitalization and improvement of neighborhoods, public infrastructure, and the local economy.

In an effort to effectively target resources and ensure program accountability, the CDBG program has incorporated a focus on project outcomes. Shrinking resources on the national and state levels require that programs provide concrete evidence that their investments are resulting in the desired outcomes.

The three overarching goals of the CDBG program are to provide decent housing, economic opportunities and a suitable living environment. Within the context of these goals, each project must also meet one of three outcomes identified by HUD: affordability, accessibility, or sustainability.

Eligible Applicants

Under Title I, all units of general local government are eligible to apply for CDBG financial assistance with the exception of the eleven large cities and seven urban counties that participate in the CDBG Entitlement program and receive CDBG funds directly from HUD. The ineligible cities include: Aiken, Anderson, Charleston, Columbia, Florence, Greenville, Hilton Head Island, Rock Hill, Spartanburg, Summerville and Sumter. The HUD designated urban counties are Berkeley, Charleston, Greenville, Spartanburg, Horry, Lexington and Richland. Unincorporated areas of the designated urban counties, and any municipalities within the county that choose to participate with the county, are also not eligible. As of December 2020, ineligible municipalities include all in Berkeley and Greenville Counties, most in Charleston County, and Myrtle Beach in Horry County. However, municipalities located within an urban county should contact the urban county or the State for an eligibility determination.

For any application to be considered for funding, the applicant must comply with the requirements of this Program Description as well as applicable federal regulations and state requirements and submit a complete and acceptable application.

Types of Applications

Individual Application

A unit of local government generally may apply for only one project per application and funding category, and that project must be designed to address an identified priority need of the jurisdiction. The single project requirement may be waived if Grants Administration determines that there is an overriding administrative and/or cost benefit to undertaking separate projects under one grant or program.

Joint Application

Eligible applicants may apply jointly for projects to alleviate common problems or address mutual need(s) when it is documented that mutual action is required or when it is in the best interests of all applicants. Additionally, a joint application may be required if a significant portion of the project beneficiaries are located outside the applicant's jurisdiction. The necessity or appropriateness for mutual action must be acknowledged by Grants Administration prior to the submission of an application.

A joint application will be funded as a multi-jurisdictional award and must include an agreement written in accordance with HUD and Grants Administration procedures which:

- States that the parties have agreed to cooperate in undertaking the project,
- Delineates the responsibilities and authorities of each party with respect to the administration of the grant, and
- Authorizes one of the parties to be the recipient of the funds and have primary administrative responsibility.

Applicants proposing to submit joint applications should contact Grants Administration for further instructions. The lead jurisdiction in a joint application must comply with program threshold requirements. Each participating jurisdiction is required to comply with all citizen participation requirements, certifications and other Title I requirements, as applicable.

Applications for Areas Outside of a Municipal Jurisdiction

Activities must significantly benefit residents of the applicant jurisdiction and the applicant must determine that the activities will meet a priority need. This determination should be documented in the needs assessment and public hearing. For an activity to significantly benefit the residents of the applicant jurisdiction, CDBG funds expended must not be unreasonably disproportionate to the benefits of the applicant's residents. Where activities significantly benefit the residents of another jurisdiction (i.e. water tank serves town and a significant portion of residents outside town) or other mutual action is required, a County may apply jointly with a municipality to address the needs of areas outside the jurisdiction of a municipality. Please contact Grants Administration if a project is not wholly within the proposed applicant's jurisdiction. It is also permissible for a County to undertake a project in a municipality without meeting the requirements of a joint application, since the County's jurisdiction includes the municipality.

Applications Involving an Entitlement Jurisdiction

Generally, state CDBG funds may not be spent in entitlement communities. Residents of entitlement jurisdictions may only receive an incidental benefit from a state CDBG funded activity. For projects submitted by eligible State CDBG program applicants that also incidentally benefit entitlement areas:

- The applicant must determine that the proposed activity meets a priority need,
- All but incidental beneficiaries must be documented as residing in the non-entitlement area,
- The project must be consistent with the Entitlement's Consolidated Plan, and
- The Entitlement may be required to provide a share of the total project cost equal to the proportion of Entitlement benefit.

Single or Multiple Activity Projects

Applications may be submitted for single or multiple activity projects, depending on the program category. For the Community Development Program, multiple activity projects may only be undertaken in a target area or neighborhood, and all activities must be interrelated. The needs of the neighborhood being addressed should be included in the applicant's needs assessment and the proposed outcome of the activities should determine the appropriate program category. It is recommended that applicants proposing multiple activities seek technical assistance from Grants Administration staff prior to applying for funding.

Eligible Activities

Units of local government may apply for assistance under the appropriate grant program category to undertake any of the activities specified in Section 105(a) of Title I, as amended. A copy of Title I, as amended, is available from the State.

Examples of the types of activities that are eligible for CDBG funding are as follows: acquisition of real property; construction of public facilities and improvements; rehabilitation of residential and non-residential structures; limited provision of public services; assistance to neighborhood-based non-profit organizations, local development corporations or for-profit entities to carry out economic development activities; demolition and clearance; removal of architectural barriers; and CDBG eligible planning and administration.

Community Development Program Categories

Below is a description of the types of grants available to address the objectives of the State's CDBG program and the methods of distributing funds for these categories. Each category includes a description of the objectives, requirements, grant amounts, funding limits, matching requirements and the selection process. There are three broad grant program categories: Community Development, Business Development, and Regional Planning. (*Business Development and Regional Planning are discussed later in the Guidelines.*) The Community Development Program is further broken down into several subcategories to address infrastructure, community facilities, and neighborhood priorities.

Grants Administration will perform due diligence in reviewing each application for feasibility, fundability, and compliance with program requirements. The applicant should ensure that the application is internally consistent and that all numbers are correct prior to submission. Site visits will be conducted as necessary to verify information contained in the application. Applicants should have the individuals responsible for writing the application, as well as those individuals who are most familiar with the project area available during the site visit, if requested.

Grants Administration reserves the right to prescribe revisions in project proposals if activities prove to be CDBG ineligible, do not address program initiatives, or are not necessary project components; if proposed project costs are determined to be unacceptable, e.g., costs exceed CDBG requirements or recommendations; or if there is not enough funding available to fully fund the request. Additionally, projects should not be submitted for consideration if there is local controversy regarding the activities or proposed outcomes. Such projects may be returned to the applicant for local resolution. A conditional grant award or commitment may be issued in the event there is a delay in receiving the state's allocation from HUD.

Community Development Programs

Total 2022 Funds: \$16,548,629

Description

This program is designed to produce outcomes that improve citizens' quality of life and create a competitive environment for jobs and investment by addressing priority community development needs. Activities should contribute to healthy, safe and sustainable neighborhoods and communities. These grants are designed to improve the quality of life for distressed and LMI communities. Community Development projects will compete within the following subcategories that have the same general submission requirements, except that the Ready to Go Program will not be funded in a competitive funding round. Applications for this program will be considered eligible once all required application information is received and if it qualifies for the minimum score using the non-comparative scoring criteria of the Community Development Programs. All other Community Development requirements will apply.

Community Infrastructure

Funds Available: \$10,948,629

Grant Maximum: \$750,000*

Grant Minimum: \$50,000

* Waivers of the grant maximum will be considered based on whether the project addresses an urgent and compelling need, regional solution, or system-wide improvements (i.e., treatment plant), as well as the extent of leveraging and a reasonable CDBG cost (generally \$10,000 per household or less). A written waiver request explaining the rationale must be submitted for consideration with the application request.

Outcome and Priorities

A Community Infrastructure application must contribute to creation of healthy and sustainable residential communities through water, sewer, roads, drainage or other activities that address one or more of the priorities listed in order of importance:

- 1) Significant improvements to existing infrastructure to address health concerns, meet required quality standards and ensure community sustainability
- 2) Projects that result in a more viable regional infrastructure solution or that provide new access to services near business centers where it is cost effective to address a documented health threat
- 3) Upgrades to infrastructure to address quality standards where there are only general health concerns or provide new services that are not near business centers when it is cost effective to address a documented health threat

Note: Priority will not be assigned to infrastructure improvements that are necessary because of a lack of maintenance and repairs. Similarly, a priority may not be assigned if new service is proposed for an isolated neighborhood and there is no

documented health threat or the service is not cost effective given the number of households committed to benefit.

Community Enrichment

Funds Available: **\$3,000,000***

Grant Maximum: **\$500,000 (\$750,000 for streetscape projects)**

Grant Minimum: **\$50,000**

* Due to federal caps on public services/equipment, the number and amount of grants for this purpose may be limited. Also, planning grants are subject to a \$25,000 maximum with a potential waiver for infrastructure studies with adequate documentation.

Waivers of the grant maximum may be considered for large scale brownfield cleanup and building projects with significant number of beneficiaries (i.e. a county-wide health department or DSS facility). A written waiver request explaining the rationale must be submitted for consideration with the application request.

Outcome and Priorities

This program is designed to fund public facilities, services and other activities that strengthen existing communities and support a high quality of life within the following state priority areas:

- 1) Increasing economic competitiveness
- 2) Education and workforce development
- 3) Safe and healthy communities

Project investments will result in more sustainable development opportunities that contribute to the long term vitality of communities and business centers. Activities must have the broad support of citizens and local businesses. Buildings and brownfield sites should be owned by the local government. Long term financial viability of the facilities/services must be demonstrated to ensure that it does not add an undue, new operating burden on local taxpayers.

A variety of activities are eligible but consideration for funding will be based on state priorities listed below and in the Community Development Selection Criteria:

- First priority - Increasing Economic Competitiveness
 - ◆ Brownfield projects or demolition of obsolete buildings/structures
 - ◆ Downtown streetscape improvements where there is significant business activity and prior investment. Projects must include a plan for retail/small business support.
 - ◆ Planning by professional engineers and architects for regional infrastructure, hazard mitigation, resiliency and sustainability for eligible public infrastructure and facilities, broadband, brownfields clean up and redevelopment or master drainage studies
- Second priority - Education and Workforce Development

- ◆ Libraries - library facilities or services (fixed or mobile) to provide expanded library services or computer equipment with broadband capability to enhance skills training and education
- ◆ Publically owned facilities (except operating school facilities) that offer extended educational opportunities for adult literacy, or serve at risk LMI children or youth
- ◆ Transportation-oriented public facilities or services to serve LMI workforce populations
- Third priority - Safe and Healthy Communities
 - ◆ Public safety facilities and services in LMI areas - police substations or other public improvements designed to address crime prevention
 - ◆ Demolition of vacant, dilapidated residential structures to address and support crime prevention efforts in targeted LMI neighborhoods
 - ◆ Fire substations or fire trucks serving existing stations in LMI residential areas that provide significant improvement in service for in town locations or near business centers
 - ◆ Health clinic facilities or equipment in underserved areas or multi-service centers for health or related social services
 - ◆ Public facilities modifications to ensure accessibility for disabled persons or for energy efficiency improvements for CDBG eligible public facilities that will significantly reduce operating burdens and promote sustainability (i.e., replacing windows, upgrading HVAC, etc.)
 - ◆ New sidewalks/pathways in LMI area where there is a demonstrated need for safe neighborhood foot travel and connectivity to goods or services.

Equipment for public service activities must be for new or expanded services and generally associated with a significant capital investment in facilities. Only major pieces of equipment that have a durable life of five years will be considered for funding.

Neighborhood Revitalization Program

Funds Available: **\$1,000,000**

Grant Maximum: **\$500,000 (\$750,000 if project includes infrastructure activities)**

Grant Minimum: **\$50,000**

Outcome and Priorities

This program is primarily designed to assist in the development of sustainable communities through revitalization of in-town residential neighborhoods. Projects must incorporate comprehensive strategies for linking commercial revitalization successes with improvements to neighborhoods that are generally adjacent to downtown or business centers. Such neighborhoods should be within walking distance to downtown or business centers (typically no more than a ½ mile from the downtown or business center). Neighborhoods where significant CDBG and/or other

funds have previously been expended may not be appropriate for this program. A local government may address no more than one neighborhood at a time.

Neighborhood revitalization can involve a phased program of planning and implementation that may be funded with CDBG and/or other funds. A locally funded neighborhood revitalization plan (or previously CDBG-funded Village Renaissance plan) is a pre-requisite to implementation funding, and the plan must be submitted to GA with the application request for Neighborhood Revitalization implementation funding. The plan should identify community needs, prioritize activities designed to comprehensively revitalize the neighborhood with CDBG and other funds, and set out a realistic plan for implementation of CDBG eligible and other activities in two possible consecutive implementation phases.

Neighborhood Revitalization Plan

The applicant must submit an acceptable comprehensive revitalization plan for the targeted neighborhood that involves neighborhood residents in identifying needs and solutions. Plan elements must include but are not limited to:

- Comprehensive needs assessment (qualitative and quantitative) and prioritization:
 - ◆ Land use and housing existing conditions
 - ◆ Infrastructure and public facilities existing conditions
 - ◆ Public safety and services (police, fire, health, education)
- Comprehensive strategies for revitalization that guide investments to achieve the following outcomes:
 - ◆ Improve neighborhood involvement and interaction
 - ◆ Provide safety and neighborhood pride
 - ◆ Address infrastructure and public facilities needs
 - ◆ Identify in fill housing opportunities
 - ◆ Improve physical appearance and property values
 - ◆ Promote sustainability and conservation
- Specific actions to prepare for implementation of revitalization strategies:
 - ◆ Cost estimates for CDBG eligible activities and other planned activities
 - ◆ Analysis of acquisition requirements
 - ◆ LMI survey determination for individual activities, as needed
 - ◆ Code enforcement ordinance or other locally adopted and enforceable procedures as appropriate
 - ◆ Anti-displacement and relocation plan, as appropriate
- Maps illustrating existing conditions, problems and proposed solutions

- Roles and responsibilities – neighborhood and local government involvement and commitment in planning and implementation
- Time frame for implementation of all strategies, including phased activities

The plan must be submitted to GA for approval with the application for Neighborhood Revitalization implementation funding.

Implementation Phases

Implementation of comprehensive neighborhood revitalization must involve multiple activities including a public safety component. Activities to be undertaken must be justified and described in the plan. Such activities should be prioritized to address basic infrastructure and safety first and, where feasible, geographically concentrated within the target area in order to make the greatest impact. Eligible activities may include:

- Infrastructure - water, sewer, roads, drainage
- Public facilities - sidewalks, security lighting and cameras, police or fire substations, technology, multi-service centers designed to address crime risk factors, walking trails, green space, landscaping
- Housing - infrastructure or other activities to support affordable or workforce housing; limited exterior only improvements including facades, minor repairs, energy efficiency improvements, handicap accessibility
- Demolition and clearance of vacant and dilapidated properties
- Public services - crime watch program, drug or gang education, awareness or prevention programs. (Services are limited to 15% of the CDBG project activity costs, must be new or expanded services, and applicant must commit to continue such services after the grant is closed without creating an operating burden on the local government.)

All implementation phases will be competitively selected with no guarantee of funding and must comply with applicable program threshold and citizen participation requirements for each funding phase.

Consideration for funding will be based on state priorities listed below and in the Community Development Selection Criteria:

- First Priority
 - Projects located adjacent to a downtown with significant business activity

- Second Priority
 - Projects located in town or near business centers
- Third Priority
 - Projects located in unincorporated areas that would impact economic competitiveness

Special Projects and Public Services Program

Funds Available: **\$1,000,000**

Grant Maximum: **\$250,000***

Grant Minimum: **\$50,000**

Outcome and Priorities

This program is designed to meet community development needs that are not typically funded through the other Community Development programs or one of the other HUD partner programs. These funds will be used for alternative grant activities and partnerships that meet the community development needs of eligible municipalities. Special projects could include historic preservation, innovation, energy conservation, parks, and trails/greenways. New or expanded public service activities are also eligible. Projects should have significant leveraging, impact and community support while meeting a National Objective and all other requirements. *Due to federal caps on public services, the number and amount of grants for public services out of this program may be limited.

A variety of activities are eligible but consideration for funding will be based on state priorities listed below and in the Community Development Selection Criteria:

- First Priority
 - ◆ Projects that impact economic development or increase economic competitiveness.
- Second Priority
 - ◆ Projects that address public health and safety or improve the long-term sustainability of the community.
- Third Priority
 - ◆ Projects that address energy conservation or historic preservation (provided use/re-use is eligible)

Ready to Go Program

Funds Available: \$600,000

Grant Maximum: \$500,000*

Grant Minimum: \$50,000

* Waivers of the grant maximum will be considered for infrastructure projects based on whether the project addresses an urgent and compelling need, regional solution, or system-wide improvements (i.e., treatment plant), as well as the extent of leveraging and a reasonable CDBG cost (generally \$10,000 per household or less). A written waiver request explaining the rationale must be submitted for consideration with the application request.

Outcome

This program is designed to stimulate the local economy by addressing urgent or compelling community needs, encouraging the timely implementation of CDBG eligible projects, and being cost effective. The project requires an upfront investment of local and other funds for planning, project design and permitting that is substantially equivalent to the required 10% local match.

The project must be an eligible public facility improvement under the Community Infrastructure or Community Enrichment program. All required project activities leading up to bidding must be complete prior to submission of the application including but not limited to: project design, environmental review, acquisition and permits. CDBG funds may only be used for construction or demolition. Brownfields projects may be considered if significant upfront investment of local funds has been made and all other program requirements are met (including voluntary clean up contract (VCC) with DHEC and local government ownership). Local and other funds must be used for pre-bid activities and will count toward the match requirements of the program. Projects must be advertised for bid within 60 days of grant award.

Applications will be accepted on an ongoing basis and funding will occur throughout the year, based on funding availability, when all application documentation has been received. No grant award will be made until evidence is submitted that all pre-bid activities are complete. Projects will be reviewed using the non-comparative scoring factors as listed in the Community Development Program Selection Criteria section. The project must obtain a minimum score of 150 points to be considered eligible for funding. In the event there are more eligible applications submitted during the same time than funds available, the highest scoring eligible projects will be funded. Application requests that do not meet all program requirements may be considered in the appropriate competitive program.

In the event of a state or federally declared disaster, applications for eligible public facilities and infrastructure that are not ready to go will be considered, and eligible local governments will be notified of the availability of funds. Application requests will be accepted on a first come, first served basis. Projects will be reviewed using the non comparative scoring factors as listed in the Community Development Program Selection Criteria section. The project must obtain a minimum score of 150 points to be considered eligible for funding. In the event there are more eligible applications submitted during the same time than funds available, the highest scoring eligible projects will be funded.

Community Development Program Requirements

A unit of local government, filing individually or as a lead applicant, may submit only one application per Community Development Program category. Depending on the program, a Community Development Program project may consist of one primary activity and associated activities as appropriate and necessary to implement the primary activity in one or more eligible target areas, or a project may consist of multiple activities which address priority needs in one defined LMI neighborhood or target area.

The grant award limits for each category may be waived at the discretion of Grants Administration in order to provide the level of assistance required where other resources are not reasonably available to the unit of local government to address the need in a timely manner or where Grants Administration determines the amount is necessary and appropriate to achieve the State's CDBG Program objectives.

Performance Threshold

As a performance-based incentive, a unit of local government can apply for an additional Community Development grant if it has no more than two open CDBG grants (excluding Business Development or Regional Planning grants). However, the open grants must not have exceeded a 30 month grant period.

Additionally, a grantee may only have one open Neighborhood Revitalization or streetscape project.

For threshold purposes, a grant is considered open if it is not programmatically closed at the time of application submission. The applicant must submit a request for waiver prior to or with the application request. At the discretion of Grants Administration, a performance threshold waiver may be considered only for the following reasons:

- There is an urgent or compelling need for immediate assistance, such as an imminent health threat to the public or a state or federally declared disaster, or
- It is determined that lack of performance on an open grant is due to unavoidable circumstances or conditions beyond the control of the local government. If problems are determined to be administrative, the local government may be allowed to apply if a different grant administrator is responsible for the new application/project.

A unit of local government may not apply for Community Development funds if it has any open grant which has not been programmatically closed due to the local government's lack of compliance with significant programmatic or financial requirements of the program. A grant may not be awarded to a local government which has a serious, outstanding audit or monitoring finding involving the potential for significant monetary restitution or non-responsiveness on any previously funded CDBG grant.

Local Match/Leveraging

CDBG projects are expected to leverage other public and private investments and serve as a catalyst for future development. Projects that traditionally have the greatest long term impact are those that have an investment by the community. Leveraging of CDBG funds is also considered a scoring factor in the selection of projects for funding.

There must be a 10% match of the total CDBG request, unless otherwise approved, which can come from a variety of committed sources including other, non-Commerce grants, loans, waiver of fees, public or private investments, and documented volunteer or in-kind contributions.

Any fees for low and moderate income hook up/connection to public water and sewer must be waived or paid with non-CDBG funds, and may be considered part of the local match requirement. The required match must be for activity costs directly related to the CDBG project. The state must approve in advance any proposed match (except application preparation or environmental review costs) that has been spent prior to application submission for all projects except Ready to Go. With prior written approval, the match may be used for acquisition, engineering design or permitting prior to the submission of the application. This is encouraged so that projects are construction ready.

The match requirement may be modified or waived by Grants Administration upon written request and after consideration of the following minimum factors: the nature of the project, the need being addressed, local financial capacity and the availability of other resources. Grants Administration may request financial and other information as may be needed to make a determination. It is unlikely that a 100% waiver will be approved since match can come from a variety of sources.

Selection Process

Grants Administration will review all of the applications it receives for completeness and eligibility of activities under federal and state guidelines. Applications will also be reviewed based on the following factors to determine fundability and feasibility of the project:

- Appropriateness of the technical design given the size and resources of the community and the complexity of the problem
- Project is ready to start

Applications that are incomplete or contain significant problems, deficiencies or discrepancies, such that a determination of the viability or fundability of the project cannot be readily determined, will not be considered and will be returned to the applicant. Projects which are locally controversial will not be considered feasible until the controversy is satisfactorily resolved. Clarifications to the application which are requested by Grants Administration must be submitted within the timeframe specified and must be acceptable to Grants Administration. Failure to adequately respond within the timeframe may result in the application being returned to the applicant or GA may reduce or eliminate questioned activities.

An on-site review of the proposed project may be conducted as necessary to verify information in the application. Upon completion of the feasibility and fundability review, applications will be evaluated and scored based on the Selection Criteria below.

Community Distress**5%**

- (All projects) Projects will be assigned a score from highest to lowest based on location in one of the Distressed county designations, as defined by the SC Department of Revenue for the purpose of determining Job Tax Credits
 - ◆ Tier III and IV (Distressed and Least Developed) Counties = 3
 - ◆ Tier II (Moderately Developed) Counties = 2
 - ◆ Tier I (Developed) Counties = 1

Severity of the Problem**10%**

- Degree that public health and safety is affected, if applicable, and
- Degree facilities/services are currently serving the community and the adequacy of the facilities/services, as applicable
 - ◆ Severe need = 3
 - ◆ Moderate need = 2
 - ◆ Slight need = 1

Citizen Participation**5%**

- Outreach efforts to low and moderate income citizens and racial, ethnic and special population concentrations,
- Needs assessment is comprehensive and solicited from broad community,
- Project is top 3 priority need unless otherwise justified,
- Public hearings held according to requirements,
- Participation in hearings by broad community, and
- Local leadership, businesses and residents are committed to the project and there is no evidence of controversy or disagreement

Scores based on review of above factors:

- ◆ All requirements met and significant additional efforts and participation = 3
- ◆ Above minimum effort but additional effort or participation limited = 2
- ◆ Minimum requirements met = 1

Level of Effort**5%**

- Return on CDBG investment ratio compared to all projects
 - ◆ Rank ordered and assigned points in logical increments

Feasibility**15%**

- Effective project planning addresses all aspects of project and outcomes are achievable
 - ◆ Long term, viable solution to the problem
 - ◆ Past efforts to solve problem and develop plans for implementation, and
 - ◆ Alternatives considered and best solution being implemented, and
 - ◆ Cost estimates current, appear reasonable based on need, impact and benefit, all necessary costs included, and

- ◆ All project resources are available in a timely manner, and
- ◆ Project is eligible and all qualifying households determined and committed

Scores based on review of above factors:

- ◆ Effective project planning and ability to achieve outcome with resources available in a timely manner = 3
- ◆ Some concerns which impact ability to achieve outcome in a timely manner = 2
- ◆ Significant issues which impact ability to achieve outcome in a timely manner = 1

Readiness to Proceed

5%

- Readiness to proceed with project if awarded
 - ◆ Environmental review submitted to GA
 - ◆ Engineer/Architect selected
 - ◆ Design complete

Scores based on review of above factors:

- ◆ One point will be assigned for each of the above activities completed, up to a maximum of three points

Cost/Benefit

5%

- CDBG cost/benefit ratio compared to all projects
 - ◆ Rank ordered and assigned points in logical increments

Beneficiaries

5%

- Total persons benefiting (**2.5%**)
 - ◆ Rank ordered and assigned points in logical increments
- LMI % benefiting (to be scored regardless of the national objective) (**2.5%**)
 - ◆ 100-85 = 3
 - ◆ 84-65 = 2
 - ◆ 64-51 = 1

Outcome

20%

- Implements a comprehensive plan for revitalization or development
- Provides new or improved access to public services or facilities
- Supports healthy and safe neighborhoods and community
- Contributes to overall community sustainability- economically or environmentally
- Acts as stimulus for additional investments

Scores based on review of above factors:

- ◆ Significant Impact = 3
- ◆ Moderate Impact = 2
- ◆ Lower Impact = 1

Project Sustainability

5%

- Extent to which improvements can be maintained without creating new, undue tax burdens
 - ◆ Infrastructure operating revenues as measured by annual rate per 6,000 gal / median household income for applicant
 - ◆ Rank ordered and assigned points in logical increments
 - ◆ Budgets and market studies indicate ability to sustain improvements and does not result in new, undue operating burden

Scores based on review of above factors:

- ◆ Ability to maintain documented = 3
- ◆ Some ability = 2
- ◆ Limited ability = 1

State Priorities

10%

- Extent to which project proposes to address identified state priorities as listed under each program category.

Community Infrastructure, Community Enrichment, Neighborhood Revitalization, Special Projects:

- ◆ First priority projects = 3
- ◆ Second priority projects = 2
- ◆ Third priority projects = 1

Ready to Go priorities will be based on Community Infrastructure or Community Enrichment priorities, as applicable.

Capacity

10%

First time applicant or previous recipient with grants closed over three years will receive maximum points.

Previous applicants - Performance on grants in last three years:

- Compliance with program requirements (monitoring and match commitment) **(3%)**
 - ◆ All requirements met on all applicable grants = 3
 - ◆ Requirements are generally met (minor issues) on all grants = 2
 - ◆ Significant requirements not met on 1 or more grants = 1
- Achieved program benefits **(3%)**
 - ◆ Total and LMI benefit numbers exceeded or on target for all grants = 3
 - ◆ Benefit reduced by 10% or less = 2
 - ◆ Benefit reduced more than 10% = 1

- Timely completion of projects **(3%)**
 - ◆ All projects completed within 24 months = 3
 - ◆ All projects completed within 30 months = 2
 - ◆ All projects completed within 3 years = 1
- Timely submission of reports and information **(1%)**
 - ◆ All information submitted within required timeframes = 3
 - ◆ Average of less than 30 days late = 2
 - ◆ Average exceeds 30 days = 1

Opportunity Zone Bonus Points 10 points

Projects located in Opportunity Zones will receive an additional 10 bonus points. For more information about SC Opportunity Zones, and to verify the location in an Opportunity Zone, go to [www.http://scoportunityzone.com/](http://scoportunityzone.com/)

Applications will be scored against those submitted in the same program. For example, Community Infrastructure applications will be compared and scored against each other. The Selection Criteria will be rated and assigned a score from 1 to 3 where 3 = the best response, 2 = average, and 1 = less than satisfactory. Zero points may be awarded to a criterion if minimum program requirements are not addressed. The point assignment will be multiplied by the weight of each criterion to obtain a score. There is a maximum score of 300 points.

Grants Administration may utilize the expertise of other appropriate State agencies, such as the SC Department of Health and Environmental Control, the SC Budget and Control Board's Division of Local Governments, or the State Housing and Finance Development Authority in making a determination regarding the above factors. Grants Administration may request additional information from the applicant or other sources as necessary to evaluate the application and proposed project. Grants Administration reserves the right to negotiate or require changes in activities or funding in order to achieve program objectives. For water and sewer projects, the State may require that rates be adjusted to appropriate levels to ensure adequate funding for operation and maintenance or to facilitate borrowing a portion of project costs if such rate increases are reasonable and appropriate.

In the event of a tie where there are more applications under consideration for funding than there are funds available, preference will be given first to those applications addressing the highest state priorities and second, to those with the highest Outcome score. If there continues to be a tie the one that benefits the most LMI persons will be funded. The highest scoring projects determined to be fundable will be recommended to the Secretary of the SC Department of Commerce, or his designee, for funding based on the amount of funds available. Projects generally should score at least 175 points to be considered for funding but such projects are not guaranteed funding. The Secretary, or his designee, will make final funding determinations based on a review of the projects utilizing the selection criteria and that best meet Department objectives.

Grants Administration may make commitments for funding from future rounds, or any additional allocations, reallocations, recaptured or remaining funds, to projects from this program year which

are determined by the Secretary, or his designee, to meet Department objectives. Grants Administration may also make a commitment to a project and/or partially fund a project (i.e. for ERR, acquisition, engineering) that scores sufficiently but is not ready due to design, environmental or funding issues. Funding may come from this program year, reallocated or recaptured funds, or be contingent on future years' funding.

APPLICATION PROCESS

The CDBG program is a flexible tool to address many community and economic development needs, particularly for low and moderate income persons. Units of local government may apply for funding through the program categories that were presented in the previous sections. All of the Community Development Programs are competitive and there are always more applications than funds available. Therefore, it is extremely important for a local government to make a strong case for its project and follow the application procedures.

To assist in understanding the application process for the competitive CDBG programs, we have provided a flow chart outlining the steps necessary to successfully develop a proposal for funding. As indicated on the chart, there are five basic phases of application development:

- Determining Community Needs,
- Project Identification and Assessment,
- Project Development,
- Applying for Funding, and
- Project Selection.

Basic elements of each phase are presented on the chart, with greater detail on each phase in the sections following.

Community Development Application Process Flowchart

Phase One: Determine Community Needs

Develop a Citizen Participation Plan

- ◆ Identify citizens and organizations that can provide assistance, guidance, and input into the needs assessment and application process.
- ◆ Solicit input from broad community and conduct outreach to LMI persons.
- ◆ Research, analyze and compile documentation on community development needs, including obstacles to community competitiveness.
- ◆
- ◆ Hold Needs Assessment Public Hearing
- ◆ Publicize and conduct needs assessment public hearing with assistance of citizens and other partners.
- ◆ Prioritize needs.
- ◆ Prepare needs assessment document.

Phase Two: Project Identification

Evaluate Priority Needs

- ◆ Determine the most appropriate project to achieve the desired outcome.
- ◆ Identify a project based on needs assessment.
- ◆ Review any existing plans relevant to potential project.
- ◆ Determine if project is feasible under CDBG. Is it an eligible activity and will it meet a national objective?
- ◆ Discuss potential project with Grants Administration and obtain technical assistance.
- ◆ Seek collaborative partners.

Phase Three: Project Development

Request Application from Grants Administration

- ◆ Compile documentation for meeting a national objective.
- ◆ Identify proposed project service area and beneficiaries or customers.
- ◆ Conduct household income surveys or analyze census data.
- ◆ Compile documentation indicating market conditions/need for project (distressed Conditions of community, DHEC letters, preliminary engineering report, etc.).
- ◆ Determine how the project will work.
- ◆ Analyze potential project design and feasibility issues that must be addressed.
- ◆ Develop cost estimates and preliminary budget.
- ◆ Submit application request by the deadline.

Phase Four: Apply for CDBG Funding

Complete the Project Proposal

- ◆ Publicize and conduct public hearing on proposed application.
- ◆ Document citizen participation efforts.
- ◆ Obtain local match resolution and partner commitments.
- ◆ Make sure all project selection criteria have been addressed in the application.
- ◆ Complete final proposal requirements and obtain local official signatures for certifications.
- ◆ Submit proposal to Grants Administration.

Phase Five: Project Selection Process

Projects Evaluated by Grants Administration

- ◆ Grants Administration conducts feasibility review.
- ◆ Applicant responds to Grants Administration questions.
- ◆ Grants Administration may conduct site visit with appropriate local staff and persons familiar with project details (grant administrator, engineer, rehabilitation inspector, etc.).
- ◆ If grant is awarded, return signed grant award to initiate project.
- ◆ If grant is not awarded, contact Grants Administration and obtain technical assistance.

PHASE ONE: DETERMINE COMMUNITY NEEDS

The process begins locally with the involvement and participation of citizens, businesses, non-profit organizations, and community leaders. Through public hearings and input from the broad community, especially low and moderate income persons, the community determines its needs, specifies which needs are obstacles to competitiveness, and develops priorities for addressing those needs. The needs assessment should cover a broad range of community and economic development needs, and should be specific about the location of needs (i.e., water and sewer system improvements needed in the Clark Street neighborhood).

Citizen Participation

It is important that the public have an opportunity to participate in the development and evaluation of CDBG projects. In fact, this is a requirement under the program regulations. The citizen participation information included in these Application Guidelines comes directly from the *CDBG Implementation Manual*.

Each locality, prior to submission of any application for CDBG funds, must certify that it has developed a Citizen Participation (CP) Plan. The CP Plan is a document prepared by the locality that describes the process the community will follow to involve the public in the CDBG program. As part of this process, each locality is also required to hold public hearings at certain stages of the process to obtain public input on community development needs and proposed CDBG activities.

Prior to submission of a CDBG application a locality must accomplish the following steps to involve citizens:

- 1) Develop a Citizen Participation Plan. Advertise its availability for review to the public. This may be done in conjunction with the needs assessment public hearings.
- 2) Solicit input from local officials, businesses, organizations and citizens on the housing, economic and community development needs of the community, particularly those of low and moderate income and minority persons.
- 3) Advertise or post a notice and hold one or more public hearings to present the identified needs and to solicit public input and comment on the needs.
- 4) Develop a written needs assessment which details the specific housing, economic and community development needs and priorities, including the needs of low and moderate income persons, and the activities to be undertaken to meet such needs.
- 5) Develop a CDBG application for one of the highest, eligible, priority community needs identified in the needs assessment. A copy of the needs assessment and the public hearing minutes must be included with the CDBG applications for the Community Development program.

- 6) Advertise or post a notice and hold a public hearing on the proposed CDBG application to solicit public input on the proposed activities.
- 7) Maintain records of all citizen participation efforts including notices, advertisements for hearings, logs, minutes and the written needs assessment for five years and make these available to the public and to Grants Administration, as requested.

Citizen Participation Plan

A community's CP Plan, including the public hearing components, must meet the requirements for citizen participation found in Section 104 (a)(2) and (a)(3) of Title I of the Housing and Community Development Act of 1974, as amended, 24 CFR Part 570.486 of the State CDBG Regulations, and the State Consolidated Plan Regulations at 24 CFR Part 91. These regulations can be found in the CDBG Reference Manual.

The following guidelines have been developed to assist localities in developing CP Plans. These guidelines set forth the basic elements that must be included in a community's CP Plan. Localities may expand upon these basic elements with any additional provisions that are consistent with the requirements of Title I.

- **The locality will make its written CP Plan available for public review.** This must be accomplished by either conducting a public hearing or by making the CP Plan available for public review at a location convenient to residents of the jurisdiction. (See the Attachments for a sample notice for each of the two options.)
- **Every year, or prior to the development of any application for CDBG funding, the community will assess its community development, economic development, and housing needs, particularly those of low and moderate income residents.** This process is called a needs assessment.
 - ◆ The CP Plan must also provide for citizen participation in the determination of community needs by stating that the results of the needs assessment will be presented at one or more public hearings and that citizen comment will be considered.
 - ◆ When the Community Needs Assessment is presented at a public hearing, the community will also present information concerning the CDBG program, including the amount of CDBG funds available, State funding guidelines, and the range of activities that may be undertaken with such funds, particularly in relation to identified community needs.
- **All notices of public hearings will be published in specified newspaper(s) of general local circulation at least seven days prior to any public hearing.** Additional information on notices is provided in the next section.
- **The locality must describe in its CP Plan other methods, in addition to notices in newspapers, by which the community will encourage participation by the residents of slum and blighted areas and areas where CDBG activities are proposed.**
 - ◆ Possible methods might include requesting appropriate community leaders and agencies to inform their constituents (ministers, council members, community action

agencies, newspaper editors, etc.), distributing notices in low and moderate income neighborhoods (particularly in potential project target areas), posting of notices at post offices and neighborhood businesses, and radio and television announcements.

- **All public meetings concerning the CDBG program must be held at times and locations convenient to citizens, particularly to those who are the potential or actual beneficiaries.** In addition, the location of such meetings will be accessible to the disabled or the announcement of such meetings will indicate that assistance will be provided to accommodate the special needs of disabled persons. It may be appropriate to request advance notice of special needs so that they can be met.
- **Technical assistance will be provided to groups that represent LMI persons that request such assistance in developing proposals for CDBG funding.** The unit of general local government must specify the type and level of assistance to be provided. As a condition of providing technical assistance, the local government may require that the activities to be addressed in a proposal be consistent with identified community development and housing needs and State CDBG Program guidelines, that CDBG funds be available for funding such activities as may be involved, and that the governing body of the local government may require approval for providing technical assistance.
- **The local government must consider for funding any proposals developed by representatives of LMI persons who follow all of the requirements for public participation.** However, the determination to submit the proposal to the State for funding consideration is the prerogative of the local elected officials since the submission of any CDBG application requires approval by the governing body of the community.
- **The CP Plan must identify how the needs of residents with Limited English Proficiency (LEP) will be met for public hearings and other activities where a significant number of such individuals can be reasonably expected to participate.** LEP persons are persons with a limited ability to read, write, speak, or understand English. Reasonable steps must be undertaken to ensure meaningful access to programs and activities. HUD suggests that an assessment be conducted to determine a reasonable level of program outreach to be provided to LEP persons weighing the following four factors:
 - 1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the grantee/program;
 - 2) The frequency with which LEP persons come in contact with the program;
 - 3) The nature and importance of the program, activity, or service provided to LEP persons; and
 - 4) The resources available to the grantee and costs. The capacity of small jurisdictions to provide comprehensive services may be limited but does not relieve them from compliance.

After completing the assessment, a recipient should include in its CP plan steps to be taken to address the identified needs of the LEP populations they serve including translations of vital documents and other outreach activities. At a minimum, the CP Plan should indicate that if five percent (or 1,000) of the potential or actual beneficiaries of a CDBG project are determined to be LEP, provisions will be made at the appropriate public hearings for oral

interpretation of comments and/or translation of appropriate documents into the native language of the majority of the LEP residents affected.

- **After the development of an application for a CDBG grant and prior to submission of the grant application, a public hearing will be held to review and solicit public comment on the proposed activities and to furnish citizens with information on the following:**
 - ◆ The amount of CDBG funds to be available,
 - ◆ The range of activities that may be undertaken,
 - ◆ The amount of funds to benefit low and moderate income persons,
 - ◆ The proposed activities which are likely to result in displacement, and
 - ◆ The local government's anti-displacement and relocation plans.

This hearing must be conducted according to the CP Plan and held no sooner than seven days following the needs assessment public hearing. (See *Public Hearings* section below for more information.)

- **Prior to making any substantial change in a CDBG-funded project, the locality will hold one or more public hearings to inform its citizens, particularly those who might be affected, of the proposed change and solicit public comment.** Any substantial change in the project as described in the approved application will require submission of evidence that a public hearing was held prior to Grants Administration approval.
- **The CP Plan must provide for a timely, written answer to written complaints and grievances, within fifteen working days** (where practical). The CP Plan must state the name, address and phone number of the person to whom written grievances are to be delivered and the procedures by which grievances will be handled, including any appeal process.
 - ◆ The CP Plan must provide that, prior to any response to a written grievance which involves State law or policy, State CDBG program guidelines, or Federal regulations governing the CDBG program, the community will provide the written grievance and its proposed response to Grants Administration for review and approval of the response. The CP Plan must also provide for the appeal of any written grievance to Grants Administration; however, the CP Plan must state that Grants Administration will deny those appeals which involve the consistent application of the community's local program policies. The CP Plan should also indicate that after the appeal process has been exhausted, the complainant may seek relief in the appropriate court of law.
- **The locality will conduct one or more public hearings to review program performance and accomplishments.** At least one public hearing must be held when all activities are completed and prior to Grants Administration closing the grant. (Additional information on public hearings is provided below.)
- **Citizens will be provided with reasonable access to records concerning any project undertaken with CDBG funds.** The CP Plan must show the times and location where such information may be reviewed and any conditions, such as whether a written request is required.

- ◆ Note: Confidential information normally protected under the State and Federal Freedom of Information Act (FOIA) Laws may not be made available for public review. For example, data concerning personal or business financial statements, earnings or sources of income.

Public Hearings and Notices

Localities are required to hold public hearings at certain stages of the process, as outlined below:

- Public Hearing on the CP Plan – This hearing is optional as localities are allowed to instead make the plan available for review at a location convenient to residents of the jurisdiction without holding a public hearing. If the recipient chooses to hold a public hearing on its CP Plan, it may do so in conjunction with the needs assessment public hearing (discussed below). If a locality is developing a CP Plan for the first time, or is amending its CP Plan, and chooses not to hold a public hearing, the Notice of CDBG CP Plan Available for Review must be published no less than seven days prior to the date of the needs assessment public hearing.
- Needs Assessment Public Hearing – This hearing is required at least once every twelve months (or prior to submission of an application) to discuss and receive feedback on housing, community and economic development needs. As stated previously, it may be held at the same time as the hearing on the CP Plan or it may be held separately. This public hearing should be held at a central location (i.e. county building) and not in a planned project target area.
- Public Hearing Concerning Application for CDBG Funds – This hearing is required prior to submission of the application for CDBG funds to inform the public of the proposed CDBG activities. The locality must allow at least seven days following the needs assessment hearing before holding a public hearing concerning application for CDBG funds. In addition, it should not be advertised prior to the date of the needs assessment public hearing because that could limit participation and interest.

Posting and Publishing Notices of Public Hearings

All notices of public hearings must be published in an appropriate section in a specified newspaper of general local circulation at least seven days (not including publication date) prior to any public hearing.

- Such notices may not be printed in the legal section of the newspaper.
- The notices should include a statement regarding the recipients' policy of non-discrimination.

In the event there is no newspaper of general circulation serving the jurisdiction of the locality undertaking such activities (particularly in small towns), it is acceptable to post the notices for 10 days (not including the date of posting) prior to the date of the public hearing. Suitable locations for posting include, but are not limited to:

- Municipal and county buildings accessible to the general public,
- Post offices,
- Libraries,
- Health departments,
- Department of Social Services offices, and
- Local establishments frequented by area residents.

In addition to the required newspaper notice for the public hearing, the locality should make reasonable efforts to inform citizens who may be affected by a CDBG project, but who might not be reached through formal newspaper notices. Such efforts might include the distribution of leaflets or notices to local organizations or churches, or the posting of notices in places likely to be seen by citizens who might be affected by a CDBG project. Also, it is recommended that television and radio announcements be incorporated into outreach efforts. Examples of notices of public hearings are included in the *Attachments* to these guidelines.

Additional Requirements

The following additional requirements apply to public hearings:

- Minutes of the public hearing should be taken, including the names and addresses of persons attending, a summary of information presented, and comments by local officials and citizens.
- Localities must maintain files including the before-mentioned attendance records, summaries of comments, the originals of the "affidavit of publication" for any notice placed in a newspaper and copies of notices published or newspaper tear sheets in order to meet CDBG program recordkeeping and monitoring requirements.
- The public notice for an application public hearing should not be published or posted before the needs assessment hearing is actually held. The purpose of a needs assessment hearing is to determine the needs of a locality and projects should not be chosen before a needs assessment hearing is held.

Community Development Needs Assessment

Each locality, prior to being considered for funding, must "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."

This Federal requirement is intended to involve the locality seeking CDBG funding in a basic planning process which will promote better coordinated strategies for addressing local needs, particularly the needs of low and moderate income persons. The level of collaboration among partners is one of the scoring criteria for CDBG applications.

An application for CDBG funds should include only those activities that address needs identified in the needs assessment process. A joint Needs Assessment and Citizen Participation Plan hearing may be held.

Prior to the submission of any application, the locality must have accomplished the following:

- Held one or more public hearings to obtain the views of citizens on community development, economic development and housing needs. (The activities that are to be undertaken to address these needs must be presented in a separate public hearing prior to the submission of the application.)
- Identified its community development and housing needs and priorities, including the needs of LMI persons, and the activities to be undertaken. The identification of local needs must be detailed in a written needs assessment document that includes, at a minimum, sections that describe:
 - ◆ **Outreach** - The procedures used to identify the community development needs and establish priorities and objectives, including efforts to encourage meaningful participation by local citizens, particularly those who are minority and/or of low and moderate income. The assessment must summarize the results of outreach efforts, participation results at hearings and the extent of participation in the needs assessment process by the broad community including local leadership, businesses, LMI groups and residents.
 - ◆ **Needs** - The locality's community development needs including the following minimum components: housing, infrastructure, public facilities, public safety, economic development, obstacles to economic competitiveness, workforce development and downtown and neighborhood revitalization. The assessment must specifically identify the needs of low and moderate income persons.
 - ◆ **Priorities and Planned Actions** – At a minimum, the plan should identify the community's top three priority needs and the locality's priorities for addressing the needs of low and moderate income persons. Additionally, the plan must specify the activities to be undertaken to meet the identified needs.
 - ◆ The activities considered for CDBG funding and the rationale for selecting the proposed priority projects and activities.

A community needs assessment is generally considered valid for twelve months if conducted in accordance with a CP Plan. If a public hearing for the needs assessment has been held within twelve months of the submission date, another need not be held prior to the development of an application.

The project proposed by the locality in its application does not have to be the highest priority community need, but should be included in the needs assessment. There are a number of reasons, which must be documented (including the eligibility of the project for CDBG funding or the availability of other, more appropriate local, State or Federal resources) which would justify submitting an application for other than the top ranked community need.

PHASE TWO: PROJECT IDENTIFICATION

From the needs assessment process, the community and partners specify the outcomes they will seek to address for the identified priority need. The needs assessment outlines project ideas that would contribute to improved competitiveness and quality of life. Participation from the community, customers, and partners ensures that there will be broad support and commitment to the success of the identified project. The community assesses the project and reviews any relevant plans and makes a preliminary determination of whether the project would be feasible to address using the CDBG program. Specifically: Is it an eligible activity? Does it meet a national objective? Is it a project that would most effectively achieve the desired outcome and could be documented to address the published CDBG project selection criteria?

Grants Administration staff can assist the community in making this determination. The staff is available to provide technical assistance to the community in developing the project and preparing the application.

PHASE THREE: PROJECT DEVELOPMENT

In this phase the local government requests an application and provides preliminary information on the project, its location, number of beneficiaries and costs.

This is the busiest time in the application process because it involves compiling the documentation necessary to show how the project is consistent with CDBG objectives and project selection criteria. It is necessary to meet with citizens in the community, engineers, public works directors, water and sewer providers, rehabilitation specialists, and others with knowledge about the project and how it will work. Collaboration with partners at this stage is a necessity for designing the most effective and efficient project possible. Partners contributing human, financial or organizational resources must be involved so that they are committed to the success of the project.

The project service area must be identified along with the project beneficiaries, or customers. In some cases, it may be necessary to conduct door-to-door surveys to determine if the beneficiaries qualify as being low and moderate income. (See *Meeting a National Objective* section below.) Evidence on the market conditions for the project must be gathered. Such documentation shows why the project is needed and may include previous studies, engineering reports, DHEC letters, testing results, etc.

Preliminary cost estimates and budgets must be developed. These are based on initial assessments for housing units in limited rehabilitation projects and preliminary engineering reports. There are cost limits on housing, rehabilitation personnel, public services, engineering, and administration. These CDBG program allowances, along with the maximum grant amount and other resources available, should be taken into consideration when developing a realistic budget.

Any potential project barriers or technical feasibility issues must also be addressed for the project to be successful. Some of these barriers might include: Is there enough time to conduct surveys? Are all funding sources available now? Has sufficient planning or a preliminary engineering report been done? Does the cost and technical design appropriately fit the level of documented need or is the project "over-designed"? Have alternative solutions been considered and a determination made about the most viable, long term solution? An early determination must be made to ensure the community will have all the necessary resources to implement the project, and if it can be completed in a timely manner, if funded. The community must understand its responsibilities if the project is funded (i.e. timeframe and regulatory compliance requirements).

Partners can also provide input on innovative methods of project delivery. Exposure to different ideas and perspectives will strengthen the project design. The experiences of those who have interests in the project can be a valuable resource in shaping the outcome. Partners would also contribute to project development by acknowledging any duplication of services or shortage of resources that may contribute to lessening the impact of the project.

Enough time to complete these tasks must be allotted prior to applying because the application would not otherwise be acceptable.

PHASE FOUR: APPLICATION DEVELOPMENT

Requesting an Application

Units of local government that are interested in applying for Community Development Programs must request an application from Grants Administration prior to the deadlines indicated below. (See the *Application Request Forms* in *Attachments*.) The request must contain:

- A brief, written description of the proposed project,
- The proposed number of beneficiaries and an estimate of the percentage of beneficiaries who are LMI (if appropriate),
- The project location and map,
- The service area,
- Total project costs,
- All funding sources,
- The amount of CDBG funds to be requested, and
- The proposed use of such funds.

Signed application request must be submitted by the chief elected or administrative official of the unit of local government by the application request due date. Application requests will be reviewed to determine whether the proposed project appears to meet eligibility, national objective and threshold requirements. Grants Administration may request a meeting with the potential applicant or conduct a site visit to determine eligibility and feasibility prior to mailing an application.

Application Requests are due for each of the following programs as listed below:

- | | |
|---|------------------------------|
| ■ Community Infrastructure: | March 14, 2022 at 5:00 p.m. |
| ■ Community Enrichment,
Neighborhood Revitalization,
and Special Projects: | August 15, 2022 at 5:00 p.m. |

Apply for Funding

Once most of the details are worked out on the project, the locality must complete the application and submit it to Grants Administration before the application deadline. If the community was not able to complete all of the tasks in Phase Three, a decision to continue to work on project development and apply in a future funding round may be better than a decision to submit a project

that is not carefully planned. If so, the local government should inform Grants Administration of its intentions to wait until a future funding cycle.

If the project is to be submitted, an application public hearing must be publicized and held to present the project plan and to obtain input from the public and from the citizens that will be affected. Since citizen involvement is critical throughout the process, the community should document all of its efforts. The next step is to obtain a resolution from the City/County Council for local match and to obtain written commitments for leveraging and other contributions from partners participating in the project. Although other funding beyond the leveraging requirement is not mandatory, the commitment of partners to achieving the outcome contributes to a successful project. In every project, all funding to complete the project should be secured prior to application submission. Any other supporting documentation (photographs, maps) necessary to address the project selection criteria and the program certifications should also be pulled together.

Once the details of the project have been pulled together, applicants must be able to define the proposed outcome that the project will achieve as well as performance targets that will be reached to complete the project. In order to determine the efficiency of project design and implementation, applicants also must be able to associate Measures with the primary activities that make up a project. A Measure is based on a unit-level output for an activity. For example, a primary activity would be new housing construction. The outputs of the housing activity would be the numbers of persons, LMI persons, and houses being constructed.

As part of designing an efficient and effective project that will most likely achieve the desired outcome, applicants will also develop a detailed budget. The budget will show sources and uses of funds and will be the basis for determining return on the CDBG investment. The return on investment is the ratio of CDBG dollars to other dollars being put into a project. The applicant provides more evidence of feasible project design by submitting a Work Plan. The Work Plan details the necessary tasks, the person or organization responsible for completing each task, and how long completion of each task will take. Preparing the Work Plan at the project proposal stage helps identify possible kinks in the project design and the resources necessary for each task.

Remember that the project will be reviewed and rated against other similar projects submitted from around the state, and the projects most likely to achieve the desired outcome in the most needy areas will be funded. We often suggest that another staff person review the application for content and errors, then review it against the scoring criteria before submitting the application to Grants Administration.

Meeting a National Objective

Before any activity can be funded in whole or in part with CDBG funds, a determination must be made as to whether the activity is eligible under Title I of the Housing and Community Development Act of 1974, as amended. Activities must also address at least one of the following three National Objectives of the CDBG Program:

- Benefit low and moderate income (LMI) persons,

- Aid in the prevention or elimination of slums or blight, or
- Meet other community development needs having a particular urgency, because existing conditions pose a serious and immediate threat to the health or welfare of the community and are of recent origin or recently became urgent, and where other financial resources are not reasonably available to meet such needs.

The total and LMI beneficiaries must be determined through census or survey, depending on the project location and type.

National Objective 1: Benefit to LMI Persons

The LMI National Objective is often referred to as the “primary” national objective in so far as the regulations require that Grants Administration expend 70% of its CDBG funds to meet this particular objective. Applicants must ensure that the activities proposed, when taken as a whole, will not benefit moderate income persons to the exclusion of low-income persons. Activities that benefit low and moderate income (LMI) persons are divided into four types:

- Area Benefit activities,
- Limited Clientele activities,
- Housing activities, and
- Job creation/retention activities. (See the *Business Development Assistance Program*.)

If qualifying a project based on primary benefit to LMI persons, do not “round up” the percent LMI if it is between 50.5% and 50.99%. The percent LMI must be 51% or greater.

Definition of “Low and Moderate Income Person”

The definition of low and moderate income (LMI) used in the State's CDBG program is the same as that in Title I of the Housing and Community Development Act, as amended. These income limits are to be used to qualify persons as eligible LMI beneficiaries of CDBG-assisted activities.

A LMI person is defined as a member of a family or household having an income that is less than or equal to:

- Non-metropolitan counties – 80 percent of the median family income for the county of residence, or, the statewide non-metropolitan area median family income (MFI), whichever is higher.
- Metropolitan counties – 80 percent of the entire Metropolitan Statistical Area (MSA) median family income.

On an annual basis, HUD provides Grants Administration with MFI figures for all counties and the metropolitan and non-metropolitan areas of the state. HUD also provides the dollar income amounts that are to be used to qualify a person as low and moderate income, based on family size and county. These “income limits” reflect the appropriate MFI, as defined above, and are posted on Grants Administration’s www.cdbgSC.com website as the data becomes available. These amounts for counties are adjusted for family size. (See *Income Limits* in the *Attachments*.)

HUD indicates that the updated MFI data will be released in December of each year. If these income limits are updated by HUD after an application is submitted to GA for consideration but prior to a grant award, the grant may be conditioned to require re-verification of LMI eligibility prior to release of funds. If a project is determined ineligible due to the updated income limits, the grant will be terminated.

The Consolidated Planning Regulations at 24 CFR Part 91 require the State to collect and report information on the number of extremely low, low, moderate and middle income persons served by each activity.

LMI Area Benefit Criteria

An Area Benefit activity is one whose benefits are available to all the residents in a particular service area, where at least 51 percent of the residents are LMI persons. For example, building a workforce training center in an LMI town could qualify as an Area Benefit activity. The benefits of this type of activity are available to all persons in the area regardless of income. The activity's service area does not need to be consistent with census tracts or other officially recognized boundaries, but must be the entire area served by the activity. Activities of the same type that serve different areas must be considered separately on the basis of their individual service area.

An activity that serves an area that is not primarily residential in character CANNOT qualify under the area benefit national objective.

In determining whether an activity will actually benefit LMI persons, the net effect of the completed activity is considered. The mere location of an activity in an LMI area does not conclusively demonstrate that the activity benefits LMI persons.

Examples of activities that may qualify as an Area Benefit activity include:

- Building a library that serves an LMI area,
- Providing drainage improvements in an LMI neighborhood, or
- Constructing a water tank that serves an LMI area.

Data establishing numbers and percentages of LMI persons in an area must be verifiable. Acceptable methods for establishing low and moderate income population in a particular area include:

- Census data provided by HUD, or
- Methodologically sound surveys.

Both methods are discussed below.

Census/ACS Data

When Census Bureau American Community Survey (ACS) data is used to establish the LMI percentage for a population, the appropriate source is a special HUD-generated tabulation of ACS data.

HUD provides estimates of the number of persons that can be considered Low (up to 50 percent of the Area Median Income), Moderate Income (greater than 50 percent AMI and up to 80 percent AMI), and Medium Income (greater than 80 percent AMI and up to 120 AMI). Only the Low and Moderate Income brackets are considered LMI for CDBG Purposes. And note that Low encompasses both the 0-30% and 30-50% LMI income brackets. Collectively HUD refers to this data as Low and Moderate Income Summary Data, or LMISD.

HUD bases its LMISD or Low Mod estimates on special tabulations of data from specified ACS 5-Year Estimates. The LMI percentages are calculated at various principal geographies provided by the U.S. Census Bureau, including:

- Census Tract-Block Groups,
- Local governments or incorporated cities, towns and other census designated “places”.
- In the HUD LMISD data files, these geographies are identified by their Federal Information Processing Standards (FIPS) codes and names for the place, consolidated city, or block group, county subdivision, county, and state.

As new HUD Low Mod estimates become available, Grants Administration will begin posting these on the cdbgSC.com website, filtered for SC local governments and Census Tracts and Block groups in South Carolina.

Information regarding the LMI Estimates and the most current version of the estimates themselves can be downloaded from the HUD Exchange website:

<https://www.hudexchange.info/programs/acs-low-mod-summary-data/>

If the proposed activity’s service area is generally the same as a census place (town, city or county), a census tract or block group, then HUD data may be able to be used to justify the income characteristics of the area served.

Contact GA for technical assistance before trying to qualify a project based on census tract or block group data. If the service area is not generally the same as a census tract or block group, then an applicant should conduct household surveys to determine the LMI percentage for the service area. HUD LMI income limits by family size are updated each year by HUD and posted on Grants Administration’s website at www.cdbgSC.com as available.

If HUD data does not indicate the service area contains at least 51 percent LMI persons, and if an applicant has a compelling reason to believe the data is incorrect based on a change in either population or income of the area since the last Census, then an applicant may conduct household income surveys to update the data. However, if the service area is a census place (city or town) the applicant should submit its justification to GA for approval prior to undertaking a jurisdiction-wide survey.

Survey Data

An applicant may conduct a methodologically sound income survey to establish the LMI status of households or families in a CDBG project area. HUD Notice CPD 14-013 describes the process for conducting surveys, and HUD Notice CPD 19-02 explains a new policy about the accuracy of surveys conducted pursuant to CPD Notice 14-013. Surveys must be consistent with HUD guidance and “at least as good as the ACS” in terms of confidence level and margin of error. Consult Grants Administration if considering requesting approval for surveys of less than 100% of the target area population. The discussion below focuses on 100% surveys.

Grants Administration has generally required a door-to-door survey of 100% of the target area be conducted. Any alternate methodology must be consistent with HUD CPD Notices 19-02 and 14-013 and must be approved in advance. Both CPD 14-013 and 19-02 are included in the *Attachments* to Chapter 13 on National Objectives.

Grants Administration has developed sample income survey forms, included in the *Attachments* to these Guidelines that communities are encouraged to use. Applicants may utilize their own survey as long as it contains, at a minimum, the questions contained in the Grants Administration survey. Applicants are reminded to obtain street addresses or locations instead of post office boxes where an address is indicated on the survey forms.

A copy of the survey instrument should be included in the CDBG application along with an explanation of the methodology used. The survey results must be reported on Grants Administration’s Summary of Survey Results Form included in the application.

When the 100% door-to-door survey method is used, the applicant may only claim benefit to LMI persons based on actual survey results, not by extrapolation. For example: a target area contains 100 families. The applicant conducts a survey and obtains results from 80 families who respond to the survey. The results show that 75 of the 80 families surveyed are LMI. The applicant may correctly say that 75 percent (75 of the 100 families) of the target area is LMI. The applicant may not say that 94 percent (75 of 80 families) is LMI, since the incomes of the 20 non-surveyed families are unknown. To determine project eligibility, all housing units/persons within the target area must be included in the survey results, including habitable vacant units. When family size or income is unknown or if the unit is vacant, households/families must be counted as non-LMI. Only occupied unit beneficiaries should be listed in the application narrative and on the Target Plan.

Surveys are generally good for three years, absent any changes to the area or to the income limits. Updates may be required for projects with direct benefit activities (i.e. water/sewer service lines on private property). If HUD income limits change prior to a grant award, survey results must be updated and verified. Completed surveys must be kept on hand and available for review by Grants Administration.

LMI Limited Clientele Criteria

A Limited Clientele activity benefits a specific group of people (rather than all the residents in a particular area), at least 51 percent of who are LMI persons. For example, a transportation service for severely disabled adults to obtain health care could be a Limited Clientele activity. However, the following kinds of activities do not generally qualify under this category:

- Activities where the benefits are available to all the residents of an area.
- Activities involving the acquisition, construction, or rehabilitation of property for housing.
- Activities where the benefit to LMI persons is the creation or retention of jobs (except for certain microenterprise and job training activities as described below).

To qualify under Limited Clientele criteria, the activity must meet one or more of the following tests:

- **Benefit a clientele generally presumed to consist principally of LMI persons**, provided there is no evidence to the contrary. The only groups that are in the presumed category are:
 - ◆ Abused children,
 - ◆ Elderly persons (62 and older),
 - ◆ Battered spouses,
 - ◆ Homeless persons,
 - ◆ Severely disabled adults (as defined by the Census),
 - ◆ Illiterate adults,
 - ◆ Persons living with AIDS, and
 - ◆ Migrant farm workers.
- Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the appropriate LMI limit.
- Have income eligibility requirements that limit the activity exclusively to LMI persons.
- Be of such a nature and in such a location that it may be concluded the activity's clientele will primarily be LMI persons (e.g., a job training facility located within a public housing complex).

Other special circumstances and how they are treated under this national objective category include:

- Special projects to remove material and architectural barriers that restrict the mobility and accessibility of elderly or disabled persons to publicly and privately-owned nonresidential buildings, facilities and improvements and the common area of residential structures containing more than one dwelling unit.

- A microenterprise assistance activity (a microenterprise consists of five or fewer employees including the owner), but only with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity who are actually LMI persons. For microenterprise purposes, persons determined to be LMI may be presumed to continue to qualify as such for up to a three-year period. Refer to Chapter 6 of the *CDBG Implementation Manual* for more information on microenterprise programs.
- An activity providing job training, placement and/or other employment support services (including but not limited to, peer support programs, counseling, child care, transportation, and other similar services), in which the percentage of LMI persons assisted is less than 51 percent, may qualify under the Limited Clientele criteria in the following limited circumstances:
 - ◆ In such cases where training or provision of supportive services is an integrally-related component of a larger project, the only use of CDBG assistance for the project is to provide the job training and/or supportive services.
 - ◆ The proportion of the total cost of the project borne by CDBG funds is not greater than the proportion of the total number of persons assisted who are LMI.

LMI Housing Criteria

An LMI Housing activity is one carried out for the purpose of providing or improving permanent, residential structures that will be occupied by LMI households upon completion. This would include, but not necessarily be limited to, the acquisition or rehabilitation of residential property, conversion of nonresidential property to residential, and new housing construction (under limited circumstances). Water and sewer connections on private property are also considered to be a housing rehabilitation activity (See Chapter 7 of the *CDBG Implementation Manual*).

Housing units can be either owner or renter-occupied in either one family or multi-family structures. Rental units occupied by LMI persons must be occupied at affordable rents as defined by Grants Administration.

Occupancy of housing shall be based on the household income of occupants using the following rules:

- Not less than 100 percent of the single-family units rehabilitated in a designated target area or in scattered sites must be occupied by LMI households after rehabilitation.
- If the structure contains two dwelling units, at least one must be occupied by LMI.
- For multi-unit structures that contain more than two dwelling units, at least 51 percent of the units must be occupied by LMI households after rehabilitation. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure.

- Where CDBG funds are used to assist rehabilitation delivery services the funds shall be considered to benefit LMI where not less than 51 percent of the units assisted are for LMI persons.
- An activity designed to reduce the development cost of new construction of a multi-family, non-elderly rental project may be considered to benefit LMI households if:
 - ◆ Not less than 20 percent of the units will be occupied by LMI households at affordable rents, and
 - ◆ The CDBG proportion of the total costs of developing the project is not greater than the proportion of units to be occupied by low and moderate income persons.

Documentation of Income for Housing Activities

Income eligibility for the beneficiaries of an LMI Housing activity is established through a thorough examination of household income (as opposed to family income). Therefore, the incomes of all persons (related and unrelated) living in the CDBG-assisted housing unit must be considered, and the total household income must be within the income limit (for that household's size) established by HUD at the time of the housing assistance.

LMI Job Creation/Retention

A Job Creation/Retention activity is one that creates or retains permanent jobs, 51 percent of which are held by persons from low and moderate income families. Jobs indirectly created by an assisted activity (i.e., "trickle-down" jobs) may not be counted.

- For job creation activities, the local government and the assisted business(es) must document that permanent jobs have been created, and that at least 51 percent of the jobs, computed on a full time equivalent (FTE) basis, have been filled by low and moderate income persons.
- For job retention activities, the local government must document that the jobs would actually be lost without the CDBG assistance, and that either or both of the following conditions apply with respect to at least 51 percent of the jobs:
 - ◆ The job is known to be held by a low and moderate income person; or
 - ◆ The job can reasonably be expected to turn over within the following two years and that it will be filled by an LMI person upon turnover.

Job Creation Requirements

A written commitment to hire or retain LMI persons must be obtained for each assisted business. The business must also provide a hiring plan which details the number of jobs to be created, the number of jobs held or to be filled by LMI persons, the type of job, average wage, any special skills or training required, the timetable for hiring, and whether or not health care will be provided for the position. The plan must indicate who will be responsible for hiring and collecting required data and for any training to be provided. Generally, it is expected that initial hiring by the business

will be completed within twenty-four (24) months from the time of the assistance. Projections for future expansions or growth are generally not considered for purposes of determining the number of jobs to be created.

The job commitment should be realistic in determining the total number of jobs, the number of jobs to be filled by LMI persons and the timeframe for hiring.

- Grants Administration uses the commitment letter to qualify the proposed project under HUD regulations and will monitor the hiring to verify that job commitments have been fulfilled.
- Failure to comply with the requirement to benefit at least 51 percent LMI persons could result in the State requiring repayment of all or a portion of CDBG funds spent on the project.

Grants Administration staff must meet with appropriate representatives of the business to discuss hiring commitments, LMI job requirements and documentation prior to CDBG funds being awarded. These meetings are coordinated with the state employment services and Technical Schools representatives (if appropriate), the project administrator and appropriate local officials.

Job Retention Requirements

For projects proposing the retention of jobs that would otherwise be lost without CDBG assistance, at least 51 percent of the jobs to be retained must be held by persons from low and moderate-income families. HUD requires that there be clear, objective evidence and documentation that jobs would be lost without the CDBG assistance; therefore, using job retention as a basis for meeting the LMI National Objective is difficult. Consequently, in the past, few projects have qualified as benefiting LMI through job retention.

The business should track its employees by position, such that the LMI status of the employee in that position can be determined. Documentation is easier if employees live in, or the job and business is located in, certain high poverty areas. See the section below for more information.

Presumption Criteria

The level of documentation required for demonstrating benefit to LMI persons when using the Job Creation/Retention National Objective is significantly reduced for businesses located in areas meeting certain poverty levels and for employees living in those areas. The current regulations allow for a person to be presumed LMI under certain circumstances.

A presumption can be made about a person's LMI status (only for job creation/retention activities) if either:

- The person filling the job resides within a census tract that either has at least 70 percent of its residents who are LMI or meets the criteria listed below.

- The assisted business and the job under consideration is to be located within a census tract that is part of a Federally-designated Empowerment Zone or Enterprise Community or meets the following requirements:
 - ◆ Has a poverty rate of at least 20 percent (as determined by the most recently available decennial census information and does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30 percent as determined by the most recently available decennial census information); **and**
 - ◆ It evidences pervasive poverty and general distress by meeting at least one of the following standards:
 - All block groups in the census tract have poverty rates of at least 20 percent;
 - The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or
 - Upon written request, Grants Administration and HUD determine that the census tract exhibits other objectively determinable signs of general distress such as high incidents of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

Contact Grants Administration for a listing of census tracts and block groups qualifying on the basis of poverty and LMI percentage.

Generally, the presumption must be made at the time a CDBG application is submitted and cannot be used retroactively. Once the presumption is made, all of the jobs will be presumed to be filled by low and moderate income persons. At the application stage, the business must submit a commitment letter and hiring plan identifying the number of jobs to be filled during the initial hiring phase.

National Objective 2: Elimination or Prevention of Slums and Blight

Area Basis

To qualify under this national objective on an area basis, an activity must meet the following:

- The area must be designated by the applicant and must meet the definition of a slum, blighted, deteriorated, or deteriorating area under local law. A sample ordinance for units of local government to adopt defining slum and blighted areas is included in the *Attachments* to these Guidelines. A sample resolution for a local government to use to declare a specific area as slum/blighted is also included in the *Attachments*. Both are required and must be re-determined every ten years for continued qualification.
- Public improvements are in a general state of deterioration throughout the designated area,
OR

- There are a substantial number of deteriorated or deteriorating buildings throughout the designated area.

At least 25 percent of properties throughout the area must have one or more of the following conditions:

 - Physical deterioration of buildings or improvements;
 - Abandonment of properties;
 - Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;
 - Significant declines in property values or abnormally low property values relative to other areas in the community; or
 - Known or suspected environmental contamination.
- Each deteriorated building must be considered substandard under local code. All deficiencies making such a building substandard and a blighting influence must be corrected before less critical work on the building may be undertaken. The unit of local government must develop minimum standards for building quality that take into account local conditions.

Spot Basis

To qualify under this national objective on a spot basis, an activity must be designed to eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area and be limited to the following activities:

- Acquisition
 - ◆ If acquisition or relocation is undertaken, it must be a precursor to other activities (funded with CDBG or other resources) that directly eliminates the specific conditions of blight or physical decay.
- Clearance
- Relocation
- Historic preservation
- Rehabilitation of buildings
 - ◆ Only allowable to the extent necessary to eliminate specific conditions detrimental to public health and safety.

The State can approve no more than 30 percent of its funds for activities that address the Slum/Blight National Objective according to requirements of Title I of the Housing and Community Development Act.

National Objective 3: Urgent Need

Use of this national objective category is extremely rare. It is designed only for activities that alleviate emergency conditions. Urgent Need activities must meet the following qualifying criteria:

- The existing conditions must pose a serious and immediate threat to the health or welfare of the community,
- The existing conditions are of recent origin or recently became urgent (generally, within the past 18 months),
- The recipient is unable to finance the activity on its own, and
- Other sources of funding are not available.

Additional National Objective Considerations

Public Facilities/Infrastructure

In any case where the activity undertaken is a public improvement and the activity is clearly designed to serve a primarily residential area, the activity must meet the LMI Area Benefit criteria, whether or not the requirements for job creation/retention are also met, in order to qualify as benefiting low and moderate income persons. Because it is required that all low and moderate income persons be connected to water/sewer infrastructure at no cost, an infrastructure project must meet the 51% LMI area benefit test for persons and households.

Acquisition

Qualifying an acquisition activity under one of the CDBG National Objectives depends entirely on the use of the acquired real property following its acquisition. A preliminary determination of compliance may be based on the planned use. The final determination must be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisition is for the purpose of clearance that will eliminate specific conditions of blight or physical decay, the clearance activity may be considered the actual use of the property. However, any subsequent use or disposition of the property must be treated as a “change of use” under CDBG regulations. These requirements are for any real property, acquired or improved, in whole or in part, using CDBG funds in excess of \$150,000. If property is to be acquired for a general purpose, such as housing or economic development, and the actual specific project is not yet identified, the grant recipient must document the general use it intends for the property, the national objective category it expects will be met, and make a written commitment to use the property consistent with CDBG requirements.

Relocation

Where CDBG funds are used for required relocation assistance, the relocation assistance is considered to address the same national objective as is addressed by the displacing activity. Where

the relocation assistance is voluntary, the applicant may qualify the assistance either on the basis of the national objective addressed by the displacing activity or, if the relocation assistance is to low and moderate income persons, on the basis of benefiting low and moderate income persons.

Downtown/Commercial or Essential Goods and Services Projects

To qualify under the LMI Area Benefit National Objective, the service area for downtown or commercial area revitalization projects must be primarily residential in nature and have at least 51% low and moderate income residents. These types of projects may also qualify as LMI Job Creation/Retention.

If assistance is provided to one or more businesses, then the project **may** qualify under LMI Area benefit if the service area is primarily residential, and is 51% low and moderate income. There must also be documentation that the business is providing essential goods and services to that service area population. Goods and services might include grocery stores, dry cleaners, pharmacies, health care, etc. A high end boutique or souvenir shop would not be considered as providing essential goods and services. Assistance to a local business providing essential goods and services may also qualify as a Job Creation/Retention activity that must comply with the requirements as specified in this section of the Application Guidelines.

Documenting National Objectives and Program Benefits

LMI Area Benefit Activities

The following documentation of program benefit is required with the application for all CDBG-funded activities that are carried out under the LMI Area Benefit National Objective:

- A map showing the boundaries of the service area.
- A summary of income characteristics of all families and unrelated individuals in the service area, obtained from the Census or from survey data.
- If Census data is used, maps indicating the service area in comparison to Census block groups or Census tract boundaries.
- If a survey is used, a copy of the survey instrument (completed individual survey forms are not typically required, though they may be requested), documentation of the number of families surveyed and evidence that the survey was methodologically sound.
- Documentation of occupancy and income characteristics of all families and unrelated individuals receiving CDBG assistance for special assessments.

LMI Limited Clientele

The following documentation of program benefit is required with the application for all CDBG-funded activities that are carried out under the LMI Limited Clientele National Objective:

- Documentation showing the activity is used by a segment of the population presumed by HUD to be LMI persons (e.g., elderly, illiterate adults).

- Documentation showing that at least 51 percent of the clientele of the facility or service will be LMI persons.
- Documentation that the facility or service will be used exclusively by LMI persons.
- Documentation describing how the nature and/or the location of the activity establish that it will be used primarily by LMI persons.
- Documentation that the owner of the microenterprise or person developing the microenterprise is LMI.
- Documentation that the job training or other employment support service is integrally-related component of a larger project that does not involve CDBG funding or documentation that the percentage CDBG cost is not greater than the percentage of LMI persons assisted.

LMI Housing

The following documentation of program benefit is required with the application for all CDBG-funded activities that are carried out under the LMI Housing National Objective:

- For each unit to be assisted, the size and income of the occupant household.
- A copy of a written agreement with each developer receiving CDBG assistance committing the total number of dwelling units in each single family unit or multi-family structure assisted and the number of those units which will be occupied by LMI households after the assistance.
- For rental housing, a description of how the affordability of units occupied by LMI households pursuant to criteria established by Grants Administration will be ensured.
- For each property acquired on which there are no structures, evidence of commitments ensuring the above criteria will be met when the structures are built and occupied.
- Where applicable, records documenting that the activity qualifies under special conditions regarding the new construction of non-elderly, multi-family housing.

LMI Job Creation/Retention

The following documentation of program benefit is required with the application for all CDBG-funded activities that are carried out under the LMI Job Creation/Retention National Objective. Recipients are required to verify job creation/retention on-site on a quarterly basis.

Job Creation

- For an activity that creates jobs, the unit of general local government must document that at least 51 percent of the jobs will be for LMI persons.
- Documentation for each assisted business must include a copy of a written commitment by each business that at least 51% of the jobs created (full-time or full time equivalent) will be held by LMI persons. The business must also provide a hiring plan which details the number of jobs to be created, the number of jobs estimated to be filled by LMI persons, the

types of jobs, any special skills or training required, the timetable for hiring and whether or not healthcare will be provided for each type of position. The plan must indicate who will be responsible for hiring and collecting required data and for any training to be provided.

Job Retention

- Clear and objective evidence that permanent jobs would be lost without CDBG assistance. This may include such evidence as a notice to employees, a public announcement by the business, or relevant financial records.
- A written commitment from the business to comply with the CDBG requirements for employment of 51% LMI persons.
- For each business assisted, a listing by job title of all full time and part-time, permanent jobs to be retained indicating which are held by LMI persons at the time the application is prepared.
- Where applicable, identification of any of the retained jobs (other than those known to be held by LMI persons) which are projected to become available to LMI persons through job turnover within two years of the time CDBG assistance is provided. (Information upon which the job turnover projections were based should also be provided.)
- For each retained job claimed to be held by an LMI person, information on the size and annual income of the person's immediate family.

Slum/Blight

The following documentation of program benefit is required with the application for all CDBG-funded activities that are carried out under the Slum/Blight National Objective:

Area Basis

- A resolution and ordinance from the applicant governing body designating the area as slum and blighted, providing a description of the conditions which qualified the area at the time of designation and providing a description of how the conditions contributed to the area's deterioration.
- A map and description of the boundaries of the designated area showing the location of all buildings and public improvements that are deteriorated.
- Inventory and detailed description documenting that public improvements are in a general state of deterioration. Deterioration of a single element of infrastructure, such as a road or a sidewalk, does not meet this criterion.
- Inventory and detailed description of all buildings in the target area and their condition. Include the total number of buildings, the type of buildings, and the percentage of buildings that are deteriorated in the area as well as vacancy rates.
- Evidence that the activity being proposed for CDBG assistance addresses one or more of the conditions that contributed to the deterioration of the area.

Spot Basis

- A building inspection report or other evidence that describes the specific condition of slum or blight and how the activity to be assisted with CDBG funds will eliminate the blighted condition.
- For rehabilitation, a description of how the assistance will be limited to the items necessary to eliminate specific conditions detrimental to the public health and safety.

Urgent Need

The following documentation of program benefit is required with the application for all CDBG-funded activities that are carried out under the Urgent Need National Objective:

- Evidence of the seriousness and immediacy of the threat, such as an official declaration by a state or federal official (e.g., DHEC has declared the area an imminent threat or a disaster, such as flood or hurricane, has been declared by the Governor).
- Evidence that the condition developed or became critical within 18 months preceding the application.
- Evidence that financial or other resources or funds are not reasonably available to meet such needs.

Developing Project Design

Under the State's Community Development Program, local recipients may utilize CDBG funds to undertake a variety of public facilities and infrastructure improvement projects. Communities may also undertake more comprehensive programs involving neighborhood or commercial revitalization that include infrastructure and/or public facilities activities as part of those projects.

CDBG can be a resource to strengthen and improve communities, to make them more livable and sustainable. In light of shrinking resources, it is necessary to target investments on a few priorities and strategies. These strategies emphasize preparing for the future:

- Re-focus by targeting strategic investments
- Revitalize existing communities through a comprehensive approach
- Re-invest in existing infrastructure/facilities through upgrades, modernization, renovation
- Renew by implementing sustainable solutions
- Re-energize through community/volunteer involvement

Sustainability is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It involves economic and environmental resources and social equity.

Sustainable development is environmentally sensitive, economically viable, and community-oriented. It is similar to European villages where development is compact and concentrated around the village market. There is a mix of residential and commercial within walking distance. Farmland and open space is protected. These types of communities possess the following characteristics:

- Attractive communities with strong sense of place
- Mix of land uses
- Open space and natural areas are preserved
- Range of housing opportunities and choices
- Walkable neighborhoods
- Development directed toward existing communities/infrastructure
- Compact and green building design
- Community and stakeholder collaboration

To ensure the economic vitality of communities, it is necessary to support and improve existing business centers. By building on assets, improving the physical design and appearance, providing basic infrastructure services that protect the health and safety of residents and guide a more compact development, communities can build and retain a quality of life that is sustainable.

Workforce development is an essential ingredient to successful economic development. It is an investment in the human infrastructure. It is a commitment to the state's best resource- people. The provision of skills training and problem solving techniques will benefit the workforce and allow people to compete for higher paying jobs. Educational excellence leads to innovation and creativity and this builds opportunities for community and economic development.

Regional solutions support planning and development in conjunction with your neighbors. There are economies of scale and efficiencies that can be gained by working together and consolidating resources to be more sustainable.

Although communities face many challenges, there is no one size fits all solution. Communities should develop a plan and get the entire community involved. They must seek partners, include the business community, and engage a corps of volunteers to help. Communities must also be willing to invest in themselves first in order to solve problems and create a new future. But with limited resources, it is necessary to prioritize and target expenditures, and leverage resources so that they serve as a catalyst for future investment. Communities should plan carefully so that they carry out their plans in a timely manner and do not create unexpected new tax burdens for its citizens.

The project activities presented below provide guidance on developing projects that will help achieve these outcomes. The full ranges of activities are listed in Section 105(a) of Title I of the Housing and Community Development Act, as amended. The list is included in the *Eligible Activities* section of the *Attachments*.

Infrastructure Improvement Projects

Infrastructure projects typically include the construction, rehabilitation or extension of publicly owned water, sewer, streets, or drainage improvements. These improvements may be undertaken to benefit residents of an area, or may be carried out for the purpose of economic development. Grants Administration encourages communities to evaluate regional alternatives to providing water and sewer service to its residents where such alternatives are cost effective and appropriate.

The Environmental Protection Agency (EPA) recently adopted smart growth policies with a focus on making infrastructure more sustainable. With so many communities contending with aging facilities, EPA encourages states to give greater priority to infrastructure upgrades in existing communities versus serving new developments that have very few people or that may fuel unplanned growth or sprawl.

CDBG grant funds should not be used to supplant local funds or to cause user rates to be maintained at levels that are not viable. Rates should be adequate to provide funding for necessary capital improvements, operations and maintenance. The rates and user fee structure for water and sewer systems should demonstrate an adequate level of local effort. Rates are considered feasible if the annual user fee is 1% or more of the area median income. Systems should generate sufficient revenues to cover operations and maintenance and some level of repair and capital improvement. Grants Administration reserves the right to reduce grant amounts in a proportional manner for improvements to existing facilities where rates are lower than the amount considered feasible. Grants Administration may request such information as necessary to make a determination of financial viability and local level of support as it relates to a proposed CDBG project.

A preliminary engineering cost estimate and report are generally required to be submitted with an application to document the extent of need and capacity of the existing and proposed infrastructure. Additionally, preliminary planning should be done to determine the number, estimated cost and location of any required easements or property for facilities.

Infrastructure activities that are not based on job creation/retention should be undertaken in primarily residential LMI areas. Because it is required that all low and moderate income persons be connected at no cost, an infrastructure project must meet the 51% LMI area benefit test for persons and households.

The most feasible projects serve neighborhoods that are densely populated and do not include a high number of vacant units or undeveloped property. For new services to be considered a feasible investment, at least 70% of all homeowners should be committed to connect to the system once installed. It is required that signed user agreements/commitments be obtained prior to submission of the application in order to demonstrate need/demand and feasibility. Vacant, habitable units must be counted in the total units as non-LMI units. Vacant units that are not habitable do not have to be counted in the total but the applicant must have evidence that the unit is uninhabitable. In the event that individual streets within a service area contain a significant percentage of vacant or uncommitted units, Grants Administration may require that such streets be assisted with local or other funds. If water, sewer, or drainage lines are being installed, typically all residents along the line must be counted as beneficiaries. For a system-wide improvement, such as a water tank or a

waste water treatment plant, all residents in the service area must be counted as beneficiaries. The service area must be justified and clearly defined in the application. Sometimes a water tank may serve residents inside and outside of the town limits. Improvements to drainage systems, pump lift stations, trunk outfall lines, tanks, or treatment plants may not benefit the entire system, town, or neighborhood. Residents directly served may need to be determined by an engineer, and all appropriate residents included in beneficiary numbers.

If CDBG funds are used to provide water or sewer service to an area outside municipal limits, a municipality may not require an area to be annexed as a condition of receiving the water or sewer. It must also show a compelling reason for going outside its county/municipal boundaries. The capacity of water/sewer systems may only be designed to meet regulatory requirements for the intended beneficiaries. Any excess capacity must be paid with non-CDBG funds, but may be counted toward local match requirements. Any contracts must be bid for CDBG eligible activities, with non-CDBG eligible activities (such as for excess capacity) included as alternates or additional cost items in the bid.

While upgrades to an eligible area are allowed where the service area is eligible, projects to primarily repair or maintain water/sewer facilities or components are not permitted. Replacement of facilities may be considered an upgrade if there is an increase in the size or capacity, or when sufficient justification is approved. Evidence may include the type of materials and age of facilities versus intended useful life, documentation that an increase in size is not necessary, significant, reasonable increases in efficiency and capacity will be made, etc. A PER will be required to document existing conditions and the extent of improvements beyond maintenance and repair. Equipment for operation and maintenance is not eligible for CDBG assistance.

The local government should pay for cleaning and inspection services (CCTV) as part of a system evaluation survey (SES) to determine the type, extent and location of improvements needed prior to requesting a CDBG application. Such expenses are eligible as local match. CDBG funds may not be used for exploratory TV inspections or maintenance cleaning. It is permissible to include TV services in a construction contract to remove and properly dispose of any internal debris or obstructions that would interfere with cured in place pipe (CIPP) techniques or to determine where to cut holes in liners for service re-connection.

CDBG funds may be used for connection costs in the right of way for LMI and non-LMI occupied residential units only. CDBG funds may not be used to connect non-residential or vacant units. Stub outs for future residential or non-residential units or vacant units may not be paid with CDBG funds. New service lines (on private property) may only be installed for LMI households with CDBG funds, as this is considered rehabilitation of private property.

CDBG funds may only be used for hard construction and installation costs (including meters in the right-of-way), and not to pay any water or sewer connection, impact or capacity fees. Any associated fees for low and moderate income hook up/connection to public water and sewer must be waived or paid with non-CDBG funds, and may be considered part of the local match requirement.

Impact and capacity fees are not eligible to be paid with CDBG funds, partly because they are providing funds for future, undefined public improvements and there is no way of telling whether

the use of those CDBG funds would be for an improvement that would meet a national objective of the program. CDBG will allow waiver of such fees for LMI persons to count as local match.

Limited Rehabilitation

The installation of service/lateral lines on private property and connections is considered housing rehabilitation and is required for all housing units occupied by LMI households at no cost to the household.

LMI households that do not have any indoor plumbing (e.g., bathroom/kitchen plumbing facilities) must be connected to the system and provided with indoor plumbing facilities at no cost to the LMI household as part of a service line lateral project. This is referred to as Limited Housing Rehabilitation. *This requirement is not intended to provide bathroom or kitchen repairs, but is intended solely for those units that have no facilities.* Limited rehabilitation costs generally may not exceed \$10,000. Contact your grants manager for approval if costs are expected to exceed this amount.

A housing unit will not be brought up to a minimum housing code in its entirety; however, the work that is being performed should be done to the HQS or appropriate local codes and standards.

Renters Assisted With Infrastructure

For rental units to be connected to water/sewer, if an LMI tenant does not occupy a particular rental unit, the owner must pay for any connection or service line on private property.

For rental units or mobile home parks occupied by LMI tenants, the investor should pay for any connection or service line for private property. However, CDBG funds may pay these costs after the rental property owner enters into an agreement with the unit of local government to maintain affordable rents and rent to LMI households for at least one year. Refer to *Chapter 7 - Housing* of the *Implementation Manual* for affordable rental agreements and definitions.

Public Facilities Projects

Public facilities or community facilities are buildings that provide a variety of services for residents of a community. Such buildings may also include police and fire substations in LMI areas, libraries, health clinics, multi-service centers or workforce and education development facilities. Fire substations may be co-located with emergency medical services (EMS) if LMI service area requirements are met and there are no administrative offices. Applications for fire substations or trucks should include the most recent ISO analysis to document need, as well as an estimate of how the improvements will result in a positive change to the ISO rating. Multi-service centers should address three or more health, social and/or safety related programs within an eligible service area or serve an eligible clientele. Senior services within a multi-service center should only be incidental as centers are expected to serve a broader population.

These facilities should generally offer new or expanded services to everyone in the community or otherwise meet a national objective. Technology and green building techniques or energy efficiencies should be integrated into public facilities, where possible.

Under the CDBG regulations, the purchase of equipment or furnishings (e.g., tables, chairs and filing cabinets) for a public facility is not considered eligible. However, projects that involve the purchase of equipment may be eligible as a public service, under Section 105 (a) (8), as long as it is related to delivering a service to the community, such as public safety or job training services. This is discussed in the following section of these guidelines. The costs to *operate and maintain* public facilities are not eligible under CDBG, but the recipient must demonstrate that these funds are available at the time of application. CDBG will not support projects that create a new, undue operating burden on existing taxpayers. Proposed operating budgets and sources of funding for a five-year period are required with the application to Grants Administration.

City Halls, county administrative buildings or other facilities used for the legislative, judicial or general administrative affairs of government are NOT eligible for CDBG assistance. This also includes the local government's main police or fire stations where the chief and other administrative offices are located.

Prior to applying for CDBG assistance for a public facility, the applicant must determine the service area of the proposed facility. In order to meet a CDBG national objective, the facility must serve a residential area which consists of 51 percent LMI persons, or the facility must be designed to serve one of the Limited Clientele categories (i.e., severely disabled adults) allowed under the CDBG regulations. In determining the service area, the applicant must evaluate the location of other facilities in the vicinity and the services provided at such facilities in order to avoid duplication of facilities and/or services. For health facilities there must be documentation that the proposed service area is underserved with regard to health care based on DHEC or other similar documentation.

The next step is to determine what services and/or activities will be carried out in the facility. These services/activities must be identified in the CDBG application. The applicant must determine if the services/activities can result in a primary benefit to LMI persons. (An example of an ineligible benefit might be if a training program offered courses that would serve all residents in the county in a facility that is located in an LMI neighborhood. Simply because of its location, it cannot be assumed that only the neighborhood residents will benefit if the entire county can attend.) Some communities conduct surveys of area residents or hold public meetings to determine what services may be desired at a facility. Once the services/activities are identified, the community should obtain written commitments from any organizations or agencies that will be providing such activities/services in the facility. Please note that inherently religious services and some political activities are prohibited.

Local governments sometimes work with faith-based organizations on CDBG eligible facilities and services. CDBG assistance is limited to the portion of the facility where CDBG eligible activities are carried out and any religious activities must be conducted separately in time or location from CDBG funded facilities or activities. CDBG funds cannot be used for structures where religious activities are conducted, such as worship, or religious instruction. Sanctuaries, chapels or other rooms used by a religious congregation are ineligible for CDBG assistance. Further, CDBG beneficiaries may not be discriminated against on the basis of religion or religious beliefs.

Once the service area and the activities have been determined, the applicant must estimate the number of persons who will benefit from the project. Beneficiaries should include the number of persons that can reasonably be expected to be served by the facility. Beneficiaries should not be double counted (e.g., one individual might participate in several activities conducted at the facility but should only be counted once). Beneficiaries may be based on the number of persons currently receiving the services to be provided or may be estimated based on surveys, capacity of the building and other available information. The estimated number should be reasonable and based on an increase in service, if applicable. The number of beneficiaries to be served is generally expected to be met by close out.

When serving a specific low/moderate income population such as the unemployed, the family income of the users of the facility must be documented. Chapter 13 of the Implementation Manual contains a form entitled “Sample Local Income Survey Public Facilities Projects” which can be used for this purpose. For more information on income documentation, please refer to *Chapter 13*.

A public facility that is part of a multiple use building containing both eligible and ineligible uses may still be eligible for CDBG assistance if the eligible portion of the building:

- Meets CDBG guidelines;
- Will occupy a separate, designated area within the larger facility; and
- Costs attributable to the eligible portion can be determined as separate and distinct from the overall costs. Allowable CDBG costs are limited to those attributable to the eligible portion of the building.

In most circumstances, local governments must own public facilities because they are funded as public facilities under CDBG eligibility guidelines. Any alternative must be approved by Grants Administration. The use of Federal funds brings with it the requirement that the property must be protected. As a public facility, the local government ensures the ongoing operation and maintenance of the building for public use. Long term funding commitments and plans for financing the operation and maintenance of the building will be required to ensure the building will be used for the intended use and that ongoing operations are sustainable. It is generally expected that a facility will be used and maintained for its intended purpose for a minimum of twenty (20) years.

Additional requirements on the facility include:

- No encumbrances may be placed on the building, or on the land (if also owned by the non-profit organization).
- The building must be used only for the activity being funded and for the primary benefit of LMI persons, and cannot be used primarily for general office or administration space.
- The facility must be open to the public during normal business hours (generally forty hours per week). Exceptions may be granted for after school facilities that are normally open to the public for fewer hours, but grant amounts may also be reduced accordingly.

Residents and visitors may be charged fees for using such facilities, but the fees must be reasonable and not preclude or restrict low and moderate income persons from using the facility. User fees

which total more than \$35,000 annually are considered CDBG program income. Generally, applicants will be allowed to keep the program income if their program income plan (PIP) proposes that the income be used for continued operation and improvement of the building as a CDBG eligible public service. (See the *CDBG Implementation Manual* for more information on program income.)

For existing structures being rehabilitated or converted, the community must:

- Document if the building is of historic significance and whether there are environmental hazards that must be removed or abated (refer to the *Implementation Manual* for more information);
- Ensure that the structure meets all Section 504/ADA accessibility requirements; and
- When facilities include kitchen/food preparation areas, have the plans or specifications approved by the Department of Health and Environmental Control (DHEC).

Public Services

One of the outcomes of community revitalization is to provide healthy and safe communities. All CDBG revitalization activities must incorporate an anti-crime component or strategy.

The purpose of this strategy is to help rebuild and restructure communities that have suffered because of criminal activity and social decay. Strategies should be designed to prevent, control, and reduce crime, drug abuse, and gang activity in targeted high-crime neighborhoods and bring in services that promote crime prevention and neighborhood revitalization. It may involve a community based, multi-agency approach to address high crime neighborhoods and make them places where people are vested in restoring the community as a safe place to live and raise families.

A multi-agency approach may involve several components:

- 1) Law Enforcement – Criminal activities are reduced in the neighborhood by local law enforcement agencies. By reducing both crime and citizen fear, the residents living in the neighborhood will have a restored hope that the neighborhood can begin revitalization.
- 2) Community Policing – Two key concepts: community engagement and problem solving. Law officers establish an on-going dialogue with residents to solve crime and address the underlying causes of crime. They work to give residents a sense of responsibility within the community to solve the crime problem together with law enforcement. It includes programs such as crime watches, graffiti removal, and neighborhood cleanup days.
- 3) Prevention, Intervention and Treatment - The third component involves neighborhood efforts to promote a safe crime free area by eliminating risk factors that lead to crime and violence. Neighborhoods may have a multi-services center that provides various youth and adult oriented human services in a one-stop setting. Some of the activities may include childcare, after school programs, tutoring, recreation, parenting courses, drug prevention programs, substance abuse treatment, mental health services, family counseling, and medical care. Also included may be activities to encourage home ownership and credit counseling.

- 4) Neighborhood Restoration – Coordination of economic development and employment opportunities for residents, improvements to housing stock and the physical environment of the neighborhood which go hand in hand with other efforts to make the neighborhood a place where residents want to live. The restoration component involves public facilities, employment and job training, safe clean streets, home ownership opportunities, medical services, recreation, grocery stores and other local needs.

Public safety services carried out in conjunction with other CDBG activities will be limited to 15% of the total CDBG project activity costs. Generally, law enforcement vehicles are not eligible.

CDBG funded public service activities are only eligible for new or expanded services to residents, not just to continue or improve existing services. The unit of local government must commit to continue such services after the grant without creating a new, undue operating burden. Only major pieces of equipment that have a durable life of five years or more are eligible, and must be listed in the application.

As mentioned previously, some projects may involve the purchase of equipment or materials needed to provide training or technology, or other services to the community. The services may or may not be related to a public facility also funded with CDBG. Housing counseling may also be considered a public service activity.

As with all CDBG-funded activities, public services must meet a national objective. CDBG-funded public service activities are typically categorized under the LMI Benefit National Objective as either Area Benefit or Limited Clientele activities. The distinguishing factor between the two categories is whether the service will be offered to all residents of a particular LMI area or to a particular group of LMI residents in the entire community. Please refer to the *CDBG Implementation Manual, National Objectives Chapter* for more information.

HUD has placed restrictions on the amount of CDBG funds the State may use for public services. In order to meet this requirement, the State reserves the right to reduce the amount of funding approved for grantees proposing such activities.

Downtown Revitalization Projects

A downtown development or commercial revitalization project may only be conducted in areas with significant business activity and prior investments. The project must increase economic competitiveness by conserving or revitalizing commercial and downtown areas. These projects help to strengthen the local economy by stimulating business activity and development and improving the appearance and functioning of the downtown or commercial area. Revitalization projects should involve multiple activities and incorporate a component to address public safety. Eligible activities include public infrastructure improvements such as: streets, parking, sidewalks, lighting, streetscapes, and limited water/sewer (limited to 20% or less); and may also include acquisition, clearance, and other public facilities (except those for the general conduct of government). Additionally, such projects must include a market analysis for essential business goods and services for residents and plans to improve local economic conditions through retail/small business support, which can be paid for with CDBG funds.

The requirements discussed in the previous infrastructure subsection also apply to infrastructure activities undertaken as part of commercial revitalization projects.

Activities that are undertaken as part of downtown or neighborhood revitalization projects also must address one of the national objectives of the CDBG program. To qualify under the Low and Moderate Income Area Benefit National Objective, the service area must be residential and at least 51 percent low and moderate income based on HUD census data, or serve an area documented as at least 51% percent based on door-to-door income surveys. If the project is not designed to serve an area that is LMI but is instead based on job creation, it must assist a particular business(es) and the business(es) must commit to the creation of new jobs, 51% of which will be filled by low- and moderate-income persons. Other requirements may also apply to these types of projects. Contact Grants Administration for technical assistance in determining which national objective a project may qualify under and which additional program requirements may apply.

In addition, CDBG funded commercial or downtown projects must be part of an overall commercial or downtown revitalization strategy. The best projects involve the following components:

- There should be an active organization involved in the development and ongoing implementation of the commercial revitalization strategy.
- Projects should have the potential to leverage additional investment downtown.
- Projects should be a clearly identified component of a larger plan, i.e., a master plan, a strategic plan, or downtown/commercial plan.
- Projects should include a demonstrated public-private partnership at the local level.
- Projects should represent a commitment to historic preservation or represent unique community assets as noted in the comprehensive plan.

To accomplish their goals, a community may wish to follow the national model of the Main Street USA program or similar planning and organizational processes. The Four Points of the Main Street Program are:

- **Organization** involves getting everyone working toward the same goal and assembling the appropriate human and financial resources to implement a Main Street revitalization program. A governing board and standing committees make up the fundamental organizational structure of the volunteer-driven program. Volunteers are coordinated and supported by a paid program director as well. This structure not only divides the workload and clearly delineates responsibilities, but also builds consensus and cooperation among the various stakeholders.
- **Promotion** sells a positive image of the commercial district and encourages consumers and investors to live, work, shop, play and invest in the Main Street district. By marketing a district's unique characteristics to residents, investors, business owners, and visitors, an effective promotional strategy forges a positive image through advertising, retail promotional activity, special events, and marketing campaigns carried out by local volunteers. These activities improve consumer and investor confidence in the district and encourage commercial activity and investment in the area.

- **Design** means getting Main Street into top physical shape. Capitalizing on its best assets - such as historic buildings and pedestrian-oriented streets - is just part of the story. An inviting atmosphere, created through attractive window displays, parking areas, building improvements, street furniture, signs, sidewalks, street lights, and landscaping, conveys a positive visual message about the commercial district and what it has to offer. Design activities also include instilling good maintenance practices in the commercial district, enhancing the physical appearance of the commercial district by rehabilitating historic buildings, encouraging appropriate new construction, developing sensitive design management systems, and long-term planning.
- **Economic Restructuring** strengthens a community's existing economic assets while expanding and diversifying its economic base. The Main Street program helps sharpen the competitiveness of existing business owners and recruits compatible new businesses and new economic uses to build a commercial district that responds to today's consumers' needs. Converting unused or underused commercial space into economically productive property also helps boost the profitability of the district.

Downtown, commercial and neighborhood projects require that a community comprehensively work on all its opportunities, issues and problems. It requires a self-help approach as well as collaboration and involvement of business, government and the public.

Another tool for commercial revitalization projects is the South Carolina Community Development Law. The law authorizes the creation of a redevelopment commission and requires a redevelopment plan involving citizen participation. The law provides a framework for undertaking redevelopment activities in areas that have fallen into neglect and decay and for undertaking preventive measures in areas that appear to be in decline. Redevelopment of such areas under this law must be necessary for the public health, safety, morals or welfare of residents. The law also provides a means to use tax increment financing in redevelopment projects. Please refer to the state law for more information.

Neighborhood Revitalization

Neighborhoods that are safe, healthy and vibrant are the building blocks for sustainable communities. Smart growth concepts include a mix of affordable housing options within walking distance of work, stores, schools and services. They pay attention to details like physical appearance, sidewalks, lighting, and community facilities that encourage neighborhood pride and interaction. Development is planned so people can spend less time in their cars. Revitalization and improvement is focused on existing communities, so that outlying farmland and open space remain protected.

The core communities that are made up of downtown business centers and nearby neighborhoods constitute a valuable resource to build upon. The Main Street Program has been a successful model for revitalizing downtowns. The program's four point plan of action (as listed in the previous section) can be applied to these adjacent neighborhoods, which often suffer from low property values, deteriorating infrastructure, older housing and vacant properties. By linking neighborhoods with the local economy and undertaking revitalization strategies in both, it increases the sustainability of the community as a whole.

Neighborhoods should be within walking distance to downtown or business centers (typically no more than a ½ mile from the downtown or business center). Neighborhoods where significant CDBG and/or other funds have previously been expended may not be appropriate for a comprehensive program. A local government may address no more than one neighborhood at a time. There should be a comprehensive five year plan that involves neighborhood residents in identifying needs and solutions. Plan elements should include but are not limited to:

- Comprehensive needs assessment (qualitative and quantitative) and prioritization
 - ◆ Land use and housing existing conditions
 - ◆ Infrastructure and public facilities existing conditions
 - ◆ Public services (police, fire, health, education)
 - ◆ Inventory of vacant, dilapidated housing units
- Comprehensive strategies for revitalization that guide investments to achieve the following outcomes:
 - ◆ Improve neighborhood involvement and interaction
 - ◆ Provide safety and neighborhood pride
 - ◆ Address infrastructure and public facilities needs
 - ◆ Identify in fill housing opportunities
 - ◆ Improve physical appearance and property values
 - ◆ Promote sustainability and conservation
- Specific actions to prepare for implementation of revitalization strategies:
 - ◆ Cost estimates for CDBG eligible activities and other planned activities
 - ◆ Analysis of acquisition requirements
 - ◆ LMI survey determination for individual activities, as needed
 - ◆ Code enforcement ordinance or other locally adopted and enforceable procedures as appropriate
 - ◆ Anti-displacement and relocation plan, as appropriate
- Maps illustrating existing conditions, problems and proposed solutions
- Roles and responsibilities – neighborhood and local government involvement and commitment in planning and implementation
- Timeframe for implementation of all strategies, including phased implementation activities

Comprehensive neighborhood revitalization will involve multiple activities, including a public safety component. Activities should be prioritized to address basic infrastructure and safety first and, where feasible, geographically concentrated within the target area in order to make the greatest impact. Housing activities may be limited to no more than 30% of all CDBG improvements in order to focus on community-wide needs. Eligible activities may include:

- Infrastructure – water, sewer, roads, drainage.
- Public Facilities – sidewalks, security lighting and cameras, police and fire substations, technology, multi-service centers to address crime risk factors, walking trails, green space, landscaping.
- Housing – infrastructure or other activities to support affordable and workforce housing; painting of exterior facades, minor exterior repairs and exterior improvements to make LMI owner occupied housing units more energy efficient.
- Demolition and clearance of vacant and dilapidated properties.
- Public Services – crime watch program, drug or gang education, awareness or prevention programs. (Services are limited to 15% of the CDBG project activity costs, must be new or expanded services, and applicant must commit to continue such services after the grant is closed without creating an operating burden on the local government.)

The requirements discussed in the previous infrastructure subsection also apply to infrastructure activities undertaken as part of neighborhood revitalization projects.

It is recommended that environmental reviews address the neighborhood and include all possible phases/activities that might occur in the neighborhood.

Projects must address a national objective of the CDBG program. To qualify under the LMI Area Benefit national objective, the service area must be residential and 51% LMI based on HUD census data or survey. Housing activities must benefit LMI households.

The most successful projects have community buy in and take a self help approach. Under the Main Street Program, having a strong organization is a key to success. The organization provides volunteers, organizes community events and helps to keep the community informed. Resident contributions may include a variety of other activities including trash pickup, clean up vacant lots, plant a community garden, set up a community crime watch, install neighborhood signs, build a neighborhood play ground or picnic area, create an elderly support group (calls to check on them, rides to doctor or grocery store, etc.), after school programs, educational programs, and other activities that result in a healthy neighborhood.

Acquisition, Clearance, Demolition and Brownfields

Acquisition

Typical reasons for the acquisition of real property include:

- Property for rehabilitation or redevelopment of planned public facilities,
- Property for the provision of public works, facilities, and improvements, or
- To be used for other public purposes.

Costs that may be paid for with CDBG funds under this category include the cost of surveys to identify the property to be acquired, appraisals, the preparation of legal documents, recording fees, and other costs that are necessary to effect the acquisition.

Qualifying an acquisition activity under one of the CDBG national objectives depends entirely on the use of the acquired real property following its acquisition. A preliminary determination of compliance may be based on the planned use. The final determination must be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisition is for the purpose of clearance that will eliminate specific conditions of blight or physical decay, the clearance activity may be considered the actual use of property. If \$150,000 or more of CDBG funds is spent, any subsequent use or disposition of the property must be treated as a “change of use.” If property is to be acquired for a general purpose, such as housing or economic development, and the actual specific project is not yet identified, the grant recipient must document the general use it intends for the property, the national objective category it expects will be met, and make a written commitment to comply with CDBG requirements. See Re-Use Plan requirements in Chapter 13 of the *Implementation Manual*.

If property is acquired or improved with CDBG funds, or any interest therein, is subsequently transferred to another entity within five years of closeout, the property or interest must be sold to the entity at **the current fair market value** unless the property will be used for an activity that meets a CDBG national objective. Sales proceeds would be program income based on a pro rata share if the local government also contributed to the activity.

The purchase of real property by the grant recipient or other entities under this eligibility category is subject to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Among other things, this could mean that persons displaced as a result of the acquisition must be provided with financial assistance.

An option to purchase property can be obtained (for 6 months at least) prior to grant award, but it must contain language making the option contingent upon environmental review and removal of environmental conditions. Prior to obtaining an option, a voluntary sale letter or notice of interest in acquiring property (for involuntary transactions) must be sent, and wording should be added that public funds are being sought for the project and an offer might not be pursued if funds are not obtained. The voluntary letter must include an estimate of fair market value (obtained from comparable sales in the neighborhood), and a statement that no eminent domain powers will be used. Sample letters are included in the attachments to *Chapter 10* of the *Implementation Manual*.

Demolition/Clearance/Brownfield Activities

Activities under this category include:

- Demolition of buildings and improvements,
- Removal of demolition products (rubble) and other debris, and
- Physical removal of environmental contaminants or treatment of such contaminants to render them harmless.

CDBG funds may be used for clearance of debris and/or demolition of vacant, dilapidated structures. Non-housing structures (or multi family structures) to be demolished with CDBG funds should be owned by the local government applicant.

Clearance/Demolition actions can include: determination of environmental hazards on the property (lead and asbestos) and proper removal; testing and disposal of hazardous materials; utility disconnections; and demolition permits. Once demolition is complete, the site should be leveled and seeded as appropriate, and any damages to sidewalks, curbs, drives, etc. repaired. It is recommended that before and after photos be taken and maintained in the file. Localities should commit to maintaining the property and keeping the lot cleared.

Where activities under this category are integral to the construction of a building or improvement on the cleared property, and where such construction is also to be assisted with CDBG funds, the clearance activities may be treated as a part of the construction costs.

Clearance and demolition activities may be carried out as a Spot Slum/Blight or Area Slum/Blight national objective. Area Benefit is not typically allowed, unless the end use benefits are available to all residents in the target area and at least 51% of those residents are LMI (i.e. a neighborhood park). Under spot blight the conditions must be detrimental to health and safety. Under Area Slum Blight the conditions must have contributed to the deterioration of the area. Structures to be demolished require that the grantee document through an inspection report that the structure is substandard or dilapidated according to local building codes (for residential units, use H-1 Determination to Demolish form).

Localities proposing demolition must have a written anti-displacement and relocation plan and must follow it in the implementation of these activities.

Generally, multiple clearances or demolitions should be undertaken as part of an overall revitalization program in a targeted area and be part of a comprehensive effort to address all blighted properties. Demolition activities are typically carried out by the local government using code enforcement tools or through written voluntary agreements with the property owner.

Most localities will use code enforcement tools to clear private properties that are dilapidated and causing a blight. Such local governments have adopted ordinances that specify code enforcement procedures. The International Building Code (IBC) has an optional International Property Maintenance Code that can be locally adopted to address vacant and blighted properties.

State law at Title 31, Chapter 15 also provides procedures for local governments to deal with dwellings that are unfit for human habitation. Below is a link to this law:

<http://www.scstatehouse.gov/code/t31c015.php>

If after being properly cited, the property owner does not bring the property into code compliance, the locality must use its own funds to demolish the unit and then place a lien on the property to recoup the expenses of the demolition and clearance from the owner of the property. A lien also ensures that there is no windfall profit to the owner for the improvement to the property.

If the structure is privately owned and the local government does not follow the state and local codes enforcement procedures, a voluntary demolition assistance agreement is required prior to

demolition which specifies the conditions of the assistance. The agreement grants written permission from the property owner prior to carrying out any demolition/clearance and documents that no persons or businesses will be displaced by the demolition and that the property was vacant for at least 3 months prior to the grantee's application for CDBG assistance.

Liens

When CDBG funds are used to help a locality pay for the upfront costs of demolition, a lien to recoup those costs will be required, unless:

- The demolition is done to address and support crime prevention efforts in a targeted LMI neighborhood; and
- The total CDBG cost related to demolition (such as legal, lead/asbestos testing and removal, air monitoring, demolition, disposal, etc.) does not exceed \$10,000 per property.

Properties demolished or cleared that do not meet the above guidelines will require a lien:

- Generally, the lien should be repaid if the property is sold within 5 years of the demolition or clearance.
- If the property is redeveloped for an LMI purpose the lien can be forgiven in whole or in part depending on the amount of assistance.

Recovery of CDBG costs from a lien is considered program income.

Re-Use Plans

When CDBG funds are used for acquisition, demolition or improvement of publically owned property, any subsequent use or disposition of the property must be treated as a "change of use". The grant recipient must document the general use or "re-use" it intends for the property, the national objective category it expects will be met, and make a written commitment to comply with CDBG requirements. Change of use applies for 5 years following close out of the grant. Pay back of the grant is required if any change is ineligible. The grantee must notify GA if there are any changes in use within five years of close out. For additional information regarding Re-Use Plans, see *Chapter 5 Public Facilities* in the *Implementation Manual*.

Housing Activities

Housing activities may be included in the comprehensive revitalization of neighborhoods. In order to promote community sustainability, activities should take place within in-town neighborhoods and near business centers. The development of vacant land or redevelopment of blighted properties may be carried out by non-profits, for profits or the local government using a variety of funding sources. These activities should complement CDBG funded neighborhood revitalization projects and water and sewer projects that involve the connection of services to homes. Additional guidance regarding Housing is included in *Chapter 7* of the *Implementation Manual*.

Housing Rehabilitation

Housing rehabilitation projects may involve exterior improvement assistance for properties within town neighborhoods or near business centers. These improvements are designed to make communities more economically competitive by improving the overall physical appearance and stabilizing neighborhood property values. Visual impact will be enhanced by painting and making necessary repairs to facades and exteriors of concentrated neighborhood housing units occupied by low and moderate-income persons.

In designing a housing rehabilitation program, recipients should adhere to the following HUD and Grants Administration requirements.

Local Housing Committee

The design of a local housing assistance program may be done in conjunction with a local housing rehabilitation advisory committee composed of persons representative of low-income neighborhoods, local government representatives and other members of the community at large. This committee is normally involved in setting policies and procedures for the program and serving as a liaison between citizens in the project area, local staff and local elected officials.

Eligible Units / Improvements

Eligible units for rehabilitation include stick built or modular units that will be **occupied** by LMI households after rehabilitation. Manufactured housing and vacant units are not eligible for CDBG funding.

Eligible activities should create a positive visual/physical impact on the target area and may not exceed \$10,000 per unit. Exterior improvements to make LMI units more energy efficient are also eligible. Typical façade/exterior repairs might include:

- Painting of exterior surfaces or siding;
- Roof repairs or replacement;
- Porch repairs;
- Installation of handrails, guardrails or handicap ramps;
- Front or visible side window or exterior front door repairs or replacement; or storm/energy efficient windows and doors throughout;
- Gutter, fascia or eave repairs;
- Crawl space door and vent repairs.

Installation of indoor facilities, if none exist within an LMI housing unit, are also eligible as housing rehabilitation when the activity is part of water/sewer connections project.

Given the amount of CDBG funding available, it may not be possible to address all of the exterior repairs needed on a housing unit. The locality is encouraged to obtain the necessary leveraging to

complete all such repairs. If this is not possible, then improvements should be prioritized and targeted to those items that will make the greatest visual impact on the community as a whole, beginning with exterior surfaces such as painting. The donation and installation of smoke detectors or thermostats will be considered leveraging, even though they are interior improvements.

Generally, assistance should not be provided to units that have previously received rehabilitation assistance. Prior Grants Administration approval is required when such assistance is proposed.

Eligible Households

All households (homeowners/occupants) participating in a housing rehabilitation project are required to be LMI. CDBG housing rehabilitation is a “direct benefit” activity and income eligibility must be established for all persons directly benefiting from a CDBG project. Simply because a household is elderly, disabled or exhibits other limited clientele characteristics, does not mean that household automatically qualifies for CDBG housing assistance.

Homeowner Commitment

Prior to rehabilitating housing units (not including limited rehabilitation), there must be a written and recorded agreement with each homeowner that specifies a commitment by the homeowner to participate in the program and agree to the following:

- Clean house and yard prior to rehabilitation. Recipients should insure that accumulations of large piles of trash, garbage or other discarded debris on or about the premises are removed or properly and safely stored. Such conditions, if not addressed, can pose a serious threat to the health and safety of the residents as well as serve as a breeding ground for rats, mice or vermin.
- Contribute a minimum of five hours to any of the following:
 - ◆ Improvement to their own property (beyond routine maintenance),
 - ◆ Improvement to their neighborhood, or
 - ◆ Any other community service activities.

If the homeowner is physically and financially unable to contribute, it is acceptable for a family member or other volunteer to provide the assistance. Grantees must document the homeowner’s contribution prior to grant close out.

- Homeowner agrees to occupy the unit or rent to an LMI household at affordable rents for one year after the assistance.

Type of Assistance

With regard to the type and terms of assistance, recipients are responsible for designing a housing rehabilitation program that meets community needs. Programs can be comprised of deferred forgivable loans or traditional loans. In determining the type of assistance to be provided, recipients should consider the income level of households to be assisted.

The following definitions are offered to explain possible program types and terms.

- **Deferred Forgivable Loans:** Deferred forgivable loans may be provided to eligible households for the cost of rehabilitation. These do not have to be paid back if the homeowner commitments are met.
- **Loans:** Loans to landlords must be conditional upon their provision of the required cash match at the time of contract award and a written agreement to make their units available, for at least one year or the term of the loan (whichever is greater), at rents affordable to lower income tenants, or available for Section 8 Existing Housing Assistance.

Loans should be recorded to ensure payback if the unit is sold or if terms are not met.

Traditional loans require repayment of a principal amount plus interest. Funding recipients may provide loans at a single interest rate, or establish a sliding scale where interest rate is related to household income or ability to pay. The term of the loan is also at the discretion of the recipient. All loans may be made for the same term or terms may be adjusted depending upon the size of the loan and the borrower's ability to pay (e.g., larger loans having longer terms). Grants Administration recommends that single-family rehabilitation loans have terms that do not exceed 5 years. Multi-family loans should typically have terms of 20 years or less. The amortizing loan is instituted through the use of a mortgage and often accompanied by a promissory note.

Maximum Levels of Assistance

All costs should be determined to be reasonable. A maximum of \$10,000 in CDBG funds is allowed for exterior improvements to stick-built or modular homes.

Property Standards and Improvements

All work completed must meet locally adopted codes. The state is also prioritizing the use of green building and energy conservation techniques in construction practices, materials and products. Efficient homes save homeowners money in operation costs, so all CDBG-funded improvements, where feasible, should meet the State-adopted International Energy Efficiency Code, ENERGY STAR, or a similar energy efficiency standard.

Rental Properties

There are additional requirements for rental projects assisted with CDBG which include the following:

- Owners of rental units must provide a ten to fifty (depends on the number of properties owned) percent cash match to the CDBG cost of rehabilitation of the unit and sign a commitment to participate in the program. Match must be provided prior to executing the construction contract. An exception to the cash match requirement may be allowed if the homeowner is LMI and they receive no rent for the unit.

- The remaining CDBG costs may be provided through either a forgivable loan, repayable loan, or a combination of the two. Repayable loans are encouraged where there is ability to pay.
- Owners must be required to maintain insurance on the assisted property, keep taxes paid and adequately maintain the property for at least one year if assistance is \$10,000 or less and 5 years for projects involving greater level of assistance (for multi-family).
- Owners must rent to LMI tenants. Affordable rents must be instituted to protect renters from rent increases or eviction due to housing rehabilitation. An affordable rent is defined generally as rent plus utility costs which does not exceed the Section 8 Fair Market Rent (FMR) for existing housing established by HUD under 24 CFR Part 888. These rent controls must be instituted for a period of at least one year if assistance is \$10,000 or less and 5 years for multifamily projects, or for as long as there is a below-market rate for rehabilitation loan, whichever period is longer. During this period, investor-owners may only be allowed to impose minimal increases, primarily related to increased taxes or insurance.
 - ◆ No authorized increase shall exceed 30 percent of the tenant's monthly adjusted income and/or the Section 8 FMR for the area, whichever is less. In no case shall rents increase at a greater rate than the increase in the Consumer Price Index (CPI) for the preceding twelve months.
 - ◆ Where the rent paid by a tenant prior to CDBG rehabilitation exceeds the FMR, after rehabilitation rents may not increase at a greater rate than the increase in the Consumer Price Index (CPI) for the preceding twelve months.
 - ◆ The rent amount must be clearly established in the contract agreement and all terms and conditions shall remain in effect for at least five years or for the entire term of the loan, if longer.
- If a project proposes to rehabilitate multiple (more than one) properties owned by one landlord, technical assistance is required prior to submission of the application. For landlords owning multiple properties proposed for assistance in a target area, the following applies:
 - ◆ A match of 30% of the assistance will be required if one landlord owns 2-4 units proposed for rehabilitation.
 - ◆ A match of 50% of the assistance must be provided if one landlord owns 5 or more of the units proposed for rehabilitation.
 - ◆ The match must be provided prior to construction.
- Limited rehabilitation (water/sewer connection) projects involving rental units have the following requirements:
 - ◆ In the event an LMI tenant does not occupy a particular rental unit, the owner must pay for any connection, tap, or impact fees.
 - ◆ For rental units occupied by LMI tenants, the investor should pay for any connection, tap or impact fees. However, CDBG funds may pay any hard costs (no fees) that are

CDBG eligible after the rental property owner enters into an agreement with the unit of local government to maintain affordable rents and rent to LMI households for a reasonable period of time.

- ◆ In the event connection costs involve a mobile home park, an affordable rent agreement must be obtained from the mobile home park owner prior to the provision of the assistance.

Initial Inspection

An initial inspection of the property should be conducted to determine the condition of the unit's exterior and the extent of work required. The inspection should be done by a person capable and qualified to perform such duties. An inspection checklist should be used for the initial inspection to evaluate the dwelling's exterior condition. Once completed, this checklist forms the basis for outlining the type work necessary to bring the property to desired standards.

Depending on the level of assistance and the year the unit was built, a visual assessment, paint testing or risk assessment may also be required to comply with the lead based paint regulations.

Lead-Based Paint Hazard Reduction

All units in a project assisted with CDBG funds must comply with Lead Based Paint regulations which requires notifications to occupants, owners and purchasers.

The approach to addressing lead-based paint in CDBG funded projects depends on the level of assistance. Please refer to the *CDBG Implementation Manual* in *Chapter 7: Housing* for more information on the requirements.

Home Buyer/Maintenance Education

Funding recipients may incorporate homebuyer education and training on home maintenance into their housing program. The objectives of such a program are to provide families with the skills necessary to own and maintain their property at a standard level and provide training in issues related to home finance and credit, maintenance and housekeeping.

- This training can be structured as an educational program that includes either formal classes and/or home demonstration visits to show techniques and to distribute information.
- Documentation should be kept indicating that a formal homeowner education program has been carried out for each assisted household.
- The recipient may enlist the services of the local community organizations trained in providing this type homeowner education or carry out its own homeowner maintenance education program.

Such organizations include:

- ◆ Department of Social Services,

- ◆ State Dept. of Consumer Affairs,
- ◆ University Extension Service Programs,
- ◆ Local lending institutions, and
- ◆ Nonprofit consumer counseling organizations.

More detailed information is available in *Chapter 7* of the *Implementation Manual*. Funds can be listed/budgeted as a public service activity.

Volunteers and Donations

The use of volunteers can help leverage the impact of the project on the neighborhood. If the recipient wants to use volunteer labor in its housing or other projects, then local policies and procedures should outline the procedures to be followed.

In accordance with Title I of the Community Development Act of 1974, as amended, volunteer labor may be used in carrying out CDBG-funded housing rehabilitation on private residential property. If the recipient decides to incorporate this element into its program design, the volunteer commitment must be provided in the application. A commitment from the organization (or individual if not part of an organization) estimating the approximate type of work, number of hours, and available time frame should be submitted with the application. Also, volunteers must have demonstrated capacity to do the required work and the following rules apply:

- If volunteers will be provided through the efforts of a non-profit organization, the locality should enter into an agreement with the non-profit to specify the work to be done, quality and standards to be met and timeframe for completion.
- An agreement should be executed between the homeowner and the volunteer group clearly outlining all the work to be accomplished through donated labor and what donated materials and supplies may be involved.
- Grants Administration will require the same documentation to be in the files as if a private, for-profit contractor has been contracted to complete the work. That documentation should include a work write up or specification showing materials required and the estimated cost for materials and labor.
- All required elements of the rehabilitation work should be detailed in a work schedule. The work schedule should specify all work items the volunteers will perform and alternate means of accomplishing the work if the volunteers fail to perform satisfactorily.
- All costs must be determined eligible and payments to contractors, subcontractors and suppliers for materials and supplies purchased and used in the project must be documented and procured in accordance with Grants Administration requirements. Invoices from the supplier must be provided for work items and materials actually used on the job.
- A local government that utilizes volunteer labor for CDBG-funded housing rehabilitation must inspect and insure the work is done in a quality manner and in compliance with applicable codes and Grants Administration requirements.

- Volunteer sign in or timesheets must be kept to document the total contribution to the project. All time must be calculated at \$20.00 per hour worked (regardless of activity) or based on the latest rate as indicated on the website www.independentsector.org.
- The locality or non-profit organization providing the volunteers should obtain a blanket liability policy for the project. The policy is CDBG eligible as long as it only covers the CDBG project. All volunteers should also sign a waiver of liability form.

In-Kind and Donated Materials and Equipment

Donated materials, equipment and in-kind labor will extend the level of impact of a project. If used to meet the match/leveraging requirement, documentation must be kept to verify actual values. For in-kind work, timesheets must be kept, and the value should be based on the current hourly rate of the employee performing the work. The value of donated materials and supplies should be based on the market value at the time of donation. Documentation should include:

- Date of donation
- Name of donor
- Estimate of market value and how the estimate was determined

For donations involving equipment, the FEMA rate should be used. The web site for this information is <https://www.fema.gov/schedule-equipment-rates>.

Documentation should include:

- Name of operator
- Type of equipment used
- Date/time/quantity used
- Description of work

Storage of materials for use by volunteers is an eligible CDBG expense. Any materials purchased by CDBG for the project but not used become the property of the unit of local government and must be used by the unit of local government or donated to a non-profit (such as Habitat for Humanity) for future use on CDBG eligible activities.

Developing Cost Estimates and Preliminary Budgets

Pre-Agreement Costs

Prior to the effective date of the grant agreement and prior to the release of grant funds by Grants Administration, at its own risk, an applicant may obligate and spend local funds for the purpose of application preparation and development of an environmental assessment required by 24 CFR Part 58. Reimbursement from CDBG will only be allowed for expenditures identified as pre-agreement costs in the application and approved by Grants Administration. The applicant may obligate and spend local funds to undertake certain other activities related to planning and environmental review. Other activities such as acquisition or engineering and design costs may only be undertaken with the **prior written approval of Grants Administration**. This is encouraged so that project readiness can be improved.

The information on allowable costs and budgeting was taken from Chapter 3 of the CDBG Implementation Manual.

After the effective date of the grant agreement, the applicant may be reimbursed with funds from its grant, provided that such activities were undertaken in compliance with all applicable CDBG requirements and detailed and approved in the application.

In order for such costs to be eligible for reimbursement under the CDBG program, applicants must follow State procurement and contracting procedures when services are to be provided by entities other than the local government (i.e., COGS, consultants, engineers). All contracts must be approved by Grants Administration prior to execution in accordance with the policies outlined in Chapter 8 of the *Implementation Manual*. Executed copies of contracts and agreements must be maintained in the grant file.

The application should separate the costs for application preparation and environmental assessment (if it is a pre-agreement cost) from general project administration. However, the total costs should be shown in the general administration budget line item and are subject to the 10 percent maximum on general administration costs. Costs charged for application preparation will be reviewed for reasonableness. The average charge is approximately \$3,000 and costs are generally expected not to exceed that amount. Costs which do exceed this amount must have substantial justification and require prior approval to be CDBG reimbursable. No reimbursement will be made to any locality that does not receive CDBG funds for the project for which costs were incurred.

Acquisition Costs

Estimated costs of easements for water lines, sewer lines, street widening, etc., must be budgeted under the "Acquisition" line item. Appraisal and review appraisal fees, legal and title search costs should also be listed under the Acquisition budget item.

Water/Sewer Tap and Connection Costs

Generally, the costs associated with connecting an LMI residential unit to a water or sewer line are considered housing rehabilitation. These are activities that occur on private property and may be contracted separately from or with the main water/sewer line construction. These costs include service lines and appurtenances on private property. The provision of indoor plumbing facilities associated with a water or sewer project is also considered housing rehabilitation.

In order to ensure that LMI households receive the benefits of residential water or sewer improvements, any connection, tap or impact fees, and service lines (lines running between the distribution or collection line and the housing units) must be provided to LMI households at no cost to the LMI household as a direct beneficiary. CDBG funds may only be used for hard construction and installation costs for low and moderate income hook-ups/connections to public water and sewer, and not to pay any water or sewer connection, impact or capacity fees. Any associated fees for low and moderate income hook up/connection to public water and sewer must be waived or paid with non-CDBG funds, and may be considered part of the local match requirement.

For rental units occupied by LMI tenants, the investor should pay for any connection, tap or impact fees. However, CDBG funds may pay hard costs after the rental property owner enters into an agreement with the unit of local government to maintain affordable rents and rent to LMI households for a reasonable period of time.

In the event connection costs involve a mobile home park, an affordable rent agreement must be obtained from the mobile home park owner prior to the provision of the assistance. (See the *CDBG Implementation Manual, Chapter 5 - Public Facilities* for more information.)

Housing and Rehabilitation Personnel Costs

Funds budgeted for staff conducting a housing rehabilitation project activity (developing work write-ups, conducting inspections, etc.) must be budgeted separately under Rehabilitation Personnel. These are activity delivery costs and do not include costs for general administration of the grant. The cost of any lead-based paint hazards evaluation (LBP Inspection, LBP Risk Assessment, or Lead Hazard Screen) and lead clearance testing should be included in the Rehabilitation Personnel line item. Generally, the cost of rehabilitation personnel should not exceed \$1,500 per unit without prior Grants Administration approval. The cost of title searches and legal fees should also be included in the Rehabilitation Personnel line item. Housing counseling may be considered a public service activity. The CDBG cost of rehabilitation personnel combined with the cost of general administration should be reasonable and should not exceed 25 percent of the rehabilitation line item cost.

Engineering Costs

CDBG funds may be used to pay for specific engineering costs, up to the CDBG Engineering Fee Schedule. (see the *Attachments* to these Guidelines). CDBG funds may be used to pay for:

- Wetlands delineations,

- Preparing drawings and specifications,
- Providing information for use in acquiring easements or other real property,
- Providing information for use in filing applications for permits or design approvals,
- Revising drawings in response to directives from governmental authorities as needed,
- Preparing bidding documents and revising, as needed,
- Bidding the project and negotiating with contractors, as needed,
- Putting the contract together and participating in the pre-construction conference,
- Construction observation and inspection,
- Preparing pay requests,
- Conducting final inspection and providing a notice stating that the work is acceptable,
- Preparing final, as-built drawings.

Any additional services or costs which exceed this schedule should be paid with local funds. Additionally, if the fee schedule for construction management is exceeded due to a reduction in the construction costs, then local funds must make up the difference.

Special Assessments

"Special assessment" means the recovery of the capital costs of a public improvement, such as streets, water or sewer lines, curbs, and gutters, through:

- A fee or charge levied or filed as a lien against a parcel of property as a direct result of benefit derived from the installation of a public improvement; or
- A one-time charge made as a condition of access to the public improvement.

This term does not relate to taxes or periodic charges based on the use of public improvements, such as water or sewer user charges even if such charges include the recovery of all or some portion of the capital costs of the public improvement.

Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be used to recover capital costs as follows:

- **Special assessments to recover CDBG funds:**

Special assessments to recover CDBG funds may only be made against properties not owned and occupied by LMI persons. Such assessments are program income.

- **Special assessments to recover non-CDBG funds:**

Special assessments to recover the non-CDBG portion may be made provided that CDBG funds are used to pay the special assessment on behalf of all properties owned and occupied by LMI persons, except that CDBG funds need not be used to pay the special assessments in behalf of properties owned and occupied by moderate income persons, if the grant recipient certifies that it does not have sufficient CDBG funds to pay the assessments in

behalf of all of the LMI owner-occupants. Funds collected through such special assessments are not program income.

■ **Public improvements not initially assisted with CDBG funds:**

CDBG funds may be used to pay special assessments levied against property when this form of assessment is used to recover the capital cost of eligible public improvements initially financed solely from sources other than CDBG.

The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments only if:

- 1) Installation of the public improvement was carried out in compliance with requirements applicable to activities assisted with CDBG funds including environmental, citizen participation and Davis-Bacon requirements;
- 2) Installation of the public improvement meets a criterion for national objectives (i.e., LMI Benefit, Slums or Blighted Area, or Urgent Need); and
- 3) Requirements described above for “Special assessments to recover non-CDBG funds” are met.

Fair Housing Activities

The recipient certifies that it will take affirmative actions to further fair housing during the grant period. Such activities are eligible as CDBG administrative costs but may also be undertaken as a separate line item in the approved budget. As a separate line item the activities would not be subject to administrative cost limitations; however, significant and measurable activities would have to be carried out directly for the benefit of the recipient and its residents.

Contingency

Funds providing for contingencies **may not** be budgeted as a separate activity or budget line item. A contingency must be contained within the specific activity's budget line item for which it is intended and must be reasonable in amount.

CDBG Administrative Costs

CDBG funded administrative costs should not exceed 10 percent of the CDBG project activity costs, excluding administrative costs, with a \$50,000 maximum. In the case of a complicated project or small project scope or other extenuating circumstances, GA will consider allowing up to 15 percent of the CDBG-funded project activity costs (excluding administrative costs). A written request must be submitted to Grants Administration.

Local or other funds must be used for additional administrative costs. CDBG funds may not be used to administer other federal or state grant programs which may be conducted in conjunction with a CDBG project.

(Note: A general conflict exists where a local government awards a contract to a firm to administer its CDBG program, while the same firm is to provide engineering or architectural design service on the same project. In this case, an administrator may not oversee and approve its own work.)

Federal regulations do not allow CDBG funds to be used to supplant available local funds. Typically, local governments that administer their own grants (do not contract with a consultant or COG) provide the administration as in-kind leveraging (above the required local cash match). However, local governments that wish to charge costs or an employee's time for administration of the CDBG project to the CDBG budget must first submit a certification that the use of federal grant funds for a portion of the employee's salary will not supplant available local funds. Any costs and time charged must be documented through the appropriate means (i.e., invoices from local newspapers for advertisements placed for hearings, travel costs, time sheets indicating work performed for the particular project, etc.). The documentation must be kept on file, and will be reviewed at financial monitoring.

Required Match and Leveraging

It is the goal of the CDBG program to ensure that CDBG funds are used as a catalyst for other investments. Matching funds and leveraging requirements may vary according to the program category and year of funding, but written commitments must be provided for required match and any additional funding pledged to a CDBG project. Required match generally refers to the minimum contributions to the grant. Leveraging refers to additional, other non-CDBG funds required to complete the project. Required match and leveraging may include funds from other federal, state and local funding sources, private investment, or non-profit contributions. Matching and leveraging resources may include cash, in-kind, force account labor, volunteer labor or donations, as well as grants, loans or waiver of fees (except as otherwise noted).

Application Requirements

CDBG projects are expected to leverage other public and private investments and serve as a catalyst for future development. Projects that traditionally have the greatest long term impact are those that have an investment by the community. Leveraging of CDBG funds is also considered a scoring factor in the selection of projects for funding.

There must be a minimum 10% match of the total CDBG request, unless otherwise approved, which can come from a variety of committed sources including other, non-Commerce grants, loans, waiver of fees, public or private investments, and documented volunteer or in-kind contributions.

Required match must be for activity costs directly related to the CDBG project. The state must approve in advance any proposed match that has been spent (except application or environmental review costs) prior to application submission for all projects except Ready to Go. With prior written approval, the match may be used for acquisition, engineering design or permitting prior to the submission of the application. This is encouraged so that projects are construction ready.

Localities unable to provide for the full amount of required match at the application stage must contact Grants Administration prior to submitting the application request. Grants Administration reserves the right to modify the matching requirement for any grant where Grants Administration determines such modification to be necessary and appropriate based upon the nature of the project, the identified needs to be addressed, and the availability of community or other resources. The applicant must submit a written request to Grants Administration to waive or modify the matching requirements. It is unlikely that a full waiver of the matching requirements will be granted, since leveraging can come from a variety of sources. In order to determine local financial capacity, Grants Administration may require the submission of the recently completed audits of the applicant and/or water and sewer authority as appropriate.

Local Funds

The locality must submit with its application a resolution from its governing body that commits any matching or leveraging funds to be provided by the applicant. The resolution must also identify the type and source of funds and commit to sharing cost savings on a pro rata basis. **Matching funds must be immediately available for the project at the time CDBG funds are released.**

The revenue from the state gasoline tax that is allocated to counties for transportation projects, known as C-Funds, can be considered local funds for match since the county exercises authority over their use. Locally approved sales tax can also be considered a source for the match. The required match may also come from any other, non-Department of Commerce source.

CDBG program income may be used to match a CDBG grant, where that income is proposed to continue the same activity that generated the income and where the proposed use is consistent with an approved Program Income Plan. For example, program income generated by a housing rehabilitation grant must be used to match other CDBG housing rehabilitation grants unless a change in the program income plan is pre-approved by Grants Administration

Any fees for low and moderate income hook up/connection to public water and sewer must be waived or paid with non-CDBG funds, and may be considered part of the match requirement. Where matching funds or a waiver of fees are to be provided by a water and sewer entity, a letter of commitment must be submitted with the application. When tap or connection fees are waived, only the portion which is not being paid by the grant as an actual construction cost may be counted as a waiver.

Other Funding Commitments

Projects often will require funds other than CDBG and local funds to accomplish goals and objectives. When other funds are committed to the project, either to meet the minimum match requirement or as additional leveraging, a letter of commitment must be submitted with the application. To document a public/private commitment, the applicant must submit a letter of commitment from the public/private sector participant that specifies the amount of funds, conditions, and the time frame in which such commitment will be carried out. Where other funds are required to carry out the CDBG activity, such funds must be available at the time CDBG funds are released.

For projects utilizing volunteer labor as a part of the required leveraging, a commitment from the organization (or individual if not part of an organization) estimating the approximate type of work, number of hours, and available time frame should be submitted with the application. A rate of \$20 per hour should be used to figure all volunteer time, regardless of the type of work being performed. If in-kind labor will be used as part of the required leveraging, timesheets must be kept, and the value should be based on the current hourly rate of the employee performing the work. For donated materials, fair market value must be documented. For equipment usage, the appropriate FEMA equipment rate must be used to determine value.

Local lending institutions intending to participate in projects must submit letters of commitment clearly stating that funds will be made available for use and any conditions or restrictions that may be placed upon the program or loan applicants.

Requirements and Certifications

Conflicts of Interest

In the procurement of supplies, equipment, construction and services by recipients and subrecipients, the provisions of the South Carolina Ethics, Government Accountability, and Campaign Reform Act of 1991 shall apply. In all cases not governed by the ethical standards of the South Carolina Ethics, Government Accountability, and Campaign Reform Act of 1991, such as the acquisition and disposition of real property and the provision of assistance with CDBG funds by the recipient or its subrecipients to individuals, businesses and other private entities under eligible activities, the conflict of interest provisions in the State CDBG regulations at 24 CFR Part 570.489 (h) shall apply in addition to the State Ethics Law.

This information on Compliance Requirements was taken directly from Chapter 14 of the CDBG Implementation Manual.

The CDBG requirements pertaining to conflict of interest are summarized in the following paragraphs.

- *Conflicts Prohibited* - Except for the use of CDBG funds to pay salaries and other related administrative or personnel costs, the general rule is that no persons (described below under “Persons Covered”) who exercise or have exercised any functions or responsibilities with respect to CDBG activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.
- *Persons Covered* - The Conflicts of Interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the State, the unit of local government, or of any designated public agencies or subrecipients that are receiving CDBG funds.

- ***Exceptions*** - Upon the written request of the applicant/recipient, Grants Administration may grant an exception to the provisions of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of Title I and the effective and efficient administration of the program or project of the State or the unit of local government. An exception may be considered only after the local government has provided the following:
 - ◆ A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made;
 - ◆ A certification the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question; and
 - ◆ An opinion of the local government's attorney that the interest for which the exception is sought would not violate State or local law. In addition, Grants Administration may also require an opinion from the State Ethics Commission that the conflict does not violate State law.
- ***Factors To Be Considered For Exceptions*** - In determining whether to grant a requested exception after the local government has satisfactorily met the above requirements, Grants Administration shall consider any opinion of the State Ethics Commission, if requested, and the cumulative effect of the following factors, where applicable:
 - ◆ Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
 - ◆ Whether an opportunity was provided for open, competitive bidding or negotiation;
 - ◆ Whether the person affected is a member of a group of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
 - ◆ Whether the interest or benefit was present before the affected person was in a position as previously described;
 - ◆ Whether undue hardship will result either to the State or local government or the person affected when weighed against the public interest served by avoiding the prohibited conflicts; and
 - ◆ Any other relevant considerations.

Disclosures

Overview

Section 102 of the HUD Reform Act of 1989 contained a number of provisions designed to ensure greater accountability and integrity in the way HUD and its recipients make certain types of assistance available. The State CDBG Program is one of the programs that are partially covered

by the requirements of Section 102. The regulations implementing Section 102 (currently 24 CFR Part 4, Subpart A) are included in the *Reference Section* of the *CDBG Implementation Manual*.

A unit of local government applying to the State for a grant will be required to make certain disclosures, as will applicants for assistance from units of local government receiving State CDBG grants. Such disclosures will only be necessary if the aggregate amount of the covered assistance received or expected to be received by the applicant will exceed \$200,000 in the Federal fiscal year (October 1 - September 30) in which the application is submitted. The disclosures must be made on the *Section 102 Disclosure Report* included in the attachments to Chapter 14 of the *Implementation Manual*.

The nature of the disclosure includes the amount of assistance sought from Grants Administration and other government assistance to be used with respect to the activities to be carried out with the assistance, the financial interests of persons in the activities, and the sources of funds to be made available for the activities and the uses to which the funds are to be expended.

Assistance subject to these requirements includes any contract, grant, loan, cooperative agreement or other form of assistance under the CDBG program. This includes construction contracts and contracts for professional services.

Required Disclosures

Each applicant that submits an application for assistance to the State or to a unit of local government for a specific project or activity must make the disclosures if the applicant has received, or can reasonably be expected to receive, an aggregate amount of all forms of such assistance in excess of \$200,000 during the Federal fiscal year in which the application is submitted. The amount of assistance also includes program income received from CDBG projects.

Content of Disclosure

Applicants that meet the assistance threshold must disclose the following information:

- *Other government assistance*: Any other government assistance that is or is expected to be made available with respect to the project or activities for which the assistance is sought.
- *Interested parties*: The name and pecuniary interest of any developer, contractor or consultant involved in the project or activities for which the assistance is sought that exceeds \$50,000 or ten percent (10%) of the assistance, whichever is lower. If the interested party is an entity, the disclosures must include an identification of each officer, director, principal stockholder (as specified in the Section 102 Disclosure Report instructions) or other official of the entity.
- *Sources and uses of funds*: The expected sources of funds that are to be made available for the project or activity, and the expected uses to which those funds are to be expended must be disclosed. The report must identify the gross amount of funds from all sources, including but not limited to both governmental and non-governmental sources of funds and private capital resulting from tax benefits. Residency of an individual in housing for which assistance is being sought is not by itself considered a pecuniary interest.

Certifications

When an application for CDBG funds is submitted to Grants Administration, it contains a number of certifications that the local government must sign and agree to carry out as part of its approved CDBG program. These certifications are mandated by the provisions in Title I. Grants Administration representatives will monitor recipients for compliance with the certifications. The following provides a summary of each certification.

- *Citizen Participation* - The first three certifications require that a Needs Assessment and Citizen Participation Plan be developed. It also requires that citizens be furnished information on the CDBG program, amount of funds available and range of activities that may be undertaken, including the amount proposed to benefit low and moderate income persons.
- *Residential Anti-Displacement and Relocation Assistance Plan* - Recipients must develop and follow a plan which has two components: (1) a requirement to replace all low and moderate income dwelling units that are demolished or converted to a use other than low and moderate income housing as a direct result of the use of CDBG funds; and (2) a relocation assistance requirement. This plan is required of all recipients regardless of the type of project funded. (For additional information, refer to Chapter 11 of the *Implementation Manual*.)
- *Minimize Displacement* - The recipient certifies that it will minimize the displacement of persons as a result of activities that are CDBG funded. CDBG funds should not be used to carry out activities that result in displacement unless there is a health and safety threat. The local government must provide a certification that there are no other feasible alternatives.
- *Public Access to Records* - The public must be provided reasonable access to records regarding the past use of CDBG funds. This provision should be included in the *Citizen Participation Plan*. Grants Administration requires recipients to hold one or more public hearings to inform the public of the accomplishments of the CDBG program and to assess performance.
- *Special Assessments* - Where CDBG funds are used to pay all or part of the cost of public improvements, special assessments may only be used to recover capital costs as follows:
 - ◆ No special assessments may be made to recover CDBG funds: Special assessments to recover CDBG funds may be made only against properties not owned and occupied by low and moderate income persons. Such assessments are considered program income.
 - ◆ Special assessments to recover non-CDBG funds: Special assessments to recover the non-CDBG portion of a project may be made, but CDBG funds must be used to pay the special assessment on behalf of all properties owned and occupied by low and moderate income persons. CDBG funds need not be used to pay the special assessments on behalf of properties owned and occupied by moderate income persons if the grant recipient certifies that it does not have sufficient CDBG funds to pay the assessments in their behalf. Non-CDBG funds collected through such special assessments are not program income.
 - ◆ The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments only if installation of the public improvements was carried out in

compliance with requirements applicable to activities assisted with CDBG funds, including environmental, citizen participation and Davis-Bacon requirements; and installation of the public improvement meets a criterion for one of the national objectives.

- *Compliance with Title VI of the Civil Rights Act of 1964 and the Fair Housing Act* - Recipients are required to take a proactive role in affirmatively furthering fair housing in the community. Actions to promote fair housing are required to be taken and documented prior to close-out of a CDBG project. Recipients also agree that no person will be excluded from participation, denied program benefits, or subjected to discrimination on the basis of race, color, disability, familial status or national origin. (For additional information, refer to Chapter 12 of the *Implementation Manual*.)
- *Compliance with Title I and Other Applicable Laws* - The CDBG program will be conducted in accordance with the provisions of Title I of the Housing and Community Development Act, as amended, as well as other Federal or State requirements and laws. These other requirements include environmental standards, labor standards, acquisition and relocation requirements, fair housing and equal opportunity, Section 504 disability requirements, etc.
- *Excessive Force* - The Armstrong/Walker "Excessive Force" Amendment (P.L. 101-144) is found in Section 519 of the Department of Veteran Affairs and Housing and Urban Development and Independent Agencies Appropriation Act of 1990. A recipient must certify that it has adopted or will adopt and enforce a policy to prohibit the use of excessive force against any individuals engaged in non-violent civil rights demonstrations by law enforcement agencies within the jurisdiction. The legislative history of this provision indicates that it may be satisfied by any means that will stand a practicable test of use. The policy may be adopted by a local legislative act, such as an ordinance, or by a local administrative act, such as a written statement of policy by the chief executive, an executive order or regulation within the police department. A unit of general local government need not adopt a new policy if it has and is enforcing a written policy that meets the requirements of Section 519. This provision does not amend Title I of the Housing and Community Development Act of 1974, as amended, but applies to the CDBG program.
- *Lobbying* - The lobbying certification is a result of the requirements contained in Section 319 of Public Law 101-121. It is applicable to the lobbying of federal officials using CDBG funds. CDBG funds may not be used to influence or attempt to influence the awarding of any CDBG project, loan, contract or cooperative agreement. This provision also applies to the renewal or modifications to any CDBG project, loan, contract or agreement. If non-CDBG funds are used for this purpose, the recipient must file a Standard Form LLL, Disclosure Form to Report Lobbying. This language must be incorporated in any award documents at all tiers including subrecipient agreements, recipient contracts or loans and cooperation agreements that exceed \$100,000 in CDBG funds.
- *Debarment Certification* - Grants Administration requires a Debarment Certification be submitted with the Start-Up Checklist requirements. The recipient certifies that neither the local government nor its officers are debarred, suspended, ineligible or voluntarily excluded from receiving funds. Subrecipients and contractors must also sign this certification before entering into any financial agreements or contracts with the recipient.

SC Financial Identity Fraud and Identity Protection Act

The SC Financial Identity Fraud and Identity Protection Act (the “Act”) became effective on July 1, 2009. Following are the requirements concerning the collection, maintenance, and disposal of personal information pertaining to residents of South Carolina. Under the Act, “personal information” includes:

- Social security number (SSN)
- First name or first initial and last name
- Driver’s license number
- Financial account number (including credit card or debit card number and security code)
- Any other information that would allow access to a person’s financial accounts

With respect to personal information, you may be subject to the following restrictions:

- You may only collect personal information for legitimate purposes as required by law.
- You may not make personal information available to the public.
- You should minimize the dissemination of any personal information either internally within your organization or externally with the general public.
- When you are finished processing documents that contain personal information, you must ensure that all personal information is unreadable or undecipherable.
- Before disposal of any hardware or storage media, all personal information must be removed and the media must be sanitized.
- Do not store personal information on any laptop, blackberry, CD, etc. unless the file is encrypted and password protected.

With respect to SSNs, there are additional restrictions, including the following:

- You may not intentionally print or imbed a person’s SSN, or six or more digits of such number, on a card required for access to services.
- You may not require a person to transmit a SSN, or six or more digits of such number over the internet UNLESS there is a secure connection or the SSN is encrypted.
- You may not require a person to use his/her SSN, or six or more digits of such number, to access an internet website UNLESS a password is also required to access the internet website.
- You may not print a person’s SSN, or six or more digits of such number, on materials mailed to that person, UNLESS state or federal law requires it.
- You may not collect a person’s SSN, or six or more digits of such number, UNLESS you are authorized by law to do so.
- When collecting a person’s SSN, or six or more digits of such number, you must separate the number from the rest of the record, or as otherwise appropriate so the SSN can easily be redacted pursuant to a Freedom of Information Act request.
- At a person’s request, you must give a statement of the purpose for collecting his/her SSN,

or six or more digits of such number, and how it will be used. You can only use the person's SSN, or six or more digits of such number, for the purpose stated.

If at any time there has been an unauthorized access to personal information or there is any risk of unauthorized access, you must immediately notify all persons whose personal information has or has a material risk of being accessed. If the number of persons is greater than 1000, notice must also be given to the SC Department of Consumer Affairs.

If you have any questions concerning these requirements, please contact your local attorney.

Required Federal Registration for Applicants

According to federal government policy, every local government, contractor or subcontractor that receives federal assistance, via direct award or contract, from programs such as CDBG must register in the System for Award Management or "SAM". SAM in turn requires a Dun & Bradstreet or DUNS number. Registrations in SAM and with DUNS are therefore both required. SAM and DUNS are described in more detail below.

DUNS Numbers

Dun & Bradstreet maintains an existing system that has been connected to SAM and now serves as the primary tool for collecting basic entity registration data and transferring it into SAM. SAM requires a pre-existing DUNS registration, and that DUNS number or unique 9-digit identifying number is assigned by Dun & Bradstreet (D&B) during registration. To simplify, there is a streamlined process for Government Grantees and others requiring a DUNS number for SAM. Grant applicants should obtain a DUNS number as soon as possible.

Note that there are special requirements that apply to applicants for CDBG economic development grants, in that the business receiving or benefiting from the assistance must also have a DUNS number. This number is required to be reported as part of grant close out; however, grant recipients should ensure that each business has a DUNS number before assistance is provided. Businesses benefiting from economic development grants can also use the streamlined DUNS process. DUNS registration can be obtained online at: <https://www.dnb.com/duns-number/get-a-duns.html>.

System for Award Management (SAM)

SAM is a federal website located at www.sam.gov. It consolidated several previously existing federal systems, including CCR, federal procurement systems and the Catalog of Federal Domestic Assistance. The purpose of SAM is to reduce the number of different systems required to enter and interact with the Federal Government. SAM training videos, user guides and a list of Frequently Asked Questions (FAQs) are all available on www.sam.gov in the Help section.

SAM registration began as a result of federal efforts to make funding more transparent, as required under the Federal Funding Accountability and Transparency Act (FFATA) of 2006. FFATA applied initially to the American Recovery and Reinvestment Act but applied subsequently to all federal funding programs, including CDBG. FFATA created new reporting requirements for entities such as the SC Department of Commerce that receive and distribute federal funds through

awards to subrecipients such as CDBG grantees. FFATA also created a new reporting system in which Commerce must submit subrecipient information to the Office of Management and Budget (OMB). This system is now known as the Federal Sub Award Reporting System (FSRS).

All new CDBG awards must be reported in FSRS by the 30th of the month following grant award. In order to report in FSRS, each award recipient must have a Dun & Bradstreet (DUNS) number (see above) and an active SAM registration, which in turn generates a “UEI” or Unique Entity Identifier. (Note that UEI replaced the CAGE code.) Grant applicants must therefore provide evidence that they have a DUNS number and a UEI code and that their SAM registration is current. SAM can be used to provide documentation and documentation must be submitted with the CDBG application, or at a minimum by the time the award is made.

SAM provides an option during registration or update to make the registration available for public view. This option should be chosen in order for GA to verify registration.

Program Income Plan

Program income is defined as gross income received by a unit of general local government or a subrecipient of a unit of general local government that was generated from the use of CDBG funds. Program income does not include the total amount of funds from all such grants which is less than \$35,000 received in a single year (January 1 to December 31) that is retained by a unit of general local government or its subrecipient. More detail on Program Income is in Chapter 4 of the *CDBG Implementation Manual*.

Each CDBG grant must contain a *Program Income Plan (PIP)*, whether income will be received or not. The State will normally require that all program income derived from CDBG funds be returned to the State unless the recipient requests to retain program income to be used for the same activity that generated the program income. An example of this would be retaining income received during a housing rehabilitation grant to rehabilitate additional houses. Grants Administration will determine when an activity is considered to be a continuation of the same activity that generated the income.

Submit Application to Grants Administration

The required number of copies of applications should be sent to the following address:

South Carolina Department of Commerce
Grants Administration
1201 Main Street, Suite 1600
Columbia, South Carolina 29201

Number of Copies

- Community Development: 5 + original + electronic version
- Ready to Go: 2 + original + electronic version

- Regional Planning: 1 + original + electronic version
- Business Development: 2 + original + electronic version

Community Infrastructure

- Applications due: April 15, 2022 at 5:00 p.m.

Community Enrichment, Neighborhood Revitalization, and Special Projects

- Applications due: September 30, 2022 at 5:00 p.m.

PHASE FIVE: SELECTION PROCESS

Grants Administration will review all of the applications it receives for completeness and eligibility of activities under federal and state guidelines. Applications will also be reviewed based on the following factors to determine fundability and feasibility of the project:

- Appropriateness of the technical design, given the size and resources of the community and the complexity of the problem
- Project is ready to start

The applicant should ensure that the application is internally consistent and that all numbers are correct prior to submission. Applications that are incomplete or contain significant problems, deficiencies or discrepancies, such that a determination of the viability or fundability of the project cannot be readily determined, may not be considered and may be returned to the applicant. Clarifications to the application which are requested by Grants Administration must be submitted within the timeframe specified and must be acceptable to Grants Administration. Failure to adequately respond within the timeframe may result in the application being returned to the applicant or GA may reduce or eliminate questioned activities.

A site visit of the proposed project may be conducted as necessary to verify information in the application. If requested, applicants should have the people responsible for writing the application, and the people who are most familiar with the project area available during the site visit.

The next phase of the review process involves comparison of each application and any revisions received to the appropriate Selection Criteria listed previously in these Application Guidelines. Grants Administration may utilize the expertise of other appropriate State agencies, such as the SC Department of Health and Environmental Control in making a determination regarding the above factors. Grants Administration may request additional information from the applicant or other sources as necessary to evaluate the application and proposed project. Grants Administration reserves the right to negotiate or require changes in activities or funding in order to achieve program objectives. For water and sewer projects, the State may require that rates be adjusted to appropriate levels to ensure adequate funding for operation and maintenance or to facilitate borrowing a portion of project costs if such rate increases are reasonable and appropriate. Grants Administration reserves the right to reduce grant amounts in a proportional manner for improvements to existing facilities where rates are lower than the amount considered feasible.

In the event of a tie where there are more applications under consideration for funding than there are funds available, preference will be given first to those applications addressing the highest state priorities and second, to those with the highest Outcome score. If there continues to be a tie the one that benefits the most LMI persons will be funded. The highest scoring projects determined to be fundable will be recommended to the Secretary of the SC Department of Commerce for funding. Funds may be recommended for projects that receive a minimum of 175 points, as funds are available. The Secretary will make final funding determinations based on a review of the projects utilizing the selection criteria and that best meet Department objectives.

Grants Administration may make commitments for funding from future rounds, or any additional allocations, reallocations, recaptured or remaining funds, to projects in rank order from this program year. Grants Administration may also make a commitment to a project and/or partially fund a project (i.e. for ERR, acquisition, engineering) that scores sufficiently but is not ready due to design, environmental or funding issues. Funding may come from this program year, reallocated or recaptured funds, or be contingent on future years' funding.

OTHER PROGRAM CATEGORIES

Regional Planning Program

Funds Available: \$500,000

Grant Maximum: \$50,000*

* Waivers of the grant maximum may be considered for planning activities to conduct comprehensive fair housing studies within a region or other significant planning activities approved by the Department of Commerce that could lead to an eligible activity in our community and economic development programs.

Outcome

This program is designed to provide CDBG funds to Councils of Governments to assist local governments in developing plans and building local community development capacity. This assistance will build capacity to effectively determine community needs, long-term goals and short-term objectives, and develop plans for carrying out effective strategies to address community needs. Specific activities related to the State's Consolidated Plan and Analysis of Impediments to Fair Housing may be required. The planning assistance need not be limited to the jurisdiction of the applicant and will include both regional and local planning and technical assistance activities.

Requirements

One applicant from each regional planning district may apply for this assistance. The applicant will submit a joint application including all State CDBG eligible counties in their regional planning district. Each of the counties that are within a regional planning district and are eligible to receive State CDBG funding must enter into an Intergovernmental Agreement to apply for and implement regional planning assistance grants. This Agreement will designate a lead county to apply for the grant to comply with all requirements of the application and grant and is applicable to regional planning assistance only. The lead county will enter into a 12-month subrecipient agreement with the Councils of Government to undertake the activities on behalf of the applicant. The subrecipient agreement will include specific performance and reporting measures tied to the scope of work outlined in the application and other appropriate factors. Planning activities must be directly related to an activity which, if carried out, would be eligible under the CDBG program and meet one of the three national objectives -- benefit to low and moderate income persons, aid in the prevention or elimination of slums and blight, or meet other urgent community needs posing a serious threat to the health or welfare of the community where other financial resources are not available to meet such needs. Additionally, all planning activities considered by an applicant must be allowable under section 105(a) (12) of the Housing and Community Development Act of 1974. Allowable activities must be necessary to develop a comprehensive community development plan, develop policy-planning-management capacity so that the recipient of assistance may more rationally and effectively determine its needs, set long term and short term goals, devise programs and activities to meet these goals and objectives, evaluate the progress of such programs in accomplishing these goals and objectives and carry out management, coordination, and monitoring of activities necessary for effective planning consideration.

Performance Threshold

The previous year's Regional Planning grant must be 100 percent expended at the time of award of the next Regional Planning Grant or unused funds must be returned to Grants Administration. All other previous regional planning grants must be programmatically closed.

Application Deadlines and Selection Process

Applications due: **May 5, 2023 at 5:00 p.m.**

Only one application will be funded within each of the ten planning districts of the State. The awards will be based on completion of an acceptable application, which complies with the program description requirements.

Business Development Program

Total Funds: \$2,000,000

Outcome

This program provides financial resources for local governments to pursue opportunities that create new jobs, retain existing employment, stimulate private investment, and revitalize or facilitate the competitiveness of the local economy. Funding will be prioritized based on the following order:

- 1) New or expanding businesses tied to job creation
- 2) Area economic development activities not associated with job creation
- 3) New or expanding local businesses that provide essential goods and services in predominately LMI communities

Grant Amount

Grants and/or loans with performance requirements may be provided to assist new or expanding businesses that propose to create or retain jobs. The level of assistance will be based on an analysis of the needs of the business and the local government, the CDBG cost per job, and the amount of investment by the business. Projects must first qualify based on the actual need for assistance and do not automatically qualify for the maximum grant amount.

Maximum for job creation/retention:	\$10,000 per job
Minimum:	\$50,000

Maximum for area economic development:	\$500,000
Minimum:	\$50,000

Maximum for local goods and services:

- | | |
|---|------------------------|
| ○ Service area less than 20% poverty or 70% LMI | \$350 per LMI person |
| ○ Service area equal/more than 20% poverty or 70% LMI | \$1,000 per LMI person |

The maximum grant limit may be waived, by the Secretary of Commerce, where it is determined that the increased cost is appropriate and necessary to address state and local economic development needs as long as CDBG requirements will still be met. A waiver may be further considered in unique circumstances where the level of assistance is determined justified by the Secretary of Commerce based upon the overall impact of the project and where the necessary level of assistance cannot be met by other available resources in a timely manner.

Business Development Program Requirements

Applications for the Business Development Program must meet one of the three national objectives of the CDBG program. There is an emphasis on expanding employment opportunities for persons from LMI families. A unit of local government may apply at any time for a Business Development Grant and grants will be awarded throughout the year, as funds are available based on the funding priorities.

HUD regulations require that at least 51 percent of any jobs to be created and/or retained as a direct result of CDBG assistance be for persons whose total family income is low to moderate (LMI Jobs). Any business that will create or retain jobs directly as a result of any project undertaken with a Business Development Grant must provide a written commitment of the total number of jobs to be created or retained as a result of the grant funded activities. For new jobs, the employer must commit to hiring at least 51 percent of the employees from low and moderate income families. For jobs to be retained, the employer must establish that 51 percent of the jobs to be retained are, or within a reasonable time period will be, held by persons from LMI families. Where appropriate, Grants Administration will make a preliminary determination of the potential for LMI jobs to be created by reviewing the entry-level job skills, educational requirements, and job training opportunities to be provided and average wage. For retained jobs, there must also be clear and objective evidence that permanent jobs would be lost without the CDBG assistance. Jobs must be created within a reasonable time frame of the assistance, when the business becomes operational (generally 24 months from time of the assistance). Grants Administration may require a legally binding performance agreement which outlines repayment of a portion or all of the CDBG funds awarded for a project if the jobs creation/retention commitment and LMI hiring requirement is not met.

Generally, projects to support job creation through the location or expansion of retail and/or services type projects (shopping centers, truck stops, etc.) may only be considered in areas which qualify under HUD's presumption criteria for low and moderate income benefit or in predominately low and moderate income communities.

Grants Administration will not fund any project which involves the relocation of a business from another state, in accordance with HUD requirements, where there would be a significant job loss in the labor market area. Grants Administration also will not generally recommend relocation of a business from one jurisdiction to another within the State. The Secretary, in an exceptional circumstance, may waive this restriction where it is in the best interest of the State as a whole; e.g., where relocation is necessary to retain an existing business or to permit significant expansion of employment and such relocation will not have substantial negative impact on the local economy and employment.

Performance Thresholds

At the discretion of Grants Administration, a grant may not be awarded to local governments which have a serious, outstanding audit or monitoring finding related to any previously funded CDBG grant where the grantee has not been responsive and/or there is the potential for significant monetary restitution.

Application Requests and Deadlines

The chief elected or administrative official of the unit of local government must request applications for Business Development assistance from Grants Administration. Such requests should include as appropriate, the name of the business, its product or service, estimated initial capital investment, and the number of jobs to be created or retained. The request must also briefly describe the project for which CDBG funds are being requested, the estimated total cost of the project, the amount of CDBG funds being requested and the sources of all other funds necessary to complete the project. (If a preliminary engineering cost report is available, it should be included). Grants Administration may request a meeting with the potential applicant or may conduct a site visit to determine the eligibility and feasibility prior to mailing an application.

Applications may be submitted at any time. Grants Administration may issue commitments at any time for project funding contingent upon receipt of an acceptable written commitment from the business (if job creation or retention is involved), acceptable application information, compliance with CDBG program guidelines and HUD regulations, and continued program funding.

Local Match

CDBG projects are expected to leverage other public and private investments and serve as a catalyst for future development. Projects that traditionally have the greatest long term impact are those that have an investment by the community.

There must be a 10% match/leverage of the total CDBG request, unless otherwise approved, which can come from a variety of committed sources including other, non-Commerce grants, loans, waiver of fees, public or private investments, and documented volunteer or in-kind contributions.

The required match/leverage must be for activity costs directly related to the CDBG project. The state must approve in advance any proposed match (except application preparation or environmental review costs) that has been spent prior to application submission. With prior written approval, the match may be used for acquisition, or engineering design or permitting prior to the submission of the application. This is encouraged so that projects are construction ready.

The match/leveraging requirement may be modified or waived by Grants Administration upon written request and after consideration of the following minimum factors: the nature of the project, the need being addressed, local financial capacity and the availability of other resources. Grants Administration may request financial and other information as may be needed to make a determination. It is unlikely that a 100% waiver will be approved since every community is expected to make a contribution to the project.

Eligible Activities

Projects Involving Essential Goods and Services

A local government or non-profit entity may use CDBG funds to assist local businesses that provide essential goods and services needed by and affordable to LMI residents. There must be a demonstrated market need. Activities may include acquisition and/or rehabilitation of vacant, in town buildings for lease to a committed tenant.

Assistance may also include deferred forgivable loans to committed critical health care providers in underserved areas for facilities or equipment. There must be documentation that the service area is medically underserved based on DHEC or other similar documentation. Hospitals and nursing homes are not eligible under this category.

Projects Involving Job Creation

The types of project activities that may be undertaken include the following:

- **Infrastructure Support:** A local government may use CDBG funds to provide public infrastructure to serve new or expanding businesses. Infrastructure includes off-site water, sewer, roads, drainage, railroad spurs and other types of public facilities. These types of improvements are often necessary in rural areas where infrastructure is not always available. CDBG requires that the infrastructure provide services necessary to serve a specific business. Speculative projects or projects that involve future growth are generally not eligible.
- **Direct Assistance:** A local government may provide eligible business development assistance directly in the form of a grant and/or loan combination or a loan, or it may provide the assistance through public or private non-profit organizations. Such assistance may include site improvements, building, equipment, and working capital. Debt repayment is not eligible.

A request for Direct Assistance should contain a business plan and financial information with the following key elements:

- ◆ **General Information**
 - Business name, name of principals, and the business address.
 - Purpose of the project- exactly what the assistance will be used for and why.
 - Amount proposed- the exact amount needed to achieve the purpose.
- ◆ **Business Description**
 - History and nature of the business - details of what kind of business it is, its age, number of employees and current business assets.
 - Ownership structure - details on company's legal structure.

- ◆ Management Profile
 - A short statement on each principal in the business – provide background, education, experience, skills and accomplishments.
- ◆ Market Information
 - Clearly define company's products as well as markets.
 - Identify the competition and explain how this business competes in the marketplace.
 - Profile customers and explain how this business can satisfy their needs.
- ◆ Financial Information
 - Financial statements - balance sheets, profit and loss statement, and cash flow analysis for the past two years plus year-to-date information for the current year. If the business is starting out, provide a projected pro forma balance sheet and financial projections for three years, including any proposed expansions, asset and debt additions to balance sheet, and changes to income statement.
 - Personal financial statements of principal owners of the business.
 - Collateral to be pledged as security for the assistance.
 - Source, description, and status of all existing or proposed funding sources and uses of funds.

For any direct assistance or local business providing essential goods and services activities, it is required that the recipient conduct a financial analysis in accordance with HUD and State guidelines to determine the appropriateness of such direct assistance. Businesses will be required to submit the above mentioned financial and other information that documents the level of assistance needed.

Grants Administration must determine the need for public assistance in offsetting private sector expenses. A lack of financial need does not preclude CDBG assistance being made available, if other factors warrant the assistance. However, the underwriting is necessary to determine the level of assistance that may be appropriate when all factors are considered. This underwriting must be conducted for any proposed activity that provides direct assistance to a business where the activity does not involve a public facility or improvement.

Additionally, the business will be required to enter into a performance agreement and loan agreement, as applicable, to include terms of the assistance, job creation requirements and any other performance requirements.

Economic Development Underwriting Guidelines

The CDBG regulations contain Guidelines and Objectives for Evaluating Project Costs and Financial Requirements. These guidelines are designed to assist recipients in underwriting economic development projects and in determining which projects are financially viable and will result in the most efficient use of CDBG funds. Local governments must use the guidelines provided as an appendix to the CDBG regulations at 24 CFR Part 570 for basic financial underwriting of projects being considered for funding under economic development. Note that these guidelines do not apply to public facilities or microenterprise activities.

There are six criteria:

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

Each of these six criteria is discussed below.

1. Project Costs are Reasonable

A breakdown of all costs associated with the project (including working capital requirements) should be evaluated to determine the reasonableness of each cost. This will help to avoid providing too much or too little CDBG assistance for the proposed project.

If the budget is overstated there is probably no need for public resources. Conversely, if the budget is understated, the quality of the project may be adversely affected which could also reduce income available for debt service. In extreme cases, the project may go unfinished.

Recipients can control these risks in the following ways:

- Receive project quotes from independent, third parties.
- Look at costs of comparable projects.
- Compare CDBG costs to capital investment.
- Use guaranteed contracts, performance bonds or letters of credit.
- Use retainages for contractor's fee, developer's fee or leasing reserve.

2. Sources Are Committed

The grantee should verify that sufficient sources of funds have been identified to finance the project (including debt and equity).

- All other sources of funds do not have to be on hand prior to application. However, the authorization of the public assistance may be made contingent upon conventional financing being obtained.
- Avoid the risk of approving and disbursing funds for a portion of the project without sufficient funds from other sources to complete the development.

3. CDBG Funds Are Not Substituted for Non-Federal Funds

In general, the recipient should clearly establish that there is a need for the investment of public resources. Incentive funds are far too scarce and valuable to waste. Typically, a project has one or two types of funding gaps:

- Financing gap, or
- Rate of return gap.

Financing Gap

Calculating the financing gap determines the least amount of public funds needed for the project. A financing gap is determined as follows:

- Step 1: Determine the budget.
- Step 2: Calculate the amount of debt the project can support.
- Step 3: Compute the amount of equity the project can generate or the owner has available.
 - ◆ If the budget is greater than/equal to the sum of debt plus equity, then there is a financing gap. Public funds may be invested.
 - ◆ If the budget is less than the sum of debt plus equity, there is no financing gap and, therefore, no need for public investment.

The concept sounds complicated but is quite simple. As an example, assume someone contracts to buy a house for \$100,000. They go to a lender who will loan \$80,000 based on income. They have \$12,000 in equity. Since their budget of \$100,000 (ignoring closing costs for simplicity) is greater than the sum of debt and equity (\$92,000) the transaction cannot occur since there is a financing gap. However, if they access an additional \$8,000, they can complete the deal.

Rate of Return Gap

A rate of return gap is a variation of the financing gap. The rate of return gap is the ratio of income received by the owner to the equity invested by the owner and is determined as follows:

- Step 1: Determine the budget.
- Step 2: Calculate debt project can support.
- Step 3: Compute amount of equity necessary to complete the project.
- Step 4: Compare the benefits of the project to the equity invested.
Is the return a market rate?
 - ◆ If the market rate is greater than/equal to the rate of the prospective project, a gap exists. Public funds should be invested.
 - ◆ If the market rate is less than the rate of the prospective project, there is no gap and thus no need for public investment.

Note that the rate of return method is more applicable to real estate transactions than business deals, particularly for smaller projects.

A simple example of how this would work: A rental house costs an investor \$100,000 and will have a debt of \$80,000. The equity required to complete the house is \$20,000. The benefits are estimated at \$1,000 per year in a return market that is averaging 10 percent. The return on this property is five percent ($\$1,000/\$20,000$). If the market is demanding a 10 percent return, why would a rational investor accept a prospective project with a five percent return? Thus, a rate of return gap exists and public funds can be injected to drive the investor's return to a market rate.

4. Financial Feasibility

Once a recipient has established the need for public funds, it must determine repayment terms. If the terms are too harsh, the survival of the venture is jeopardized. If the terms of repayment are too lenient, the public funds will over compensate the project.

The financial viability can be evaluated based on assumptions about the project's market share, sales levels, growth potential, revenue projections, project expenses, and debt service to determine if the project will break even. This should also take into consideration that:

- Some negative cash flow in the early years may be normal but project financing should take this into consideration;
- A financially viable project will also project sufficient revenues to provide a reasonable return on equity investment; and
- Experience and capacity of the business owners should be assessed.

5. Owner's Equity Return is Not Unreasonably High

CDBG should not provide more than a reasonable return on investment to an owner, given industry rates of return, local conditions, and the risk of the project. However, it is difficult to compute

return on equity for small business projects. The use of standardized publications to calculate rates of return for small businesses is not recommended. There are significant variations in the data and there are many anomalies associated with small business which skew results. This approach is more applicable to publicly-traded companies or real estate projects.

6. CDBG Funds Disbursed Pro Rata

As a general rule, CDBG funds should be disbursed proportional to the percentage of the project they fund. For example, if CDBG funds are 20 percent of the project, CDBG funds should not exceed 20 percent of the aggregate proceeds disbursed. One exception might be if funds are allocated to acquisition and the property must be purchased first.

Public Benefit Standards

When CDBG funds are used for economic development projects or infrastructure improvements carried out for the purpose of creating/retaining jobs for LMI persons, or to assist local businesses that provide essential goods and services in predominantly LMI communities, the CDBG rules require the application of Public Benefit Standards. These standards ensure that at least a minimum level of public benefit is obtained from the expenditure of CDBG funds. Use of these standards is mandatory.

The Public Benefit calculation must be done before the application for assistance is approved by Grants Administration and prior to any assistance being provided. This requirement is separate from the national objective requirement that 51 percent of the jobs ACTUALLY created or retained be taken by LMI persons. (The performance agreement will specify the hiring commitments and time frames and will hold the business responsible for repayment of any CDBG funds required due to a failure to full CDBG hiring requirements.)

Projects Involving Essential Goods and Services

For projects involving assistance to local businesses that provide essential goods and services in predominantly LMI communities, the public benefit is calculated as the cost per person benefited.

Projects Involving Job Creation

In the case of job creation projects, the Public Benefit Standards are really a “cost per job” calculation used to determine if the CDBG financial assistance per job created/retained is appropriate. This requirement is separate from the national objective requirement that 51 percent of the jobs ACTUALLY created or retained be taken by LMI persons. (The performance agreement will specify the hiring commitments and time frames and will hold the business responsible for repayment of any CDBG funds required due to a failure to fulfill CDBG hiring requirements.)

Calculating Public Benefit

Projects Involving Essential Goods and Services

These projects must qualify as an area wide LMI benefit. This means the area served must consist of at least 51% LMI persons. The public benefit must be reasonable and the cost per LMI person is limited to HUD requirements. The cost per LMI person residing in the area served by the assisted business cannot exceed \$350, except in a census tract with at least 20% poverty or in a 70% LMI service area. In a 20% poverty or 70% LMI service area, the cost per LMI resident cannot exceed \$1,000.

Projects Involving Job Creation

The public benefit calculation begins by determining the total number of jobs to be created or retained as a result of the activity for each particular business for which the activity is principally being undertaken. (For example, 10 jobs to be created at Business A, 5 jobs to be created at Business B, etc.) **When counting jobs within each applicable business for public benefit purposes, include all jobs to be directly created or retained as a result of each public facility/improvement.**

The total “CDBG cost per job” is then calculated by **dividing**:

- The total dollar amount of CDBG funds to be spent for the activity (less administrative costs), **by**
- The total number of: jobs to be created or retained as a result of each facility/improvements by all of the businesses for which the project is principally being undertaken.

Cost per Job is Less than \$10,000

When the CDBG cost of the project is less than \$10,000 per job, only those particular businesses for which the public facility/improvement is being undertaken must submit a commitment letter and hiring plan. Other businesses in the service area, or those that later locate in the area, do not need to be considered.

Where the public facility/improvement is undertaken for the principle benefit of one business, but where other businesses might also benefit, the requirement may be met by demonstrating that 51 percent of the aggregate total of jobs created or retained as a result of the facility/improvements by the assisted businesses is for LMI persons. The principle businesses must meet the 51 percent requirement when hiring is completed and the total number of jobs actually created should not raise the cost per job above \$10,000 (unless there are documented circumstances beyond their control that prevented the hiring of the total number of employees committed).

Cost per Job is More than \$10,000

While not likely due to State policy, if the CDBG cost per job of the public facility/improvements is \$10,000 or more, then all jobs created or retained by all businesses benefiting from the public

facility/improvement must be tracked for the purpose of meeting the national objective (i.e., determining that at least 51 percent of the total jobs are for LMI persons). The tracking period begins the day funds are awarded to a recipient and ends one year after physical completion of the public improvement/facility (approximately 24 months from the time of assistance).

If the CDBG cost is greater than \$10,000 per job, information is needed from all businesses within the service area of the public facility/improvement at the time of the application. For each such business, a commitment letter and hiring plan must be submitted, covering any expected expansion. Businesses not anticipating expansions must submit a letter indicating that no expansion or increase in employment is anticipated within the next two years as a result of the public facility/improvement.

The letter should also state that if the business subsequently determines to increase its employment as a result of the public facility/improvement prior to the expiration of the covered period, that the business will submit a commitment letter and hiring plan covering the anticipated increase in employment. This commitment letter and hiring plan must indicate that at least 51 percent of new employees will be hired from LMI families.

The unit of local government must also submit an assurance that it will require any business newly locating in the service area during the covered period (12 months after completion) to submit a commitment letter and hiring plan for any anticipated increase in employment. At least 51 percent of the new employees must be hired from LMI families. The unit of local government must provide a description of activities to be undertaken to meet this assurance. The assurance must also state that if the local government is unable to document to the State's satisfaction that at least 51 percent of the jobs created or retained (in the aggregate) in the service area during the covered period were for LMI persons, it may be required to repay all CDBG funds awarded to that project.

“Anti-Pirating” of Jobs

Section 588 of the Quality Housing and Work Responsibility Act of 1998 prohibits States and local governments from using CDBG funds for employment relocation activities or “job pirating”. Job pirating refers to the use of federal funds to lure or attract a business and its jobs from one community to another community. CDBG funds may not be used to assist for-profit businesses, including expansions, as well as infrastructure improvement projects or business incubators which are designed to facilitate business relocation IF:

- The funding will be used to assist directly in the relocation of a plant, facility or operation; and
- The relocation is likely to result in a significant loss of jobs in the labor market area from which the relocation occurs.

The following are definitions to assist in determining if a business location falls under these provisions:

Labor Market Area (LMA)

- An LMA is an economically integrated geographic area within which individuals can live and find employment within a reasonable distance or can readily change employment without changing their place of residence.

Operation

- A business operation includes, but is not limited to, any equipment, employment opportunity, production capacity or product line of the business.

Significant Loss of Jobs

- A loss of jobs is significant if:
 - ◆ The number of jobs to be lost in the LMA in which the affected business is currently located is equal to or greater than one-tenth of one percent of the total number of persons in the labor force of that LMA;
 - OR in all cases
 - ◆ The loss of jobs is 500 or more.
- A job is considered to be lost due to the provision of CDBG assistance if the job is relocated within three years of the provision of assistance to the business.
- Notwithstanding the above definition, a loss of 25 jobs or fewer does not constitute a significant loss of jobs.

Written Agreement

- Before directly assisting a business with CDBG funds the grantee shall obtain a written agreement from the assisted business. The written agreement shall include:
 - ◆ A statement from the assisted business as to whether the assisted activity will result in the relocation of any industrial or commercial plant, facility, or operation from one LMA to another, and, if so, the number of jobs that will be relocated from each LMA.
 - ◆ If the assistance will not result in a relocation covered by this section, a certification from the assisted business that neither it, nor any of its subsidiaries, has plans to relocate jobs at the time the agreement is signed that would result in a significant job loss as defined in this rule; and
 - ◆ The agreement shall provide for reimbursement of any assistance provided to, or expanded on behalf of, the business in the event that assistance results in a relocation prohibited under this section.

Please contact Grants Administration for assistance if a CDBG project involves an existing business that is located outside of the locality or state.

Meeting a National Objective

Local Business Providing Essential Goods and Services

These types of projects will typically qualify either on the basis of LMI Area benefit or LMI Job Creation/Retention. To qualify under the LMI Area Benefit National Objective, the service area must be 51% LMI and primarily residential in nature. There must be documentation that the business is providing essential goods and services to that service area population. Goods and services might include grocery stores, dry cleaners, pharmacies, health care, etc. A high end boutique or souvenir shop would not be considered as providing essential goods and services.

Job Creation/ Retention

A Job Creation/Retention activity is one that creates or retains permanent jobs, 51 percent of which are held by persons from low and moderate income families. Jobs indirectly created by an assisted activity (i.e., “trickle-down” jobs) may not be counted.

- For job creation activities, the local government and the assisted business(es) must document that permanent jobs have been created, and that at least 51 percent of the jobs, computed on a full time equivalent (FTE) basis, involve the employment of low and moderate income persons.
- For job retention activities, the local government must document that the jobs would actually be lost without the CDBG assistance, and that either or both of the following conditions apply with respect to at least 51 percent of the jobs:
 - ◆ The job is known to be held by a low and moderate income person; or
 - ◆ The job can reasonably be expected to turn over within the following two years and that it will be filled by an LMI person upon turnover.

A written commitment to hire or retain LMI persons must be obtained for each assisted business. The business must also provide a hiring plan which details the number of jobs to be created, the number of jobs held or to be filled by LMI persons, the type of job, average wage, any special skills or training required, the timetable for hiring, and whether or not health care will be provided for the position. The plan must indicate who will be responsible for hiring and collecting required data and for any training to be provided. Generally, it is expected that initial hiring by the business will be completed within twenty-four (24) months from the time of the assistance. Projections for future expansions or growth are generally not considered for purposes of determining the number of jobs to be created.

Job Creation Requirements

The business must submit a commitment letter and hiring plan identifying the number of jobs to be created and /or retained and the number of jobs to be filled by LMI persons during the initial hiring phase.

The job commitment should be realistic in the total number of jobs, the number of jobs to be filled by LMI persons and the time frame for hiring.

- Grants Administration uses the commitment letter to qualify the proposed project under HUD regulations and will monitor the hiring to verify that job commitments have been fulfilled.
- Failure to comply with the requirement to benefit at least 51 percent LMI persons could result in the State requiring repayment of all or a pro rata share of the CDBG funds spent on the project.

Grants Administration staff must meet with appropriate representatives of the business to discuss hiring commitments, LMI job requirements and documentation prior to CDBG funds being awarded. These meetings can be coordinated with state employment services and Technical Schools representatives (if appropriate), the project administrator and appropriate local officials. State employment services are available to assist the business in taking applications for employment and in obtaining the required information from applicants for employment. Income eligibility of both applicants for employment and the employees actually hired is determined using the Applicant/Employee Information form, also known as an Income Survey. Income Surveys and EEO information should be completed at the time an applicant completes a business's application for employment. (See the *Applicant/Employee Information* form in the *Attachments*.) Where a business utilizes state employment services or Technical Schools to assist in recruiting and training employees, the entity that obtains the employment applications from applicants should also obtain the income surveys and EEO information.

As a general rule, each assisted business shall be considered individually for purposes of determining if at least 51 percent of the jobs created or retained will be for LMI persons. However, when CDBG funds are used to acquire, develop or improve real property (e.g., a shopping center or an industrial park), the 51 percent requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property as a direct result of the CDBG assistance.

Other businesses in the service area, or which may locate in the service area that benefit from the public facility/improvement need not be considered. (Note: The principle business(es) must meet the 51% requirement when hiring is completed and the total number of jobs actually created should not raise the cost per job above \$10,000 unless there are documented circumstances beyond the control of the business(es) which prevented the hiring of the total number of employees committed.)

The general rule is that if the CDBG “cost per job” of the public facilities or improvements exceeds \$10,000 then all jobs created or retained by all businesses in the service area must be tracked for the purpose of determining that at least 51% of the aggregate total jobs are for LMI persons.

This aggregation must include businesses which, as a result of the public facility/improvement, locate or expand in the service area of the public facility/improvement between the date the State awards the CDBG funds and the date one year after the physical completion of the public facility/improvement. This rule will rarely have any applicability, since it is not the State's intent to fund projects that exceed \$10,000 per job, except under special circumstances.

When counting jobs, the following policies apply:

- Part-time jobs must be converted to full-time equivalents.
- Part-time jobs may only be counted to the extent that the job requires at least 20 hours per workweek or half of business' workweek, whichever is greater.
- Only permanent jobs may be counted.
- Transferred jobs may not be counted.
- Seasonal jobs may be counted only if the season is long enough for the job to be considered the employee's principal occupation.
- Jobs indirectly created by an assisted activity (i.e., "trickle-down" jobs) may not be counted.

The business should track its employees by positions, such that when a position is created and an employee is hired, the LMI status of the employee in that position can be determined. Regardless of the number of jobs committed by the business, 51 percent of the total jobs created when hiring is complete must have been taken by LMI persons. For example, a business is committed to creating 100 jobs and to filling 51 percent with LMI persons. If the business actually creates 150 jobs, at least 76 must be filled by LMI persons.

The business should maintain applicant and employee income surveys and EEO information, along with payrolls or employee lists, to document compliance with CDBG requirements. It is recommended that these records be maintained separately from a business's individual personnel records.

The recipient is required to monitor on-site the business's progress in fulfilling the hiring and LMI job requirements and report to Grants Administration on a quarterly basis. When all jobs have been created, Grants Administration will monitor the hiring and LMI job documentation at the business. Records should continue to be kept by the business until notified by Grants Administration that the CDBG requirements have been fulfilled. In general, the business should plan to maintain CDBG records for a period of five years after the recipient's final grant close-out has been completed. (See *CDBG Implementation Manual, Chapter 15*.)

The level of documentation required for demonstrating benefit to LMI persons when using the Job Creation/Retention National Objective is significantly reduced for jobs/businesses located in areas meeting certain poverty levels and for employees living in those areas. The current regulations allow for a person to be presumed LMI under certain circumstances. See *Presumption Criteria* below for more information.

Generally, it is expected that initial hiring by the business will be completed within 24 months of the time of assistance. Projections for future expansions or growth are generally not considered for purposes of determining the number of jobs created.

Job Retention Requirements

For projects proposing the retention of jobs that would otherwise be lost without CDBG assistance, at least 51 percent of the jobs to be retained must be held by persons from low and moderate income families. HUD requires that there be clear, objective evidence and documentation that jobs would be lost without the CDBG assistance; therefore, using job retention as a basis for meeting the LMI National Objective is difficult. Consequently, in the past, few projects have qualified as benefiting LMI through job retention.

The business should track its employees by position, such that the LMI status of the employee in that position can be determined. Documentation is easier if employees live in, or the job and business is located in, certain high poverty areas. See *Presumption Criteria* below for more information.

Presumption Criteria

The level of documentation required for demonstrating benefit to LMI persons when using the Job Creation/Retention National Objective is significantly reduced for businesses located in areas meeting certain poverty levels and for employees living in those areas. The regulations allow for a person to be presumed LMI under certain circumstances.

A presumption can be made about a person's LMI status (only for job creation/retention activities) if either:

- The person filling the job resides within a census tract that either has at least 70 percent of its residents who are LMI or meets the criteria listed below.
- The assisted business and the job under consideration is to be located within a census tract that is part of a Federally-designated Empowerment Zone or Enterprise Community or meets the following requirements:
 - ◆ Has a poverty rate of at least 20 percent (as determined by the most recently available decennial census information and does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30 percent as determined by the most recently available decennial census information); and
 - ◆ It evidences pervasive poverty and general distress by meeting at least one of the following standards:
 - All block groups in the census tract have poverty rates of at least 20 percent;
 - The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or
 - Upon written request, Grants Administration and HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidents of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

Contact Grants Administration for a listing of census tracts, BNAs and block groups qualifying on the basis of poverty and LMI percentage.

Generally, the presumption must be made at the time a CDBG application is submitted and cannot be used retroactively. At the application stage, the business must submit a commitment letter and hiring plan identifying the number of jobs to be filled during the initial hiring phase.

Performance Agreement

In order to formalize the relationship between the state, the local entity, and any assisted business proposing job creation, a Performance Agreement must be signed and executed by all parties. The Performance Agreement is the State's method of ensuring that not only are all program requirements strictly followed by local recipients and subrecipients, but that users of CDBG funds are making sound investments to result in the desired outcomes. The performance agreement and/or loan agreement will provide for the repayment of all or a pro rata share of the CDBG funds awarded for a project if the job creation/retention commitment, LMI hiring requirement, and other requirements of assistance are not met.

Project Timetable

It is important to determine a timetable for the project as early in the planning process as feasible. The applicant local government should determine when CDBG assistance will be needed by the business and when the business plans to begin its construction activities. For public facilities projects, determine when the public facilities must be available and operational to the business and identify the necessary parameters of the public facilities requirements (i.e., size of lines, amount and type of treatment capacity, etc.). This project timetable, along with other information about the business, its product, the planned capital investment, and the number of new and LMI jobs to be created will be needed for the application.

Most economic development projects are on a "fast track". In such cases, the environmental review process should be started as quickly as possible. The environmental review process may take 120 days.

The environmental review should address the CDBG improvements as well as any business construction activities, air emissions from the plant, and waste generation and disposal as part of the overall project. This environmental review process must be carried out in a manner prescribed by HUD and has no direct relationship to environmental analyses, which may have to be carried out to meet the business's concerns regarding possible site contamination.

The environmental process may begin prior to grant award and prior to submission of an application. The costs for the environmental review, which is conducted prior to grant award, are reimbursable under the CDBG program if the costs are identified in the application, if all CDBG requirements are followed and if the project is awarded. Generally, no public or private construction activities may begin prior to release of environmental conditions.

Requesting an Application

The chief elected or administrative official of the unit of local government must request applications for Business Development Assistance from Grants Administration. Such requests should include as appropriate, the following:

- Name of the business.
- Its product or service.
- Estimated initial capital or private investment.
- Number of jobs to be created or retained,
- Brief description of the project for which CDBG funds are being requested.
- Estimated total cost of the project. (If a preliminary engineering cost report is available, it should be included.)
- Amount of CDBG funds being requested.
- Sources of all other funds necessary to complete the project.

Best efforts should be made to accurately estimate the amount of CDBG funds necessary. Grants Administration may request a meeting with the potential applicant or may conduct a site visit to determine the eligibility and feasibility prior to mailing an application.

Grants Administration may issue commitments at any time for project funding contingent upon receipt of an acceptable written commitment from the business (if job creation or retention is involved), acceptable application information, compliance with CDBG program guidelines and HUD regulations, and continued program funding.

Application Process (Job Creation Projects)

A brief outline of the steps involved during the Application Process for Business Development Program Assistance is as follows:

Phase One: Determine Community Needs

Develop a Citizen Participation Plan

- ◆ Identify citizens and organizations that can provide assistance, guidance, and input into the needs assessment and application process.
- ◆ Solicit input from broad community and conduct outreach to LMI persons.
- ◆ Research, analyze and compile documentation on community development needs, including obstacles to community competitiveness.

Hold Needs Assessment Public Hearing

- ◆ Publicize and conduct needs assessment public hearing with assistance of citizens and other partners.
- ◆ Prioritize needs.
- ◆ Prepare needs assessment document.

Phase Two: Project Identification

Meet With Company

- ◆ Determine assistance needed.
- ◆ Determine if activities are eligible and if a national objective can be met.
- ◆ Establish timetable.
- ◆ Coordinate with Grants Administration staff.

Phase Three: Project Development

Request an Application from Grants Administration

- ◆ Start Environmental Review Process.
- ◆ Obtain written hiring commitment, financial information, and capital investment from company.
- ◆ Develop cost estimates.
- ◆ Prepare maps.
- ◆ Compile documentation for application.
- ◆ Meet with state employment services.

Phase Four: Apply for CDBG Funding

Complete the Application

- ◆ Publicize and conduct public hearing on proposed application.
- ◆ Complete final application requirements and certifications.
- ◆ Submit application to Grants Administration.

Phase Five: Project Selection Process

Project Reviewed by Grants Administration

- ◆ Respond to Grants Administration questions.
- ◆ If grant is awarded, return signed grant award to initiate project.
- ◆ If activities must begin prior to grant award in order to meet company's timeframe, request permission to incur "pre-agreement" costs.

Project Selection Process

Applications will be considered in the order received. Funding may be limited or delayed if necessary to ensure funding availability for prior commitments for economic development assistance. Grants Administration will review the applications for completeness and for compliance with the above criteria, and applicable HUD regulations. Applications not meeting these requirements will not be recommended for funding.

Grants Administration may request other state agencies to assist in evaluating projects and activities. Grants Administration may request additional information from the applicant or other sources as necessary to evaluate the application and the proposed project.

Grants Administration will utilize the HUD guidelines at 24 CFR 570.482(e) and Appendix A in evaluating and selecting projects to be recommended for assistance to businesses under the Business Development Grant Program. The objectives of these guidelines are to ensure: (1) That project costs are reasonable; (2) That all sources of project financing are committed; (3) That to the extent practicable, CDBG funds are not substituted for non-Federal financial support; (4) That the project is financially feasible; (5) That owner's equity return is not unreasonably high; and (6) That to the extent practicable, CDBG funds are disbursed on a pro-rata basis with other finances provided to the project. The following factors will also be considered, as appropriate, in making a determination to recommend funding approval on all projects recommended by the Secretary:

Market Conditions (Need)

- Availability and utilization of local government or other public resources to assist the project and the relative need for CDBG assistance. Evidence of local economic distress such as recent plant closings and/or lay-offs and local unemployment rate. Evidence of market need for essential goods and services.

Economic Impact

- Number of permanent, full time jobs created or retained; CDBG cost per job (LMI and non-LMI); average wages, health benefits, capital investment; potential future growth; potential for catalyzing area economic development activity or cluster activity.

Leveraging

- Ratio of private and/or public funds to CDBG funds. Generally, private investment is expected to significantly exceed the amount of the CDBG and other public assistance.

Viability/Level of Public Risk

- Public costs are reasonable, all funding sources are committed and available, private funding to be spent before public funding to the extent practical, security provided, as appropriate (assets, guarantees, etc.), and potential of the project to achieve the proposed public benefits within proposed timeframe.

The Secretary will approve funding as recommended, unless the Secretary's consideration of the above factors results in a determination that such funding is not necessary or appropriate.

OTHER PROGRAM CATEGORIES

In the event funds are not available to fully fund all Business Development applications under consideration at the same time, priority will be given to applications with prior commitments, and then preference will be given to projects based upon a consideration of the following factors: (1) level of job creation or retention, (2) economic impact on the local economy, (3) level of capital investment and (4) distress level of the county where the project is located.

Under unusual circumstances, Grants Administration may consider a waiver of any CDBG program requirements, set by the State, for projects that are determined to meet urgent or compelling needs or where the Secretary of the Department of Commerce determines it necessary to implement the objectives of the Department of Commerce.