

The Department strongly recommends that if you do not know the status of your **Housing Element** to call Paul McDougall, Manager, HPD, at (916) 263-7420 or Paul.McDougall@hcd.ca.gov to verify compliance.

For Housing Element and Growth Control Requirements, Refer to **Appendix C**.

E. ELIGIBLE ACTIVITIES

Overview

- Pursuant to the Housing and Community Development Act of 1974 (HCDA Section 105(a)), CDBG funds may be used for activities as discussed below.
- For an activity to be eligible, it must be a HUD eligible activity as outlined and defined in the subsections below, and must also meet a National Objective, pursuant to 24 CFR 570.483, as discussed further in Section 10 of this NOFA.
- Planning and Technical Assistance is an eligible activity and may be applied for and funded for either Economic Development or Community Development purposes. Details on planning activity eligibility are discussed in Section 9, Item I.

- **Ineligible Activities**

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

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

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

- 1) ***Buildings or portions thereof, used for the general conduct of government*** cannot be assisted with CDBG funds. This does not include, however, the removal of architectural barriers involving any such building. Also, where acquisition of real property includes an existing improvement which is to be used in the provision of a building for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible, provided such acquisition meets a national objective.
- 2) ***General government expenses***. Except as otherwise specifically authorized in this subpart or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.
- 3) ***Political activities***. CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an

incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.

- b) The following activities may not be assisted with CDBG funds unless authorized under provisions in Special Economic Development (and in some cases Public Services) as otherwise specifically noted herein.
- 1) **Purchase of equipment.** The purchase of equipment with CDBG funds is generally ineligible.
 - (i) **Construction equipment.** The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to OMB Circulars A-21, A-87 or A-122 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible since it is an integral part of a public facility.
 - (ii) **Fire protection equipment.** Fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible.
 - (iii) **Furnishings and personal property.** The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with OMB Circular A-21, A-87 or A-122, as applicable) for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as firefighting equipment, or when such items constitute all or part of a public service.

 - 2) **Operating and maintenance expenses.** The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of operating and maintaining a facility used in providing a public service would be eligible, even if no other costs of providing such a service are assisted with such funds. Examples of ineligible operating and maintenance expenses are:
 - (i) Maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with a disabilities, parking and other public facilities and improvements. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs; and
 - (ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.

- 3) ***New housing construction.*** For the purpose of this paragraph, activities in support of the development of low- or moderate-income housing including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing pre-construction costs are not considered as activities to subsidize or assist new residential construction. CDBG funds may not be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction, except:
- (i) As provided under the last resort housing provisions set forth in 24 CFR part 42;
 - (ii) As authorized under 42 USC 5305(2) that will meet the National Objectives of Low/Mod Housing (LMH) or Limited Clientele (LMC).
- 4) ***Income payments.*** The general rule is that CDBG funds may not be used for income payments. For purposes of the CDBG program, “income payments” means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

Economic Development

A. Enterprise Fund

1. Business Financial Assistance Program

Funds under this activity are provided to eligible for profit businesses as loans. Projects funded under this program fall under HUD’s Special Economic Development Activities as per HCDA 105(a)(17). Eligible loans are underwritten with standards and documentation similar to those used by private commercial lenders including credit scores, equity contributions, historic income, projected income, collateral, and debt coverage. In addition, loans must be underwritten using HUD underwriting standards per 24 CFR 570.482(e). Businesses funded can be existing or startup companies. Loan funds are restricted to certain eligible activity costs as listed below.

a) Eligible Uses of Funds

- Financing of working capital to pay for marketing costs, operating expenses and inventory.
- Financing of furniture, fixtures and equipment (FF&E). Also, purchase and installation of manufacturing equipment.
- Financing of interior and exterior repairs and property improvements to owner and renter occupied commercial properties (including permits, engineering and architectural costs). These improvements may include ADA accessibility improvements.

- Financing of demolition and reconstruction or repair of blighted buildings where the business will operate.
- Financing may be used for refinancing existing indebtedness.
- Financing of relocation costs of any displaced persons due to project development are also eligible under this program.
- Financing of offsite public improvements required as part of project's development.

b) **Ineligible Uses of Funds**

- Projects that do not meet proper Public Benefit or National Objective.
- Projects that assist housing development.
- Projects that are speculative in nature with no firm basis for sales projections and loan repayment.
- Payment of project costs incurred prior to loan approval and NEPA review completion.
- Projects which violate HUD job pirating prohibition (using CDBG funds to encourage a business to move from one labor market to another).
- Financial Assistance to Nonprofits - Loans or grants are not eligible.

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

2. **Microenterprise Assistance Program**

Funds under this activity may be provided as three different services to eligible ME persons and businesses. ME activities can provide: (1) Technical Assistance Services; (2) Financial Assistance; and, (3) Support Services. Eligible ME businesses and persons, once qualified, are eligible for these three services for up to three years, per 24 CFR 570.483(b)(2)(iv). MEs can be funded as existing or startup companies. Financial assistance must be provided only after underwriting and confirmation that the ME participant and their business are financially viable. Costs for the three services are restricted to certain eligible activity costs as listed below.

a) **Eligible Use of Funds**

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

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

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

- Using grant or loan financing to pay for working capital or to pay for marketing costs, operating expenses and inventory.
- Financing for furniture, fixtures and equipment (FF&E). Also, purchase and installation of equipment.
- Financing for payment of interior repairs and property improvements to owner and renter occupied commercial properties (including permits, engineering and architectural costs). These improvements may include ADA accessibility improvements.
- Funds for relocation of any displaced persons due to project development are also eligible under this program.

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

- Funds for payment of transportation costs to allow ME participants to travel to and from classes and technical assistance.
- Funds for payment of child care services to support the ME Program participant in attending technical assistance activities.

b) Ineligible Uses of Funds

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

Reference: HCDA 105(a)(22)

B. ED Over-the-Counter (OTC)

ED OTC funding is provided to a specific project and as a CDBG-eligible activity, normally falls under HUD's Special Economic Development Activities as per HCDA 105(a)(14), and, 105(a)(17).

An OTC project can consist of financial assistance to a single business or a large number of assisted businesses served by common infrastructure. The most common form of an OTC project is a single business with a single project where funds are provided as a loan to an eligible borrower. The more complex OTC project occurs when OTC funds are used to pay for infrastructure improvements in support of a commercial development (shopping center or industrial park) that has multiple businesses. All businesses associated with or served by the infrastructure must be underwritten and qualified as part of the CDBG OTC funding proposal. Incubator

facilities and farmers markets may also be funded as an OTC project, which provides support for growing local businesses in the community. The incubator and farmers market OTC projects are also very complicated because of the large number of businesses served by the facilities and documentation of eligibility of the businesses.

a. **Eligible Uses of Funds**

- Financing may be used to cover any offsite public improvements required as part of project development.
- Financing may be used for working capital to pay for marketing costs, operating expenses and inventory.
- Financing may be used for furniture, fixtures and equipment (FF&E). Also, purchase and installation of manufacturing equipment.
- Financing may be used for payment of interior and exterior repairs and property improvements to owner and renter occupied commercial properties (including permits, engineering and architectural costs). These improvements may include ADA accessibility improvements.
- Financing may be used for payment of demolition and reconstruction or repair of blighted buildings where the business will operate.
- Financing may be used for refinancing existing indebtedness.
- Financing used for relocation of any displaced persons due to project development is also eligible under this program.

b. **Ineligible Uses of Funds**

- Projects that do not meet proper Public Benefit or National Objective.
- Projects that assist housing development.
- Projects speculative in nature with no firm basis for sales projections and loan repayment.
- Project costs incurred prior to NEPA review completion.
- Projects which violate HUD job pirating prohibition (using CDBG funds to encourage a business to move from one labor market to another).
- Non-profit financing is restricted to payment of acquisition of real property or construction costs.

Section 108 Loan Guarantees - The Department is reviewing the process and options for funding Section 108 Loan Guarantees for large Economic Development OTC projects. For more information, please contact your Representative.

Community Development

A. **Housing Definitions of Single-Family Residential and Multi-Family Residential**

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

Multi-Family Residential applies to the eligible **project** activities of Multi-Family Housing (MFH) Rehabilitation and MFH Acquisition/Rehabilitation, and is defined as five residential units or more on a single property or within a single development complex.

While the number of units being served is an important aspect of the distinction between Single-Family and MFH activities, the more important distinctions, from an eligibility and compliance stand point are that:

- HR and Homeownership Assistance are Programs where, at the time of application, there are no specific addresses assigned to the funding and guidelines are required.
- MFH Acquisition and/or Rehabilitation are Project activities where, at the time of application, there is a specific address assigned to the funding and no guidelines are needed, but more involved oversight by the Department is required (e.g., feasibility studies, expanded environmental review, Davis-Bacon, etc.).

These are critical differences when applying for any of these activities, as the application requirements and scoring criteria are significantly different. Programs require Program Guidelines to be submitted as part of the application, whereas Projects do not. Please follow the instructions in the Application for these activities and provide the specific documents and information required.

1. **Housing Project - Property Acquisition for Multi-Family Housing**

a. **Eligible Uses of Funds**

This activity is intended only for the acquisition of property for the purposes of housing projects. If the applicant is interested in non-housing property acquisition, the applicant should apply under the activity that corresponds to the proposed use of the property (i.e., when proposing to acquire a public facility or the land upon which to build one, the applicant should apply under the Public Facility activity).

Eligible uses of funds include the following:

- Acquisition of existing rental housing, the majority (51%) of units of which are occupied by low- or moderate-income residents.
- Resident purchase of mobilehome parks.
- Acquisition of vacant land as part of an affordable housing development project.

Reference: Section 105(a)(1) of the Housing and Community Development Act of 1974.

Note: For this activity, the corresponding application to use is the Housing Project – Multi-Family application package. See Eligible Activity #4 below. ***Further, this activity can only be eligible if the acquisition results in housing units being built that are occupied by low/mod beneficiaries such that a National Objective will be met.***

b. **Ineligible Uses of Funds**

- Acquisition of property that is to be donated or sold for less than the purchase price to the same entity from which the property was originally purchased.
- Acquisition of newly-constructed housing or an interest in the construction of new housing, **unless** such housing is already constructed and for sale on the open market at the time that a commitment is made to use CDBG funds for such a purchase.

2. **Housing Program - Homeownership Assistance**

a. **Eligible Uses of Funds**

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

Assistance may be used to:

- Subsidize interest rates and mortgage principal amounts;
- Finance the acquisition by LMI homebuyers of housing that will be occupied by the homebuyers;
- Acquire guarantees for mortgage financing obtained by LMI homebuyers from private lenders;
- Provide up to 50% of any down payment required from the LMI homebuyer; or,
- Pay reasonable closing costs incurred by LMI homebuyers.

b. **Ineligible Uses of Funds**

- HA that would benefit a *non*-LMI person or household. Or assistance to a homebuyer that does not occupy the home.
- HA on a unit that is not yet built, and would thus be considered *housing new construction*. HA under CDBG is intended for existing homes, not new construction.

Reference: HCDA 105(a)(24)

3. **Housing Rehabilitation Program (1-4 units) (HR)**

a. **Eligible Uses of Funds**

- Financing of the costs of repairs and general property improvements to owner- and renter-occupied units, including repair or replacement of principal fixtures and components of existing structures (e.g., the heating system).
- Demolition and reconstruction of dwelling units (under certain, limited circumstances).

- Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds, if such financing is determined by the grantee to be necessary or appropriate to achieve the locality's community development objectives.
- Water or sewer laterals from the main water line to the dwelling, regardless if the main water line or any part of the lateral is located in a public right of way, if done in conjunction with the rehabilitation of the unit itself.
- Installation of water meters, if done in-conjunction with the rehabilitation of the unit itself.
- Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, wall and attic insulation, and conversion/modification/replacement of heating and cooling equipment, including the use of solar energy equipment.
- Improvements to increase the efficient use of water through such means as water saving faucets and shower heads and the repair of water leaks.
- Initial homeowner warranty premiums when rehabilitation is carried out with CDBG funds.
- Hazard insurance premiums when rehabilitation is carried out with CDBG funds, except where assistance is provided in the form of a grant.
- Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973 and for which the rehabilitation is carried out with CDBG funds.

b. **Ineligible Uses of Funds**

- Any action that results in what would be considered *housing new construction*.
- Creation of a secondary housing unit attached to a primary unit.
- Installation of luxury items, such as a swimming pool.
- Costs of equipment, furnishings or other personal property which are not integral structural fixtures, such as a window air conditioner, washer or dryer, etc.
- Labor costs for owners to rehabilitate their own property.
- Assistance to homeowners that would benefit a non-LMI person or household.

c. **Other Considerations**

The HR (1-4 Units) activity is a **program** involving single family residential properties that are one to four units.

HR programs require guidelines adopted in accordance with required citizen participation and formal resolution by the governing body of the jurisdiction.

Further, should the jurisdiction choose to include tenant-occupied HR in their program, the guidelines **must** separate out the rules for renter-occupied units (also called owner-investor) and owner-occupied units.

Reference: HCDA 105(a)(1), 105(a)(4)

4. **Housing Projects - Multi-Family Rental Rehabilitation - with or without Acquisition**

a. **Eligible Uses of Funds**

- Financing of the costs of repairs and general property improvements to renter-occupied units, including repair or replacement of principal fixtures and components of existing structures (e.g., the heating system).
- Demolition and reconstruction of dwelling units (under certain circumstances).
- Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds, if such financing is determined by the grantee to be necessary or appropriate to achieve the locality's community development objectives.
- Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, wall and attic insulation, and conversion/modification/replacement of heating and cooling equipment, including the use of solar energy equipment.
- Improvements to increase the efficient use of water through such means as water saving faucets and shower heads and the repair of water leaks.
- Conversion of commercial properties into housing units.
- Conversion of a non-residential structure (closed school building, closed military facility, etc.) to residential (adaptive reuse).
- Projects with at least 51% of the units occupied by or restricted for low/mod households.

b. **Ineligible Uses of Funds**

- Installation of luxury items, such as a swimming pool.
- Costs of equipment, furnishings or other personal property which are not integral structural fixtures, such as a window air conditioner, washer or dryer, etc.
- Labor costs for owners to rehabilitate their own property.
- Projects with less than 51% of the units occupied by or restricted for low/mod households.

c. **Other Considerations**

Housing Projects - Multi-Family (MFH) are for properties with five or more units, and formal *program guidelines* are not applicable. MFH projects will be reviewed for feasibility, as well as true financial need. As stated in this NOFA and corresponding application package, only one MFH Rehab project is allowed per application.

Reference: HCDA 105(a)(1), 105(a)(4)

5. **Housing – Combo – Applying for both Homeownership Assistance (HA) and Housing Rehabilitation (1-4 Units) (HR)**

a. **Eligible Uses of Funds**

This activity allows jurisdictions to apply for funding for both their HA and HR Programs. It provides greater flexibility by allowing grantees to transfer CDBG funds between the two programs without having to execute a formal contract amendment. Grantees will need to inform the Department in writing each time funds are moved, and written approval for transfer between the two programs will be required.

For details on eligible and ineligible activities, please refer to the HR and HA sections above.

Note: The “Combo” program is merely a means to apply for both programs together; however, both programs cannot be used on the same address. That is to say, CDBG funds cannot be used to acquire, rehabilitate and resell 1-4 Unit properties. **Further, In order to be considered for a housing combination program, the application must include the forms and supporting documentation for both activities.**

b. **Ineligible Uses of Funds**

For ineligible activities, please refer to the HR and HA sections.

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

6. **Housing - Housing New Construction**

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

For the State CDBG Program, the Housing and Community Development Act of 1974, as amended (HCDA) states that any activity not specifically listed in section 105 is not eligible. Thus, the construction of new, permanent, housing structures is **ineligible** for CDBG assistance, except under the following limited circumstances:

Construction of **last resort** housing is when a jurisdiction is providing a displaced person with a comparable replacement dwelling unit, and this can only be accomplished by new construction. Last resort housing provisions are set forth in federal regulations Title 24 CFR, Part 42, Subpart I. Documentation demonstrating the efforts to relocate individuals must be submitted with the application if last resort housing or displacement is part of the application.

Note: Generally, activities in support of new housing construction projects are eligible under Public Improvements In-Support-Of Housing New Construction.

b. **Other Considerations**

- **Project Completion:** Construction of all housing units must be completed and the housing must be occupied **prior to the expiration of the CDBG Grant Agreement.**
- Conversion of a non-residential structure to residential (adaptive reuse) is *not* considered to be a housing new construction activity, and is eligible under HR.

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

7. **Public Improvements**

a. **Eligible Uses of Funds**

- The costs of construction, reconstruction, rehabilitation or installation of a public improvement project, including water and sewer facilities, flood and drainage facilities, street improvements (including sidewalks, curbs and gutters) and utilities.

For Public Improvements to be eligible under the Community Development funding category, the project must be located in and serve a predominantly residential area. The applicant must attach a map indicating the use of all properties in the service area of the project.

b. **Ineligible Uses of Funds**

- Costs of operating and maintaining public improvements.
- Costs of purchasing construction equipment.

Reference: HCDA 105(a)(2)

8. **Public Improvements In-Support-Of Housing New Construction (PIHNC)**

a. **Eligible Uses of Funds**

- The following are eligible uses of CDBG funds in conjunction with the actual construction of new permanent housing:

Off-site improvements such as utilities, streets, curbs and gutters, sidewalks, and flood and drainage improvements are eligible only where specifically required as a condition of the housing project approval and where the improvement is necessary to the development. If the proposed improvements are not a ***condition of approval***, then **the activity will be deemed a non-specific Public Improvement Project and the applicant should use the Public Improvement application for that activity rather than Public Improvement In-Support-Of Housing New Construction. The non-specific Public Improvement application will be evaluated for eligibility and scored on the basis of area benefit.**

b. **Ineligible Uses of Funds**

- Costs of operating and maintaining public improvements.
- Costs of purchasing construction equipment.
- Off-site improvements that are not a condition of approval for the new housing development.
- On-site improvements.

c. **Other Considerations**

Project Completion: The construction of all housing units must be completed and the housing **must be occupied** (regardless of any other funding sources in the project) **prior to the expiration of the CDBG Standard Agreement.**

Reference: HCDA 105(a)(2)

9. **Public Facilities**

a. **Eligible Uses of Funds**

- Acquisition, rehabilitation or new construction of buildings and grounds used to provide one or more eligible CDBG public service. Public services, such as employment training, health services, education, recreation, nutrition, shelter, day care, temporary housing and fire protection. For a public facility to be eligible, it must be used for public purposes as described in this section, or provide eligible public services as described in this section, item G.
- The acquisition of real property (including air rights, water rights, easements, rights-of-way and other interests therein) is eligible if the property meets any of the following criteria:
 - Blighted, deteriorated, deteriorating, undeveloped or inappropriately developed from the standpoint of sound community development and growth;
 - Appropriate for rehabilitation or conservation activities; **or**,
 - The acquisition of land for use as a park serving primarily a residential neighborhood that is predominantly low- to moderate-income.
- **Temporary Housing**: For housing-related activities to be eligible as a Public Facility, both the facility and the services therein must be designed for use in providing temporary shelter for persons having special needs. Such shelters would include, but not be limited to, nursing homes, convalescent homes, shelters for victims of domestic violence, shelters and transitional facilities for the homeless, halfway houses for runaway children or drug offenders or parolees, group homes for the developmentally disabled, and seasonal housing for migrant farmworkers.

Note: *Costs for design features which promote the energy efficiency of the proposed Public Facility activity may be included.*

- If a public facility contains multiple uses, including eligible and ineligible uses, it could still receive CDBG assistance if:
 - *The portion of the building which will house the eligible uses will occupy a designated and specific area demonstrated by building drawings/plans.*
 - *The applicant can determine the costs attributable to the portion of the facility proposed for assistance as separate and distinct from the overall costs of the multi-use building.*

b. **Ineligible Uses of Funds**

- Buildings used for the general operation of local government are not eligible as public facilities, except that the removal of architectural barriers from such buildings is an eligible activity. Please see the note below regarding Section 504 compliance.
- The costs of maintaining or operating a public facility are not eligible as a public facility activity, but may be eligible under the public service activity.
- Refinancing loans on existing public facility buildings is not an eligible use of CDBG funds, unless the refinancing takes place in conjunction with the rehabilitation of the building.
- Permanent housing.
- Time-sharing of eligible and non-eligible uses for the same space.

c. **Other Considerations**

Use Limitation Agreement: For property acquired or improved in whole or in part using CDBG funds, a Use Limitation Agreement will be required to be in effect for at least five years after the close out of the CDBG contract to ensure that the eligible public services will continue to be provided.

Reference: HCDA 105(a)(2)

Note: Government Building Exception: Section 504 Compliance: Rehabilitation of buildings used for the general operation of local government is not eligible **unless the rehabilitation is to remove architectural barriers** and must comply with the requirements detailed in Section 504 of the Rehabilitation Act of 1973, including obtaining a certificate of compliance from the architect documenting that the facility meets Section 504 accessibility requirements (see **Appendix H**).

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

10. Public Services

a. Eligible Uses of Funds

CDBG funds may be used to provide public services including labor, supplies, materials and other costs. Funding operating and maintenance costs in the facility providing the service is allowed under this category. Public Services include, but are not limited to:

- Child Care
- Health Care
- Crime Prevention
- Job Training
- Recreation Programs
- Education Programs
- Fair Housing Counseling
- Credit Counseling Services
- Public Safety Services
- Services for Senior Citizens
- Services for Homeless Persons
- Drug and Alcohol Abuse Counseling and Testing
- Transportation Services
- Nutrition Services
- Energy Conservation Counseling and Testing
- Emergency Assistance Payments
- Neighborhood Cleanup

b. Ineligible Uses of Funds

- Political Activities
- Religious Services
- Governmental Operations
- Ongoing Grants or Non-emergency payments to individuals for the food, clothing, rent, utilities or other income payments (subsistence payments) — beyond three months.

c. Other Considerations

Federal statute allow for the use of CDBG funds for Public Services only under any of the following four circumstances:

- 1) The service must be **new**, in that it has not been provided before, or has been discontinued for more than 12 months prior to the final filing date of the application; ***or***,
- 2) The proposed service must show a **quantifiable increase** in the level of service with the costs having never been incurred or paid for by a funding source.
- 3) The service is **currently funded with CDBG grant funds** and the service will remain at substantially the same level.
- 4) The service was previously **funded by another source and that source is no longer available**. **The loss of this funding must be documented in the application.** *This eligibility requires an exception from HUD. The applicant will be required to show that CDBG funds are not being substituted for other state or local funds and that the loss of current funding is out of the*

applicant's control. CDBG funding may not supplant other state and local funding. If the applicant intends to apply under this eligibility please call your CDBG Representative to discuss prior to preparing the application.

Note: *The State CDBG allocation for Public Services cannot exceed 15% of the total award to the State.*

Reference: HCDA 105(a)(8)

11. Code Enforcement

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

Note: *Code Enforcement is not actually a Public Service Activity, it is a stand-alone activity under 42 USC 5305(a)(3) with IDIS Matrix Code 15. However, CDBG State Regulations currently provide authority for the activity under the Public Service section in 25 CCR 7078.*

Jurisdiction-wide Code Enforcement

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

a. Eligible Uses of Funds

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

b. Ineligible Uses of Funds

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

c. **Other Considerations**

To be eligible, the Code Enforcement Activity must:

- 1) Only be carried out in *deteriorating or deteriorated areas* where such enforcement, together with public or private improvements, rehabilitation or services to be provided, *may be expected to arrest the decline of the area.*
- 2) Clearly *identify measurable outcomes and supported by documented success.*
- 3) CDBG-funded code enforcement activities can trigger the Uniform Relocation Act (URA) and its Section 104(d) if the follow-up activity involves the acquisition, rehabilitation or demolition of property with other federal or *private funding*, and requires that individuals move on a temporary or permanent basis. Applicants engaging in code enforcement activities that may or will cause the relocation and displacement of persons must provide a project-specific relocation plan. This plan must outline how they will manage the relocation and displacement activities for the project and estimate what relocation benefits will be required.

References: HCDA 105(a)(3)

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

a. **Eligible Uses of Funds**

CD planning studies focus on research, analysis and planning for community needs in regard to: housing, public improvements, community facilities, public services and local planning issues. Planning study final products must show a connection to assisting with an eligible CDBG activity that, if implemented, meets a National Objective.

ED planning studies focus on business development and job creation or retention through analysis of business development opportunities. ED planning grants also help develop analysis of needs and impediments to growth of local businesses (lack of infrastructure or financing). Planning grants for ED can assist in the development of long term local economic development strategies, like County Economic Development Strategies (CEDs) required by Federal Economic Development Agency (EDA). Downtown economic development plans to guide the growth and revitalization of a downtown area are also eligible and could qualify as helping to develop a BA program for the downtown area which would create jobs for Low/Mod persons.

Both CD and ED PTA activities can only qualify under the Low/Mod Area Benefit National Objective.

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

- Studies
- Analysis
- Data gathering

- Preparation of plans, and
- Identification of action that will implement plans.

Note: Grant/application writing, including for ED OTC activities, is not an eligible use of PTA funding.

Further, *the application must document* that the work-product to be produced by the PTA award, if implemented, **will** meet one of the above mentioned National Objectives, Low/Mod Area Benefit or Slum & Blight on a Spot Basis. The Department will evaluate each PTA for eligibility based on the application's supporting documentation confirming the PTA will meet one of the aforementioned National Objectives.

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

- 1) Be consistent with the work product applied for in the PTA application; and,
- 2) Be submitted to the Department at time of grant closeout.
- 3) If implemented meet either the Low/Mod Area or Slum and Blight on a Spot Basis National Objective at the time of award.

If the work-product produced by the PTA grant is: (1) not consistent with the work-product approved in the original application and as described in the contract; (2) will not, if implemented, meet a National Objective; or, (3) is not submitted at the time of grant closeout; *the activity may be deemed ineligible and the funding shall be returned to the Department.*

Grant writing may be funded through a jurisdiction's GA funding; **however, CDBG GA can only be spent on preparing CDBG applications.**

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

b. Ineligible Uses of Funds

- 1) Planning and capacity building activities do not include:
 - Engineering, architectural plans and design costs related to a specific project (for example, detailed engineering specifications and working drawings); or,
 - The costs of implementing plans, including grant application preparation.
 - The costs of Geographic Information Systems.
 - Providing technical assistance to a non-profit for capacity building.
- 2) In addition, the list below gives examples of activities that are ineligible, with possible exceptions. *CDBG encourages applicants to contact your CDBG Representative if there are any eligibility questions.*

- ✓ **Ineligible: Income Survey** costs. The cost of conducting an Income Survey is not an eligible CDBG cost. PTA funding cannot be spent on 'tools' that do not result in an eligible activity or direct beneficiaries.
- ✓ **Ineligible: Housing Element** preparation for jurisdictions in which fewer than 51% of residents are Low/Mod as documented by the federal ACS census data..

Exception: *Costs incurred for the preparation of that portion of the Housing Element in which affordable housing is addressed is eligible. See also below under comprehensive planning.*

- ✓ **Ineligible: Comprehensive**, general or long-range planning:
 - **Comprehensive** means the study was conducted for more than half of the geographic area in the jurisdiction, and includes two or more topics regarding the physical development of the jurisdiction.
 - **General** means the documents include summaries of broad policies or proposals that are not site-specific.
 - **Long-range** means the time-frames for the policies and proposals are five years or more.

Exception: Comprehensive planning is allowed if the planning is carried out in a geographic area in which 51% or more of the residents are Low/Mod income as documented by the federal census or income survey completed within the last five years, and the applicant can document that the comprehensive plan will primarily benefit Low/Mod income persons.

Reference: HCDA 105(a)(12); HCDA 105(a)(14); and, HCDA 105(a)(19)

c. **Other Considerations**

Cash Match Requirements - *The PTA activity requires local matching funds to be committed to the activity, per Health and Safety Code 50833.* Per Title 25, Section 7058(a)(5)(A), all jurisdictions applying for a PTA activity will be required to commit five percent (**5%**) of the total funding amount as a required cash match. For more information on this requirement, see **Appendix J** and the PTA activity section of the Application.

F. **SUPPLEMENTAL ACTIVITIES**

If the applicant submitted eligible Supplemental activities, any contract funds that get supplanted by PI funds can roll down to fund Supplemental Activities.

For the 2015 NOFA a maximum of **three** Supplemental Activities may be applied for. Supplemental Activities will be applied for by filling out the Supplemental Activities tab on the Application Summary, and by submitting the Supplemental Activity Form and any required documentation that corresponds to the Activity(ies) being applied for (Project or Program). Supplemental Activities cannot be Public Services or PTAs. The reason for this