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INTRODUCTION

Purpose

This Guide is designed to help public officials and citizens understand what activities are eligible to be assisted under the **Community Development Block Grant (CDBG) Entitlement Program** and to guide them in making wise choices among certain alternatives available within the program for carrying out particular activities. While the statute, as amplified by the regulations, provides the authoritative version of program requirements, this Guide:

- ✓ Organizes eligibility requirements in a more accessible and understandable format;
- ✓ Provides additional explanatory materials, including examples;
- ✓ Provides guidance on the factors to be considered in selecting among alternative categories of eligibility and national objectives, where applicable; and
- ✓ Provides guidance on accessing additional CDBG resources that may be available to a community.

Overview of Contents

Chapter 1 (Selecting Activities that Comply) sets forth several key determinations that a grantee must make in order to be sure that a particular activity that is assisted with CDBG funds will be found to meet relevant program rules.

Chapter 2 (Categories of Eligible Activities) describes each category of basic eligibility under which an activity may be carried out using CDBG funds. Additional considerations related to undertaking an activity under each category are also described, as well as requirements for documenting that activities selected for assistance under the program fall under a particular category of eligibility specified by the grantee. The requirement that each assisted activity must address at least one of the national objectives of the CDBG program is emphasized and examples are provided.

Chapter 3 (Meeting a National Objective) describes the several categories under which the national objectives of the program may be addressed, the criteria that must be met for each category and the records which must be maintained to verify that an activity qualifies as either:

- ✓ Benefiting low and moderate (L/M) income persons;
- ✓ Addressing slums or blight; or
- ✓ Meeting a particularly urgent community development need.

Chapter 4 (Overall Expenditures Level - Benefit to L/M Income Persons) describes the methodology each grantee must follow in determining if it is in compliance with the requirement that at least 70% of all CDBG funds expended during the period of one, two, or three consecutive program years, as selected by the grantee for this purpose, be used for activities which are considered under program rules to benefit L/M income persons. (This requirement is distinct from the requirement that individual activities which are considered under program rules to meet the L/M income national objective must generally benefit persons at least 51% of whom are L/M income.)

Appendices: The Guide also includes several appendices, each of which can provide useful information to be considered in making choices about how to use program funds:

- (1) The first appendix (A) is a fact sheet that provides an overview of the CDBG Entitlement program. The reader should find it useful in describing the program to others.
- (2) The second appendix (B) contains a discussion of the requirement that Public Benefit must be commensurate with the amount of CDBG funds used for certain activities of an economic development nature. The standards for measuring Public Benefit are described.
- (3) The third appendix (C) describes policies relating to special assessments under the CDBG program which are also referenced in the Guide.
- (4) The fourth appendix (D) provides guidance in determining the area served by certain activities.
- (5) The fifth appendix (E) provides the criteria by which HUD will determine if it will approve a Neighborhood Revitalization Strategy submitted by a grantee, and the benefits that will accrue to the grantee upon such approval.
- (6) The sixth appendix (F) identifies three approaches a grantee may consider taking to make available to itself additional CDBG funds to meet its needs.

- (7) The seventh appendix (G) discusses securitizing CDBG-funded rehabilitation and economic development loans using the Section 108 Loan Guarantee program or selling the loans to secondary markets. Issues that communities encounter and solutions for common problems are also described.

**Important
Note to
Guidebook
Users**

Considering the broad range of activities which may be carried out with CDBG funds and the need for interpretation of the applicability of requirements to many differing factual situations, this Guide will not provide answers to all questions about activity eligibility.

To avoid potential problems, grantees are encouraged to ask the local HUD field office for clarification when requirements appear unclear and to bring ambiguous situations to that office's attention.

Moreover, program requirements may change subsequent to the publication of this Guide. It is therefore also important that grantees stay in close contact with their local HUD field office to keep abreast of program changes.

Information about HUD field offices may be found at HUD's Home Page on the World Wide Web at <http://www.hud.gov/local.html>.

SELECTING ACTIVITIES THAT COMPLY

Scope of Selection Decisions

While there are many aspects that must be considered in selecting activities to assist under the CDBG program, there are **six** key steps a grantee should take in the early stages of the process of determining if CDBG funds may be used to assist a proposed activity.

The **first step** is to determine if the activity is included within the listing of eligible activities in the CDBG statute, as amplified by regulation. This Guide describes all categories of basic eligibility which were authorized at the time of publication.

The **second step** is to determine if the proposed activity falls within a category of explicitly ineligible activities, despite its apparent inclusion within an authorized category. For example, while public facilities are generically eligible for assistance with CDBG funds, there is an explicit statutory bar to providing assistance to “buildings for the general conduct of government” under the category of Public Facilities and Improvements. The explicitly ineligible activities are identified in this Guide, as well as those that may be made eligible under particular categories.

The **third and arguably most important step** is to determine if the proposed activity can meet one of the national objectives of the program. This Guide describes this requirement in some detail.

The **fourth step** is to ensure that carrying out the activity with CDBG funds will not result in the grantee violating its certification that at least 70% of CDBG expenditures will be for activities that are considered to benefit L/M income persons over the one, two, or three consecutive program years specified by the grantee. The procedure for calculating overall program expenditures for this purpose is described in this Guide.

The **fifth step** is to review proposed costs of the activity to determine if they appear to be necessary and reasonable and will otherwise conform with the requirements of OMB Circulars A-87, “Cost Principles for State, Local, and Indian Tribal Governments,” A-122, “Cost Principles for Non-Profit Organizations,” A-21, “Cost Principles for Educational Institutions,” 24 CFR Part 84, “Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations;” or 24 CFR Part 85, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” as applicable.

The **sixth step** is to complete the environmental review and clearance procedures for the project of which the activity is a part. Those procedures are set forth in 24 CFR Part 58. HUD is prohibited by law from releasing funds for a CDBG activity until the grantee certifies that it has met its responsibilities with respect to environmental protection.

Waivers

Any provision of the regulations covering the CDBG program that is not required by the statute may be waived by HUD. The statute itself also provides that HUD may waive certain statutory provisions in the case of the use of CDBG funds to respond to a Federally-designated disaster (section 122 of the Housing and Community Development Act of 1974, as amended). If a grantee wants to determine if a particular provision of the regulation can be waived, it should contact its local HUD field office to discuss the matter.

Under the General HUD Program Requirements regulation at 24 CFR 5.110, HUD may waive a requirement for good cause if the grantee can show that applying the provision in the particular situation would result in “undue hardship” and “adversely affect” the purposes of the HCD Act. This two-pronged threshold test is considered a subcategory of the “good cause” waiver standard which is cross-referenced in the CDBG regulations at 24 CFR 570.5. Again, the local HUD field office can help the grantee with determining whether the test can be met. Waivers may only be granted at HUD Headquarters and must be published in the *Federal Register* describing the basis upon which the waiver was granted. Since rulemaking involves public participation, waiving any provision can have serious implications for the proper administration of the program. HUD therefore uses its waiver authority judiciously.