

New York State
COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM

2020 Consolidated Funding Application for
Public Infrastructure, Public Facilities, &
Community Planning



**Homes and
Community Renewal**

OFFICE OF COMMUNITY RENEWAL

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I. INTRODUCTION

In accordance with New York State's 2016-2020 Consolidated Plan and its 2020 Annual Action Plan as proposed, the Office of Community Renewal (OCR) invites eligible applicants to submit an application for Community Development Block Grant (NYS CDBG) funding. NYS CDBG funds provide small communities and counties in New York State with a great opportunity to undertake activities that focus on community development needs, such as creating or expanding job opportunities, providing safe affordable housing, and addressing local public infrastructure and public facilities issues. OCR encourages communities to propose activities that are creative and innovative in addressing their needs.

The 2020 Application Guidance provides information necessary to document the eligibility of the activity, compliance with the Primary and National Objectives, the need for the activity, and its overall impact on the community. It contains information to assist applicants in compiling a complete, relevant and competitive application. Therefore, it is important for prospective applicants to read it carefully and to become familiar with all applicable guidelines and requirements. The Federal regulations set forth at 24 CFR Part 570 and specifically, Subpart I of 24 CFR 570 are the governing regulations of the NYS CDBG Program for non-entitlement communities.

II. PROGRAM OBJECTIVES

A. OBJECTIVES OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

As set forth in the Federal Housing and Community Development Act, the Primary Objective of the CDBG program "is the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income (LMI)."

B. OBJECTIVES OF THE NEW YORK STATE CDBG PROGRAM

Financial assistance will be provided for the development of projects that meet the NYS CDBG Program Objectives and that provide decent, safe affordable housing, access to clean drinking water, proper disposal of household wastewater, access to local public facilities, and economic opportunities for persons from LMI households by supporting development projects that are designed to create or retain employment opportunities or foster Microenterprise activities and provide opportunities through planning efforts to address community development needs.

In support of New York's community development goals, the NYS CDBG Program will:

1. Encourage investment in communities by assisting local governments in devising and implementing economic development strategies to revitalize viable communities and provide economic opportunities that principally benefit LMI persons;
2. Revitalize the vibrancy of New York's communities and enhance the quality of life through improvements to public infrastructure and public facilities;
3. Develop and implement strategies that facilitate the coordination of NYS CDBG funding with other Federal, State, and local community development resources;
4. Support a mix of rehabilitation and conversion activities to preserve and increase affordable housing for both renters and homeowners.

III. PROGRAM OUTLINE

A. FUNDING AVAILABILITY

Approximately \$49 million of NYS CDBG funds may be available for Program Year 2020. Available funds may be allocated in the following manner: Community Development Funding (50%); Economic Development Assistance (44%); Imminent Threat (3%); Technical Assistance & Capacity Building (1%); and Program Administration (2%).

Applicants seeking funding for Public Infrastructure, Public Facilities, and Community Planning activities should apply for assistance through the [New York State Consolidated Funding Application](#) from **January 4, 2021 to March 5, 2021**

Applicants seeking assistance for housing activities including housing rehabilitation, homeownership, and private water/wastewater activities, must apply for funding under the competitive housing application process which may be announced at a later date.

Economic Development and Small Business Assistance funds may be available throughout the 2020 Program Year for projects that may meet the New York State priorities for economic development. Imminent Threat funding may also be made available throughout the 2020 Program Year for CDBG eligible activities that address situations affecting the public health, welfare, and/or safety, which require immediate resolution, typically in a Federal or State declared disaster area. For more information on additional Economic Development funds or Imminent Threat funding, contact the Office of Community Renewal at (518) 474-2057.

This application guide provides the requirements that must be met for applicants to request NYS CDBG funding under community development assistance for Public Infrastructure and Public Facility activities and Economic Development Assistance. New York State must ensure that at least 70% of the NYS CDBG annual allocation be used to fund activities where at least 51% of the beneficiaries are low- and moderate-income.

Each activity proposed must satisfy the requirements of the National Objective selected and evidence of compliance must be submitted with the application as an exhibit, as requested in the Additional Requirements Section A, National Objective Compliance. If satisfactory evidence of compliance with a National Objective is not provided, the proposed activity will be considered ineligible and will not be considered for funding.

PROJECT TYPE	NATIONAL OBJECTIVE CODES AND BENEFICIARIES							
	LOW- AND MODERATE-INCOME					URGENT NEED	SLUMS AND BLIGHT	
	LMH	LMA	LMC	LMCMC	LMJ	URG	SBA	SBS
Lateral Connection Assistance	Persons							
Public Infrastructure and Facility		Persons	Persons	Jobs	Jobs	Persons	Persons	Persons

LMH – Low/Mod Housing direct benefit: activities that are carried out for the purpose of providing or improving permanent residential structures, which will be occupied by low/mod income households. 24 CFR 570.208(a)(3)
LMA – Low/Mod Area benefit: the service area identified for activities is primarily low/mod income. 24 CFR 570.208(a)(1)
LMC – Low/Mod Limited Clientele benefit: activities that benefit a limited clientele as identified in 24 CFR 570.208(a)(2)
LMJ – Low/Mod Job Creation or Retention benefit: activities designed to create or retain permanent jobs, at least 51% of which will involve the employment of low/mod persons. 24 CFR 570.208(a)(4)
URG – Urgent Need: activities that are carried out for the purpose of addressing an immediate threat to health, safety or welfare of the beneficiary and is of recent origin. 24 CFR 570.483(d).
SBA – Slum/Blight Area benefit: activities that address prevention or elimination of slums or blight in a designated area. 24 CFR 570.208(b)(3)
SBS – Slum/Blight Spot basis: site-specific activities that address conditions of blight or physical decay. 24 CFR 570.208(b)(2)

Note: Planning activities must demonstrate National Objective Compliance upon implementation

B. FUNDING LIMITS

Public Infrastructure	Maximum
Counties, Towns, Cities or Villages	\$1,000,000
*With NYS Co-Funding Initiative	\$1,250,000
Joint Applicants	\$1,500,000
*Joint w/Co-Funding Initiative	\$1,750,000
Public Facilities	
Counties, Towns, Cities or Villages	\$300,000
Planning	
Counties, Towns, Cities or Villages	\$50,000

Exceptions to these limits may be made in cases where it is found that a project or projects may have a significant impact that may realize a potential for regional or statewide economic impact.

For Public Infrastructure, Public Facility projects, applicants should only apply for the amount of funding that can be fully expended and the type of activities that can be completed within the specified project completion period of twenty-four (24) months. All proposed accomplishments must be completed and reported within the project completion period.

For Planning projects, applicants should only apply for the amount of funding that can be fully expended and the type of activities that can be completed within the specified project completion period of fourteen (14) months.

Program Income

Each Applicant must certify to the Office of Community Renewal (OCR) the amount of program income from New York State administered CDBG grants on hand at the time of application. **All applicants** must fill out, sign and attach the [CDBG Program Income Report](#) to the Consolidated Funding Application.

*Co-Funding

For certain “co-funded” Public Infrastructure projects, single applicants may apply for an amount of funding not to exceed \$1,250,000 (\$1,750,000 for joint applicants). “Co-funded” projects are those projects that include other State and/or Federal sources including, but not limited to, USDA Rural Development and/or NYS Environmental Facilities Corporation (EFC). In order to qualify for this higher funding threshold, the Applicant must clearly demonstrate that other co-funded sources are firmly committed and in place at the time of application. Qualifying documentation includes:

- USDA - Preliminary Funding Estimate (PFE)
- NYS EFC - Project listed on Intended Use Plan (IUP) AND financing application has been submitted
- Other Sources – Contact NYS OCR

All qualifying documentation must be submitted as an attachment to the funding application and is subject to review and approval by the OCR.

Pre-Development Costs

OCR may consider certain eligible pre-award costs for water, sewer, or storm water projects only, which may include pre-development costs necessary to complete the environmental review process required for all CDBG projects under the National Environmental Policy Act (NEPA). These expenses may include, but are not limited to:

- Engineering or design work needed to obtain approval from state or Federal agencies
- Administrative costs incurred consulting with state and Federal agencies
- Permitting activities needed to complete the Environmental Review Record (ERR) and/or Request for Release of Funds (RROF). This includes addressing State Environmental Quality Review Act (SEQRA) process requirements as applicable

Pre-development costs incurred up to 12 months prior to grant award may be included as part of the project budget. Eligible costs must still meet all CDBG rules and regulations including Federal procurement and civil rights requirements and must be in compliance with 2CFR 200. **Please contact OCR prior to considering incorporating pre-award costs into the project budget to ensure that those costs are eligible.**

Other Guidance

Applicants should not proceed with a project that cannot be completed within the specified timeframe or with the assumption that an extension of the project deadline will be considered. Grant recipients who are unable to satisfy the term of their grant agreement may be unable to secure further OCR funding until such time as the prior grants have been completed or the funds recaptured. Inability to meet the required timeframe may be viewed as an issue of project readiness and/or inadequate local capacity to carry out grant activities in a timely manner and may require significant additional actions on the part of the municipality to ensure that any potential future grants will be completed within the term of the grant agreement.

Applicants may submit multiple applications up to the maximum per activity. The total amount requested by the Applicant between the two categories of Public Infrastructure and Public Facilities cannot exceed the individual caps listed above for counties, cities, towns and villages, with the exception of single projects that qualify under the higher threshold as described above. Applicants may also request up to the maximum listed for Planning regardless of any other applications submitted for any other categories of assistance. However, as noted above, demonstrated capacity to carry out each grant activity in a timely manner is a factor in the application review process, so funding requests should be determined with this in consideration.

C. ELIGIBLE APPLICANTS

Eligible applicants are non-entitlement units of general local government (County, Town, City, or Village), excluding metropolitan cities, urban counties, and Indian Tribes that are designated Entitlement Communities. Non-entitlement areas

are defined as cities, towns, and villages with populations of less than 50,000 except those designated principal cities of Metropolitan Statistical Areas, and counties with populations of less than 200,000. A list of eligible communities is available at on the OCR website under [Program Guidelines](#).

Counties may apply on behalf of units of general local government located within their jurisdiction when the unit of general local government has authorized the County to apply. The unit of general local government will be considered the Applicant for determining grant limits, and its statistics will be used for purposes of the selection factors. A cooperation agreement between the County and the local government, an authorizing resolution issued by the local government, and an explanation as to why the arrangement is needed must be included as an attachment to the application.

When a joint effort is required to solve a common water or sewer problem faced by two or more eligible local governments, a joint application may be submitted. Local governments, however, must not only share a common problem that crosses their municipal boundaries but must also be able to demonstrate that a joint effort is required to solve the problem. A cooperation agreement between the local governments must be included as an attachment to the application. Joint applications submitted only for administrative convenience are not eligible and will not be considered for funding. Note that each Applicant individually must adhere to citizen participation requirements. Each participating municipality must hold a public hearing prior to application. Consultation with OCR is strongly encouraged.

D. ELIGIBILITY RESTRICTIONS

Prior Recipients of NYS CDBG Program funds are subject to an evaluation of capacity and performance and must resolve all outstanding audit, monitoring and/or non-compliance issues which involve a violation of Federal, State or local law or CDBG program requirements prior to the submission of an application for funding. An Applicant may be ineligible for a grant when its performance evidences significant lack of capacity to carry out the proposed project or program as required and according to the applicable laws, regulations, policies and procedures governing the NYS CDBG Program.

E. TYPES OF APPLICATIONS

NYS CDBG Applicants must address and resolve a specific community or economic development need within one of the following areas: (1) Public Infrastructure (2) Public Facilities, and (3) Planning.

Applications may consist of more than one activity if one of the activities is incidental to, or in support of, the primary activity. For a project consisting of more than one activity, the activity that directly addresses the primary need must represent the majority of the funds requested. For example, an application for a public water or sewer activity can include an activity that provides lateral connection assistance that clearly supports the public water or sewer activity and represents a relatively small percentage of the funds in comparison to the primary public water or sewer activity. The lateral connection activity must clearly be in support of the public water or sewer project as well as demonstrate compliance with a National Objective and the NYS Smart Growth Public Infrastructure Act (Chapter 433 of the Laws of 2010). NYS CDBG funds should not be requested for more than one activity in a single application if the additional activities are not incidental to, or in support of, a principal activity. Note that ancillary activities, such as homeowner service lateral replacement, may not exceed 10% of the grant amount without formal approval from OCR.

F. FUNDING CATEGORIES

1. PUBLIC INFRASTRUCTURE

The NYS CDBG Public Infrastructure program consists of two funding activities: drinking water/clean water/storm water and public works. Eligible projects for NYS CDBG Public Infrastructure may include the repair or replacement of existing systems, construction of new systems, or expansion of existing systems into areas previously unserved that are in compliance with the NYS Smart Growth Public Infrastructure Act (Chapter 433 of the Laws of 2010) and principally benefit low- and moderate-income persons. Under the Public Infrastructure category, the benefit to low- and moderate-income persons is most commonly achieved through an area benefit. For more information regarding National Objective Compliance, refer to the Application Guidance located on the OCR website under [Funding Round Materials](#).

The drinking water/clean water/storm water activity includes, but is not limited to, public or private water source development, storage, and distribution; sanitary sewage collection and treatment; flood control and storm water drainage; and municipal utilities. The aforementioned types of projects may also include ancillary public works components such as sidewalks, streets, parking, open space, and publicly owned utilities. Note that ancillary activities, such as homeowner service lateral replacement, may not exceed 10% of the grant amount without formal approval from OCR.

The Public Works activity consists of, but is not limited to, standalone public works components such as streets, parking, open space, and publicly owned utilities. Public works activities should be creatively designed to leverage the availability of other Consolidated Funding Application (CFA) funding sources to the greatest extent possible.

Funding for standalone residential water and sewer lateral connections is not available as part of the CFA. These types of applications may be available separately as part of HCR's Housing Funding Category, which may be announced later this year. For information on [OCR's non-CFA funding opportunities](#) see the OCR website.

OCR may consider certain eligible pre-award costs for **water, sewer, or storm water projects only**, which may include pre-development costs necessary to complete the environmental review process required for all CDBG projects under the National Environmental Policy Act (NEPA). These expenses may include, but are not limited to:

- Engineering or design work needed to obtain approval from state or Federal agencies
- Administrative costs incurred consulting with state and Federal agencies
- Permitting activities needed to complete the Environmental Review Record (ERR) and/or Request for Release of Funds (RROF). This includes addressing State Environmental Quality Review Act (SEQRA) process requirements as applicable

Pre-development costs incurred up to 12 months prior to grant award may be included as part of the project budget. Eligible costs must still meet all CDBG rules and regulations including procurement and civil rights requirements and must be in compliance with 2CFR200.320. Applicants are strongly urged to **contact OCR prior to considering incorporating pre-award costs into the project budget to ensure that those costs are eligible.**

2. PUBLIC FACILITIES

The NYS CDBG Public Facility program activities include, but are not limited to, structures to house or serve special-needs populations; senior services; health-care centers; child care centers; removal of architectural barriers for the disabled (installing lifts, automatic doors, ramps, etc.); sidewalks; and multi-purpose buildings housing several qualifying activities where benefits are provided principally to low- and moderate-income persons. Removal of architectural barriers is not eligible in new construction. Under the Public Facilities category, the benefit to low- and moderate-income persons is achieved most commonly through a presumed benefit, which is applicable for seniors, the severely disabled or abused children. National Objective compliance for Public Facilities can also be met through the Low/Mod Area (LMA) benefit. For more information regarding National Objective Compliance, refer to the Application Guidance located on the OCR website under [Funding Round Materials](#).

NYS CDBG funds can be used for construction or renovation of facilities but cannot be used to cover the day-to-day operational costs of an assisted facility, nor can funds be used for buildings that are primarily for the general conduct of government business (e.g. town halls), with the exception of handicapped accessibility improvements to comply with the Americans with Disabilities Act (ADA). Any Public Facility funded with NYS CDBG funds must be maintained in the same capacity as funded for a period of five (5) years after the project is formally closed out by OCR. OCR reserves the right to monitor the use of such facilities during the five (5) year period to substantiate compliance.

3. PLANNING

The NYS CDBG Planning program may consist of one of two activities: Community Needs Assessments and Preliminary Engineering Reports. Any Planning proposal must address an activity which, if implemented, meets at least one of two national objectives under the CDBG program. That is, it must be shown that either 1) at least 51% of the persons who would benefit from implementation of the plan are low- and moderate- income persons, or 2) the plan addresses a slum or blighted area in the community.

The Community Needs Assessment activity must be used by eligible applicants to identify the assets of a community and determine potential concerns that it faces. The needs assessment analysis may focus on one or more of the following: 1) Public Infrastructure, 2.) Housing, 3) Public Facilities and/or 4) Economic Development. Comprehensive Plans, Strategic Plans, and Master Plans are not eligible for funding under this round of the CFA.

Eligible planning activities for Public Infrastructure include assisting eligible applicants to develop preliminary engineering reports for a municipality's drinking water, clean water and/or storm water needs. The goal of this Infrastructure Planning grant is to help initiate a planning process that will result in follow-up implementation plans to address these identified critical infrastructure needs.

Eligible planning activities for Housing include, but are not limited to, comprehensive Housing Needs Assessments, housing market analyses and other housing demand studies.

Eligible planning activities for Public Facilities include, but are not limited to, energy conservation plans, asset management plans, and building studies.

Market studies and feasibility studies may be eligible planning activities for determining economic development needs if performed on behalf of the grant recipient to determine the market for some type of facility or business. Market studies and feasibility studies performed on behalf of a particular business are **not** eligible Planning activities. For example, studying the need for a new hotel downtown would be eligible for Planning assistance but conducting a study of a specific proposed hotel project would not be eligible for Planning assistance.

If used to develop a Preliminary Engineering Report, the activity must be used by eligible applicants to develop preliminary engineering reports for a municipality's drinking water, clean water and/or storm water needs. The goal of this Infrastructure planning grant is to assist eligible applicants to initiate a planning process that will result in follow-up implementation of plans to address these critical infrastructure needs.

Successful applicants must propose a Community Needs Assessment or Preliminary Engineering Report activity designed to assist the municipality in seeking future funding opportunities from NYS CDBG or other State and Federal agencies that will result in a benefit to low-and moderate-income persons. Requests for assistance that are not designed to assist the municipality in implementing a specific future project may not be considered.

- NYS CDBG can fund up to 95% of the total Planning cost, not to exceed the maximum grant amount.
- NYS CDBG Planning funds may be used as match for other CFA funded Planning activities when other funding agencies permit the use of CDBG funds as match.
- At least 5% of the total project cost must be provided as a cash match through other non-CDBG funding sources. In-kind services, force account and volunteer services cannot be considered as match.

Applicants may determine that an application addressing the needs of a target area is the best approach for addressing the needs of its community. In determining this approach, applicants must define the target area as a recognizable neighborhood, including natural boundaries, such as a railroad tracks, city limits, busy streets, etc. Boundaries should not be gerrymandered for LMI purposes. If streets are proposed, houses on both sides of the street should be surveyed and included in the target area. Target area lines may be drawn down back alleys or property lines to include all needed households.

G. APPLICATION EVALUATION CRITERIA

The review process for the NYS CDBG Program is designed to ensure that the limited NYS CDBG funds available are awarded to communities that meet all of the Federal CDBG requirements, demonstrate a significant need for the proposed activity, demonstrate that the project is financially feasible, and show a significant positive impact to the community.

PUBLIC INFRASTRUCTURE AND FACILITIES FACTOR RATING

Applications within the Public Infrastructure and Facilities funding categories are rated and scored against the factors below. Applications are evaluated and ranked against applications within the same category. Applications with the highest scores are considered the most competitive and have a greater chance of being awarded.

Need	20 Points
Impact	20 Points
Financial Capacity	30 Points
Administrative Capacity	30 Points
	Total = 100 Points (maximum)

Applications within the funding categories will be assessed based on the extent to which they meet the category-specific assessment criteria identified below. The most points may be awarded to projects that have demonstrated exceptional compliance with the assessment criteria identified for each category. An applications project assessment score on an application will be determined by averaging the assessment criteria points.

Public Infrastructure:

Need – 15 Points

The degree to which the Applicant has demonstrated:

- serious public health, welfare or safety conditions, as attested by third party documentation (e.g. consent orders, engineering reports, test results);
- that NYS CDBG funds are necessary to undertake the project and the community is unable to secure sufficient funding or assistance through other methods or resources, including other public funding.

Impact – 15 Points

The degree to which the Applicant has demonstrated:

- that the proposed project is affordable, viable, and sustainable over the long-term, is of appropriate capacity for the demand, and addresses the identified need;
- the impact of NYS CDBG funds on the reduction of the debt burden, connection fees, and annual water/sewer fees on LMI households;
- that the proposed project supports a “Smart Growth” development strategy in accordance with the New York State Smart Growth Public Infrastructure Act (Chapter 433 of the Laws of 2010).

Financial Capacity – 25 Points

The degree to which the Applicant has demonstrated:

- that the project cost is financially feasible and includes the cost associated with regulatory compliance;
- that leveraged funds are available and committed at the time the application is submitted, and that there is no gap in funding;
- that the costs of program delivery and administration are reasonable and based on the work to be performed, as detailed in the application;
- a financial and administrative plan for future maintenance and operations.

Administrative Capacity – 25 Points

The degree to which the Applicant has demonstrated:

- a clear understanding of the program requirements and measures to ensure compliance with program requirements, including applicable Federal and State regulations, such as environmental, lead-based paint, labor standards, historic preservation, and procurement;
- that no impediments exist, or the degree to which all potential impediments, such as regulatory compliance, community support, site control (i.e. easements, acquisition etc.), and permits and clearances, have been addressed;
- project readiness and the ability to implement the program upon award;
- the ability to complete the proposed project/program within the 24-month term of the grant agreement.

Public Facilities:

Need – 15 Points

The degree to which the Applicant has demonstrated:

- a need and market for the project and the services to be provided;
- that NYS CDBG funds are necessary to undertake the project and the community is unable to secure sufficient funding or assistance through other methods or resources, including other public resources.

Impact – 15 Points

The degree to which the Applicant has demonstrated that:

- the proposed project has long-term affordability, viability and sustainability, is appropriate in terms of capacity, and addresses the identified need;
- the project design includes components accommodating mobility, visual, and auditory handicaps where relevant.

Financial Capacity –25 Points

The degree to which the Applicant has demonstrated:

- that the project cost is financially feasible and includes the costs associated with regulatory compliance;
- that leveraged funds are available and committed at the time the application is submitted, and that there is no gap in funding;

- that the costs of program delivery and administration are reasonable and based on the actual work to be performed as described in the application;
- a financial and administrative plan for future maintenance and operations.

Administrative Capacity – 25 Points

The degree to which the Applicant has demonstrated:

- a clear understanding of the program requirements and measures to ensure compliance with program requirements, including applicable Federal and State regulations, such as environmental, lead-based paint, labor standards, historic preservation, and procurement;
- that no impediments exist, or the degree to which all potential impediments, such as regulatory compliance, community support, site control (i.e. easements, acquisition etc.), and permits and clearances, have been addressed;
- project readiness and the ability to implement the program upon award;
- the ability to complete the proposed project/program within the 24-month term of the grant agreement.

Prior Performance –

The Applicant’s prior CDBG performance is considered at the time of application which may include, but is not limited to:

- the successful completion of prior projects as proposed and per the grant agreement;
- the number of project extensions requested and the reasons for extensions;
- monitoring findings and concerns and the timeframe in which they were resolved;
- status of current grants (expenditure rate, suspension of funds, adherence to program schedules);
- the ability to resolve grant administration issues in a timely manner and to address the issues for all grants and Program Years;
- first time applicants and first-time awardees are not negatively impacted by this.

Smart Growth Legislation (Chapter 433 of the Laws of 2010) –

Please note that the Housing Trust Fund Corporation is subject to the State Smart Growth Public Infrastructure Act (Chapter 433 of the Laws of 2010) and must, to the extent applicable, make funding decisions consistent with the provisions of the Act.

PLANNING FACTOR RATING

Applications within the Planning and Engineering funding categories are rated and scored against the factors below. Applications are evaluated and ranked against other Planning applications. Applications with the highest scores are considered the most competitive and have a greater chance of being awarded.

Demonstrated Need	35 Points
Public Benefit/Impact	35 Points
Implementation	15 Points
Leveraged Resources	15 Points
	Total = 100 Points (maximum)

Demonstrated Need – 30 Points

- Demonstration of need for the Plan and for funding assistance.
- Evidence that key stakeholders share the opinion that the subject of the Plan is critical to addressing identified needs and challenges.

Public Benefit/Impact – 30 points

- The proposed process for identifying development challenges and needs.
- The approach to which an Applicant proposes to address community needs criteria (Public Infrastructure, Public Facility and Economic Development).
- Public support and participation.

Implementation – 10 points

- Readiness to proceed upon award.
- NYS CDBG performance history, if any.
- Capacity to complete the Planning process in a timely and effective manner.
- Extent to which the needs identified are potential NYS CDBG eligible activities.
- How well the proposed Planning activity follows or reinforces local or regional plans.

Leveraged Resources – 10 Points

- Creative leveraging and coordination with other CFA activities.
- Reasonableness of activity costs and evidence of match requirement.

SIGNIFICANT STATEWIDE PROGRAMS

Proposed projects that are part of the following initiatives will be looked upon favorably:

Downtown Revitalization Initiative and Strategic Community Investment

Priority consideration will be given to proposals which demonstrate they will advance downtown revitalization and strategic place making through transformative housing, economic development, transportation and community projects that will attract and retain residents, visitors and businesses - creating dynamic neighborhoods where tomorrow's workforce will want to live, work, and raise a family. Projects should reflect the general principles of smart growth and sustainable development.

Improving Access to Child Care

Despite record investments in childcare, many New Yorkers still struggle to access high quality childcare. This issue forces families to choose between quality childcare and employment or places families in the position to use unlicensed childcare providers. Applicants should provide any information about their project that works to improve access to childcare.

Environmental Justice

Environmental justice means the fair treatment and meaningful involvement of all people regardless of race, color, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. As we transition to a greener economy, it is imperative that no subset of the population be marginalized or left behind. Applicants should provide any information about how their project actively works to address these issues.

NYS CFA Submission Information

Applicants seeking assistance for Public Infrastructure, Public Facilities, or Planning Assistance Activities must submit applications through the NYS Consolidated Funding Application (NYS CFA). Directions for applying for assistance for these funds are available on the [CFA website](#). The on-line application system will be available beginning **January 4, 2020 and will close at 4:00 p.m. on March 5, 2021**.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing Applicants, applications received after the specified date and time will be deemed ineligible and will not be considered for funding. Applicants should make early submission of their application(s) to avoid risks of ineligibility resulting from unanticipated delays or other delivery-related problems. Applicants are strongly advised to thoroughly read the application questions and review any guidance provided for a question in the "Application Tips" link next to the corresponding question in the CFA, as well as review the requirements of the NYS CDBG program and observe all of the application requirements. All parts of the application and required forms and attachments must be provided in full for the application to be successfully evaluated. Required information that is not provided in the application will have a negative impact on the evaluation of the application.

H. TECHNICAL ASSISTANCE

Prior to the application deadline, OCR will provide technical assistance regarding the application, proposed projects, and program regulations to Applicants upon request. Potential Applicants with questions regarding the application and/or the NYS CDBG Program should call (518)474-2057 or send an email to HCR_CFA@nyshcr.org for assistance.

I. CORRECTIONS TO DEFICIENT APPLICATIONS

Under no circumstances will unsolicited information from an applicant or its representative regarding the application be accepted after the application deadline has passed. Applicants may be advised of technical deficiencies in applications and may be permitted to correct those deficiencies. A technical deficiency is an error or oversight which, if corrected, would not alter, in a positive or negative fashion, the review and/or rating of the application. Examples of curable technical deficiencies could be the failure to submit an application form or failure to submit an application containing an original signature. Applicants will be notified in writing of any curable technical deficiencies in an application. **Applicants will have 10 business days from the date of OCR's correspondence to reply and correct the deficiency. If the deficiency is not corrected within this timeframe, Applicants are at risk of their application being deemed incomplete.** If necessary, applicants may be requested to submit additional information for clarification of material contained in the application.

J. PROCURING FOR PROFESSIONAL SERVICES

1. Consultants

Applicants may elect to contract with a Consultant for the preparation of an application and/or for the administration of a NYS CDBG funded project. Before selecting a Consultant, engineer, architect or other professional to assist in the preparation of an application, please consider the following:

- a. **“Loss-Leader” Arrangements** – Loss-leader arrangements, in which Consultants offer to prepare a grant application or make preliminary engineering designs and estimates at reduced rates or at no cost in return for receiving a contract for program delivery and/or administration if the application is funded, are prohibited by Federal regulations. Applicants may find this approach attractive because costs they bear prior to the award of NYS CDBG funding, such as application preparation or preliminary engineering studies are not reimbursable from the NYS CDBG grant. However, **loss-leader arrangements violate Federal regulations, which require “maximum open and free competition.”**
- b. **Selection of Engineers or Administrative Consultants Prior to Grant Award** – Some applicants may wish to procure the services of a Consultant or engineer to assist with grant application preparation, preliminary engineering, and administration/program delivery, using one procurement process to obtain all the services. This approach is permitted by HUD regulations, as long as Federal procurement procedures are complied with as found at 24 CFR Part 85.

For NYS CDBG funded professional services, the selection of a Consultant must be conducted in a manner so as to provide maximum open and free competition. The provisions of 2CFR 200 and local laws govern the procurement of professional services. **The selection of Consultants must be completed according to the Federal procurement regulations if NYS CDBG funds will be used for payment of the professional services.** Professional services that are not procured in compliance with the Federal procurement regulations are ineligible CDBG expenditures and will not be reimbursed for payment. **For non-CDBG funded professional services, such as services for the preparation of the application, applicants must follow their local procurement policies.** Use of NYS CDBG funds for the preparation of the 2020 application is not an eligible use of program funds. Regardless of the funding source used to pay for professional services, written agreements must be executed between the parties detailing all responsibilities, standards and fees. For additional information on procuring professional services, reference Chapter 1 and 4 of the OCR Grant Administration Manual, which is available on the [OCR website](#).

Applicants that elect to use a professional service contractor for both grant application preparation and administration of the program are encouraged to consider issuing one Request for Proposals (RFP) for these services, even though the services may be funded by different funding sources. Issuing one RFP for both of these services typically helps to reduce the amount of start-up time needed after award. Applicants choosing to issue one RFP for these services must comply with the Federal procurement requirements **if any portion of the services will be funded with NYS CDBG funds.** Communities should also be aware when soliciting for professional services, while permissible under State law; Federal requirements restrict the use of a Request for Qualifications (RFQ) process to hiring for engineering or architectural services only. Other procurement for professional services would generally be expected to be done through an RFP process.

2. Subrecipients

Applicants may decide to use a Subrecipient to carry out the NYS CDBG funded activity, including the administration and/or program delivery tasks required to administer programs such as housing. There are typically two kinds of Subrecipients:

- Governmental non-profits, which are public agencies, commissions, or authorities that are created by the Recipient (such as a housing authority or water supply district). They also may have been created by a consortium of municipalities, such as a County or multi-County sewer authority;
- Private non-profits, which are incorporated under the non-profit statutes of state law and frequently have IRS 501(c)(3) status, providing specific services in areas such as job training, day care, housing, community development, homeless shelters, mental health centers, industrial development, etc.

A Subrecipient is an organization that is directly provided NYS CDBG funds for its use in carrying out previously agreed upon eligible activities. In order to be considered a Subrecipient, NYS CDBG funds must flow through the organization. This means that a Recipient must draw funds from OCR and then grant

those funds to the Subrecipient who will then pay vendors directly.

Federal procurement standards do not apply to the selection of a Subrecipient. The Recipient and the Subrecipient must enter into a written agreement. The agreement must remain in effect during the period that the Subrecipient has control over NYS CDBG funds, including program income. For additional information on Subrecipients, reference [Chapter 1 of the CDBG Grant Administration Manual](#), which is available on the OCR website.

K. AWARD CRITERIA DETAILS

Eligible Area, City, County Population Limits or Population Target Types:

Projects must be located in non-entitlement areas such as cities, towns and villages throughout New York State, with populations of less than 50,000 and counties with populations of less than 200,000 (excluding metropolitan cities, urban counties, and Indian Tribes that are designated Entitlement communities) and must primarily benefit the population of the non-entitlement area.

Limitations:

The maximum awards are not intended to serve as a target figure for requests for assistance. The amount of CDBG assistance should be based on identified need, and CDBG funds should not be used to reduce the amount of non-Federal financial support for the project. Projects that commence prior to award are not reimbursable with NYS CDBG funds.

Long Range Goals:

Applications will be reviewed in the context of the long-range goals established by New York State for the NYS CDBG program over the five-year period as outlined in the HUD-approved 2016-2020 Consolidated Plan. For the NYS CDBG Economic Development program, the goal is to assist 150 businesses with creating 5,000 jobs. For the NYS CDBG Public Infrastructure program, the goal is the completion of 100 Public Infrastructure projects serving 50,000 people. For the NYS CDBG Public Facilities program, the goal is the completion of 25 Public Facilities projects serving 500 people.

Project Term Completion Dates:

Recipients of CDBG Public Infrastructure, Public Facility, or Economic Development funding enter into a two-year (24 month) grant agreement in which all funds must be expended, and all accomplishments met. Any funds remaining at the end of the two-year period are subject to de-obligation. Recipients are also obligated to report accomplishments and beneficiary information on an annual basis. This information must demonstrate the progress of the project and compliance with the national objective proposed in the application.

Recipients of CDBG Planning assistance enter into a 14-month grant agreement in which all funds must be expended, and a final plan submitted to OCR. Any funds remaining at the end of the 14-month period are subject to de-obligation. Recipients are also obligated to report accomplishments and beneficiary information on an annual basis. This information must demonstrate the progress of the project and compliance with the national objective proposed in the application.

Matching Fund Requirements / Deadlines:

For Public Infrastructure and Public Facility projects, a match is not required; however, bringing leveraged funds to a project may make it more competitive. Planning requires a minimum 5% cash match in non-CDBG sources. In-kind services, force account labor, and volunteer services cannot be used as demonstration of match.

Additional Resources:

For more information, eligible Applicants should contact New York State Homes and Community Renewal, 38-40 State St, Albany, New York 12207, call (518) 474-2057, email HCR_CFA@nshcr.org or visit the [OCR website](#).

Civil Rights Compliance

1. Affirmatively Furthering Fair Housing

All applicants are required to report whether within the past ten (10) years the it has been the subject of any housing discrimination proceeding before a federal, state and/or local adjudicatory body. The applicant shall:

- a. Provide the final disposition or indicate that the proceeding is pending.
- b. Applicants should also provide a brief description of the complaint and procedural history for cases that are pending or final administrative and/or court orders.

Submit as one single upload, do not upload multiple documents.

For **ALL** Recipients that are awarded NYS CDBG funding assistance based on full applications that are submitted through the 2020 CFA, the Recipient will have a continuing obligation through the contract period to disclose within thirty (30) days to HCR's Fair and Equitable Housing Office if the municipality becomes the subject of any fair housing proceeding before a Federal, state and/or local adjudicatory body, or if it receives a final disposition in a proceeding involving fair housing law claims.

Affirmatively Furthering Fair Housing Checklist

Recipients of Federal funds have a duty to Affirmatively Further Fair Housing (AFFH) pursuant to the Fair Housing Act. New York State will monitor the efforts of local government grantees to satisfy and certify their own duty to AFFH. In general, activities that AFFH should promote non-discrimination and ensure fair and equal access to housing opportunities for all. The Grant Administration Manual, Chapter 5 Section VII (E), provides additional information regarding fair housing obligations. To ensure compliance with the AFFH requirements the Recipient is required to:

- a. Display fair housing posters and distribute fair housing materials prepared by New York State, the municipality, US Department of Housing and Urban Development (HUD), or fair housing organizations to community residents, landlords, real estate professionals and lenders;
- b. Pass a fair housing resolution that demonstrates a "good faith effort" in complying with fair housing requirements. The fair housing resolution adopted by the Recipient must also be publicized and promoted within the community; and
- c. Designate a Fair Housing Officer who is familiar with the fair housing regulation, have him or her trained on their duties and responsibilities as a Fair Housing Officer, and, through means reasonably calculated to reach the community, publicize the existence of the Fair Housing Officer as the primary point of contact for all fair housing related issues.

The Recipient shall provide to HCR's Office of Community Renewal within forty-five (45) days of the award of funds, the AFFH Checklist activities it will undertake. Additionally, the Recipient shall carry out the AFFH actions within one (1) year of the award of funds and provide to HCR's Office of Community Renewal proof of the activities undertaken as a record of the municipality's activities to satisfy its AFFH requirements.

In addition to the abovementioned required activities, the Recipient's AFFH Checklist should identify which of the below activities will also be undertaken. The below checklist does not include every fair housing activity that a municipality could, or should undertake. It is however a good starting point of increasing community awareness, ensuring that clear procedures exist for addressing fair housing complaints, expanding the types of housing choice within the municipality, and generally providing all people with the opportunity to live in a community of their choice without discrimination.

If a Recipient intends to complete an action not included in the AFFH Checklist to satisfy one of the categories from the AFFH Checklist, it must apply to the Fair and Equitable Housing Office (FEHO) for permission to do so. Questions related to fair housing obligations and/or the AFFH Checklist must be addressed to HCR's Fair and Equitable Housing Office at FEHO@nyshcr.org.

Recipients must be prepared to begin reporting on efforts to Affirmatively Further Fair Housing on an annual basis. Reporting will occur on an annual basis through the OCR Annual Performance Report that is due in January of every year.

I. Encourage community input on fair housing matters

1. Hold an annual public meeting on fair housing. Provide to HCR an agenda, meeting notes, and reports concerning the steps that will be taken to address fair housing issues raised at these meetings. Include a list of attendees/sign-in sheet, location and date.

II. Ensure public policy Affirmatively Furthers Fair Housing

1. Sponsor or work with a community development/planning organization, rural/neighborhood preservation, or fair housing organization to conduct a survey to assess the community's housing needs, including barriers to fair housing choice.
2. Survey special housing needs of minorities and women to determine possible effects of discrimination.

III. Promote fair housing education

1. Elected officials, municipality staff in charge of planning, zoning, building, housing, community and economic development, and their third-party Consultants attend a fair housing training program.

2. Expert provides a fair housing education and training program for real estate professionals, including developers, sales and rental agents, lenders, and property managers.
3. Conduct a meeting with financial institutions that serve the community to discuss the importance of providing financial assistance for housing in all geographic areas and to all residents in the community.

Please note that the actions listed above represent the commitment of the Office of Community Renewal (OCR) to Affirmatively Further Fair Housing (AFFH), and supplement, but do not replace the responsibility of each grantee to AFFH as described in the CDBG Grant Administration Manual.

2. Section 3

Section 3 of the Housing and Urban Development Act of 1968 (Section 3) ensures that HUD-funded jobs, training, and contracts are provided to local low-income residents, particularly those that reside in public housing, and businesses that substantially employ them.

In the 2020 CFA funding round, for all proposed projects that would result in CDBG assistance in excess of \$200,000, applicants must submit a Section 3 Compliance Plan. The Section 3 compliance plan describes the manner in which recipients of CDBG financial assistance will, to the greatest extent possible, provide job training, employment, and contract opportunities for low or very low-income residents in connection with projects and activities in their neighborhoods. A sample [Section 3 Compliance Plan](#) is available on the HCR website.

The submission of a Section 3 Compliance Plan is required for every application for funding assistance submitted or funded through NYS HCR.

VI. APPENDICES

A. PROGRAM REQUIREMENTS

1. ELIGIBLE ACTIVITIES

In selecting eligible activities, communities should be aware that although an activity may be legally eligible under the Federal statute and HUD regulations, it may not be competitive under OCR's evaluation criteria. An activity being considered for a State CDBG application should be compared against the evaluation criteria for that category before a decision is made to prepare an application. Below is an edited list of eligible activities identified at Section 105(a) of the Housing and Community Development Act of 1974, as amended and 24 CFR 570.482, as amended.

Additional information on eligible activities can be found on the [HUD Exchange](#).

- a. Acquisition of real property;
- b. Disposition of any real property acquired with CDBG funds or its retention for public purposes;
- c. Acquisition, construction, reconstruction, or installation of public works, facilities and site or other improvements;
- d. Clearance, demolition, removal, reconstruction, and rehabilitation of buildings and improvements;
- e. Public services, including but not limited to those concerned with employment, crime prevention, childcare, health, drug abuse, education, energy conservation, welfare or recreation needs;
- f. Code enforcement in deteriorated or deteriorating areas;
- g. Removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;
- h. Payments to housing owners for losses of rental income;
- i. Assistance to institutions of higher education;
- j. Payment of the non-Federal share required in connection with a Federal grant-in-aid program;
- k. Relocation payments and displacement assistance;
- l. Activities necessary to develop a comprehensive community development plan;
- m. Payment of reasonable administrative costs;
- n. Assistance including loans (both interim and long-term) and grants for activities which are carried out by public or private nonprofit entities;
- o. Assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of the communities in non-entitlement areas to carry out a neighborhood revitalization or community economic development or energy conservation project;
- p. Activities necessary to the development of energy use strategies;
- q. Assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project;
- r. Provision of technical assistance to public or nonprofit entities;
- s. Housing services;
- t. Assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to facilitate economic development;
- u. Activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings;
- v. Provision of direct assistance to facilitate and expand homeownership;
- w. Lead-based paint hazard evaluation and reduction; and
- x. Special assessments.

2. INELIGIBLE ACTIVITIES

1. Buildings, or portions thereof, used for the general conduct of government cannot be assisted with CDBG funds. This definition does not include such facilities as neighborhood service centers or special purpose buildings that may house services provided by government at decentralized locations. However, the removal of architectural barriers within public buildings to make them more accessible to elderly and handicapped persons is an eligible activity.
2. General government expenses, except for those costs directly attributable to administration of a local CDBG program and documented as such.
3. The general rule is that the purchase of equipment with CDBG funds is ineligible. An exception is that compensation for the use of construction equipment through leasing, depreciation, or use allowances pursuant to OMB circulars A-87 or A-122, as applicable, for an otherwise eligible activity is an eligible use of CDBG funds.
 - (a) The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Specific exceptions 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.

- (b) The general rule is that CDBG funds cannot be used for income payments for housing or any other purpose. Examples of ineligible income payments include payments for income maintenance; housing allowances, down payments and mortgage subsidies. One-time payments made on behalf of persons or families to meet emergency needs such as housing or essential utilities is not an income payment and is eligible.

3. PRIMARY OBJECTIVE

The Primary Objective of the Community Development Block Grant Program is to benefit LMI persons. At least 70% of New York State's CDBG allocation must be allocated to activities, which meet the Primary Objective of benefitting LMI persons. For an activity to qualify as benefitting LMI persons, at least 51% of the persons benefiting from the activity must be LMI persons.

Census data and local surveys are the two sources of data for documenting benefit to LMI persons. It is noted that Census data cannot be rounded up. If the Census data shows that the percent of LMI persons is less than 51% (e.g. 50.6%), this figure cannot be rounded to 51%. In such a case, an Applicant may find it necessary to conduct an income survey. Refer to Appendix C for guidance on survey techniques.

Applicants need to determine how the National Objective requirement will be satisfied during the planning, implementing and documenting of CDBG projects. Each project must meet the Primary and National Objectives. When meeting the benefit to LMI persons National Objective, applicants must ensure that moderate-income persons (80% of median income) are not benefited to the exclusion of low-income persons (50% of median income).

4. NATIONAL OBJECTIVES

Each CDBG funded activity must meet one of three National Objectives:

1. Benefit LMI persons;
2. Aid in the prevention or elimination of slums or blight; or
3. Meet 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 other financial resources are not available to meet such needs.

5. MEETING THE NATIONAL OBJECTIVES

Additional information on National Objective Compliance can be found on the [HUD Exchange](#).

Benefit to LMI persons

For the purposes of meeting this National Objective, CDBG activities are divided into three main categories: Area Benefit, Limited Clientele, Direct Benefit including housing and job creation or retention. Each activity proposed must fall under one of the above categories in order to be considered for funding. Activities in these categories qualify under the LMI benefit National Objective in one of three ways: Area Benefit, Limited Clientele or Direct Benefit. The Applicant must determine under which category their project meets the requirement to serve at least 51% LMI persons. The following information will assist with that determination.

Area Benefit

Activities that meet the Area Benefit are designed to serve needs in a geographic area that has a mix of income levels (i.e., a project which will benefit all the residents of the project area, regardless of income). Area benefit includes activities that do not have income eligibility requirements, but instead serve an entire geographic area. An activity proposed for an area wide project must also be clearly designed to meet identified needs of families in the area. **Under HUD regulations, an activity that serves an area that is not primarily residential in character cannot qualify as an Area Benefit activity.**

Applicants that propose to use CDBG funds for Area Benefit activities must provide data to demonstrate that at least 51% of the persons who would benefit from CDBG assistance are LMI. Area benefit to LMI persons can be documented by the use of Census data or an income survey. For areas where Census data is not available, the Applicant must conduct a survey to prove LMI benefit. For activities in a target area where Census data is available, the Census Tract or Block Groups must match the area's boundaries in order to be valid. Otherwise, a survey must be conducted (e.g. using Census Tract data to substantiate compliance for water line replacement when everyone in the Census Tract would not be a beneficiary of the water line replacement). Reference Appendix C for guidance on survey methodology.

Direct Benefit

Activities that are a Direct Benefit are designed to exclusively serve LMI persons. This method is used to determine the LMI benefit for activities that assist a specific known person or household. Activities that qualify under this benefit include residential rehabilitation or job creation activities. For example, a Direct Benefit activity occurs when the community has income eligibility requirements that limit the benefits of the CDBG activity to only LMI families.

Documenting LMI benefit for Direct Benefit projects is relatively clear-cut since potential Recipients of CDBG assistance are screened for income eligibility with the use of the most current HUD income limits for the County in which the project is located. Reference Appendix C for the [2020 HUD Income Limits](#).

Limited Clientele

Activities that meet the Limited Clientele benefit are activities that provide benefits to a specific group of persons rather than everyone in an area. The activity may benefit particular persons without regard to the area in which they reside, or it may be an activity that provides benefit on an area basis but only to a specific group of persons who reside in the area. In either case, at least 51% of the beneficiaries of the activity must be LMI persons. To qualify under this category, the activity must meet one of the following tests:

- Exclusively benefit a clientele who is generally presumed by HUD to be principally LMI persons. Abused children, elderly persons, battered spouses, homeless persons, adults meeting the Bureau of Census definition of “severely disabled adults”, illiterate adults, persons living with AIDS, and migrant farm workers are presumed by HUD to be principally LMI. Activities that serve this group will be assumed to meet 51% LMI benefit unless the Applicant has surveyed the group to determine the actual benefit exceeds the assumed benefit of 51%; or
- Require information on family size and income so that it is evident that at least 51% of the clientele are persons whose family income does not exceed the LMI limit; or
- Be of such nature and location that it may be concluded that the activity’s clientele will primarily be LMI persons; or
- Be an activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of the Census’ Current Population Reports definition of severely disabled, provide it is restricted, to the extent practicable, to the removal of such barriers by assisting:
 - The reconstruction of a public facility or improvement, or portion thereof, that does not qualify under the LMI area benefit criteria; or
 - The rehabilitation of a privately-owned nonresidential building or improvement that does not qualify under the L/M Income Area Benefit criteria or the LMI Jobs criteria; or
 - The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under the LMI housing criteria.
- Be an activity designed to provide job training and 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% which qualifies under the Limited Clientele national objective in the following limited circumstance:
 - In such cases where such training or provision of supportive services assist businesses, and the only use of CDBG assistance is to provide job training and/or supportive services, and the proportion of the total cost of the services borne by CDBG funds is no greater than the proportion of the total number of persons benefiting from the services who are LMI.

Applicants that propose to use CDBG funds for Limited Clientele benefit activities must provide documentation demonstrating that the activity proposed meets one of the tests qualifying the activity as meeting the Limited Clientele criteria. Depending on the activity being proposed, the Applicant should provide documentation showing that the activity is designed to be used exclusively by a segment of the population presumed by HUD to be LMI persons; describing how the nature and the location of the activity establishes that it will be used predominately by LMI persons; showing the size and annual income of the family of each person receiving the benefit; showing that barriers to mobility or accessibility have been removed and how the barrier removal was restricted to the extent feasible to one of the particular cases authorized under this subcategory; or showing that the activity qualifies under special conditions regarding job services where less than 51% of the persons benefiting are LMI persons.

To document that at least 51% of the persons who would benefit from CDBG assistance have low or moderate incomes, applicants must use current income data. Reference Appendix C for guidance on survey methodology.

6. PREVENTION AND ELIMINATION OF SLUM AND BLIGHT

Activities meeting the slum and blight National Objective may involve the rehabilitation or removal of slums and blight in the physical, economic and/or social environments. Activities may address any serious conditions identified in the areas of residential, infrastructure, commercial or industrial facilities. The overall program proposed should resolve all need indicated. CDBG activities directed toward the National Objective of preventing or eliminating slums or blight are divided into two main categories: area basis and spot basis.

Area Basis

Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

- The area delineated by the Applicant must meet the definition of a slum, blighted, deteriorated or deteriorating area under State or local law. Applicants must use the strictest definition to determine eligibility. The New York State General Municipal Law Article 18-C, S-970-c defines "Blighted area" as an area within a municipality in which one or more of the following conditions exist: (i) a predominance of buildings and structures which are deteriorated or unfit or unsafe for use or occupancy; or (ii) a predominance of economically unproductive lands, buildings or structures, the redevelopment of which is needed to prevent further deterioration which would jeopardize the economic well-being of the people.
- Throughout the area there are a substantial number of deteriorated or deteriorating buildings or the public improvements are in a general state of deterioration.
- The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area. Rehabilitation of residential buildings carried out in an area meeting the above requirements will be considered to address the area's deterioration only where each such building rehabilitated is considered substandard before rehabilitation, and all deficiencies making a building substandard have been eliminated if less critical work on the building is also undertaken.

Applicants claiming the prevention and elimination of the slum and blight National Objective on an area basis must be able to document that, at the time of application, a majority of the buildings in the area are deteriorated or dilapidated and the area itself is blighted.

Spot Basis

The elimination of specific conditions of blight or deterioration on a spot basis is designed to comply with the statutory objective for CDBG funds to be used for the prevention of blight, on the premise that such action(s) serves to prevent the spread to adjacent properties or areas. To comply with this National Objective, an activity must be designated to eliminate specific conditions of blight or physical decay not located in a designated slum or blighted area and the activity must be limited to one of the following: acquisition, clearance, relocation, historic preservation, and/or rehabilitation of buildings, but only to the extent necessary to eliminate specific conditions detrimental to public health and safety. To be considered to be detrimental to public health and safety, a condition must pose a threat to the public in general.

Applicants claiming the prevention and elimination of the slum and blight National Objective on a spot basis must be able to document the specific conditions of blight or physical decay for the eligible activity, demonstrate the public health or safety threat to the public and show that the area in which the property is located is outside a slum or blighted area.

An activity that fails to meet one or more of the applicable tests for meeting a National Objective does not comply with CDBG rules.

7. CITIZEN PARTICIPATION

The Federal Housing and Community Development Act “encourages citizen participation, with particular emphasis on participation by persons of LMI,” both in the preparation of CDBG applications and throughout the implementation of local CDBG projects. Specifically, the Act requires public hearings “to obtain the view of citizens on community development and housing needs” and on “proposed activities.” Congress has mandated that the hearings “be held after adequate notice, at times and locations convenient to potential or actual beneficiaries and with accommodation for the handicapped”. Therefore, public hearings should be held at a time and place convenient to the general public, with accommodations for persons with disabilities. For hearings where a significant number of non-English speaking persons can reasonably be expected to participate, the notice must also be in the appropriate language(s) and provision must be made for interpreters at the public hearing. Notice of public hearings should also be directed to persons of LMI or those persons who will benefit from or be affected by CDBG activities and/or groups representing LMI persons.

Prior to submitting an application, applicants must meet the citizen participation requirements at 24 CFR 570.486 and New York State’s Citizen Participation Plan, as amended which require applicants to follow a citizen participation plan providing for a minimum of one public hearing (one in each jurisdiction of a joint application) prior to the submission of an application for funding, public availability of the application for inspection at the municipal office(s), and one public hearing, if awarded, to be held during the administration of the grant to solicit comments on the effectiveness of the program’s administration. Applicants must comply with the following citizen participation requirements:

- Provide for and encourage citizen participation, particularly by LMI persons who reside in slum or blighted areas and areas in which CDBG funds are proposed to be used;
- Ensure that citizens will be given reasonable and timely access to local meetings, information, and records relating to the proposed and actual use of CDBG funds;
- Furnish citizens with information, including, but not limited to:
 - The amount of CDBG funds expected to be made available for the current fiscal year (including the grant and anticipated Program Income);
 - A listing of the activities to be undertaken with CDBG funds;
 - The estimated amount of CDBG funds proposed for activities that benefit LMI National Objective;
 - The proposed CDBG activities likely to result in displacement and the municipality’s anti-displacement and relocation plan required under 24CFR 570.488;
 - The amount of funds awarded;
 - The types of activities funded; and
 - Progress towards program goals and objectives;
- Provide technical assistance to group’s representative of persons of LMI that request assistance in developing proposals in accordance with the procedures developed by the State. However, such assistance need not include providing funds to such groups;
- **Hold a minimum of two public hearings**, one at the time of application and one during the grant administration process, for the purpose of obtaining citizens’ views and responding to proposals and questions. The first public hearing **must be held by a quorum of the Legislative Body of the Applicant** prior to the preparation and submittal of an application and the second during the administration of an awarded grant to provide input on the effectiveness of the administration of the grant. The public hearing should provide citizens with reasonable advance notice of, and an opportunity to comment on, proposed activities in an application to the State and grant administration activities; and
- Public notice must be provided before public hearings are held. Notice of each public hearing must be published at least once in a newspaper of general circulation in the community at least seven (7) days prior to the hearing. **Note that the date of publication is day “zero”**. The hearing notice must be conspicuously posted in one or more public locations at least seventy-two (72) hours prior to the actual hearing. This may also be accomplished by posting to the municipal website. At a minimum, public notices should contain the time and place of the hearing, offer accommodations for persons with disabilities and include an invitation to submit written comments and where to direct such comments. Additionally, public hearings held at specific times in the process require specific information in the public notice. Public notices posted at the time of application should contain information about the amount of CDBG funds available and the types of activities eligible for CDBG funding and information about the proposed activities and the amount of funds being requested. A template for the [first public hearing notice](#) is on the OCR website.

- Public notices for public hearings held during grant administration should contain information on the amount of CDBG funds awarded, the type(s) of activity(ies) funded, and the progress towards beneficiary goals and program objectives.
- Provide citizens with reasonable advance notice of, and opportunity to comment on, proposed activities in an application to the State and, for grants already made, activities, which are proposed to be added, deleted or substantially changed from the application submitted to the State.

In all cases, the local government must conduct the required public hearings, even if the local government is considering applying on behalf of a Subrecipient, such as a local housing authority, human resource development council, or a county water and sewer district. The hearing may not be conducted by a department or arm of the local government. Having the local government conduct the hearings, rather than delegating the task to a potential recipient of the CDBG funds, provides the most objective forum for considering alternative community needs (and potentially competing proposals for CDBG projects) and encourages a frank discussion regarding any proposed community development projects. All hearings must be conducted in accordance with the New York State Open Meetings Law.

8. ENVIRONMENTAL REVIEW

Environmental review procedures contained in 24 CFR Part 58 applies to this program. In addition, 24 CFR 58.22 provides guidance on limitation on activities pending clearance and 24 CFR 50.17 provides guidance on decision points for projects subject to environmental procedures. Under Part 58, Recipients assume all of the responsibilities for environmental review, decision making and action pursuant to the National Environmental Policy Act of 1969 and the State Environmental Quality Review Act (SEQRA) and other provisions of law specified by the Secretary in 24 CFR part 58 that would apply to the Secretary were he or she to undertake such projects as Federal projects.

9. RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION

Applicants proposing activities that may involve displacement, permanent relocation or demolition or conversion of residential units occupied by low-income persons are responsible for complying with the regulations under the Uniform Relocation Act and Section 104(d) of the Housing and Community Development Act of 1974, as amended. The Act requires displacement of persons which may occur as a result of activities assisted with CDBG funds be minimized. HUD regulations require that if any CDBG activity could result in displacement, applicants must adopt a plan for minimizing displacement of persons and mitigating any adverse effects of displacement on LMI persons.

Recipients of CDBG funds must provide reasonable benefits and relocation assistance to any person involuntarily and permanently displaced as a result of the use of CDBG funds to acquire or substantially rehabilitate property, including businesses. For projects that may entail the displacement of persons, the Applicant must replace all occupied and vacant, habitable LMI dwelling units demolished or converted to use other than as LMI housing as a direct result of activities assisted with CDBG funds. In addition, HUD requires that Recipients provide reasonable benefits to persons displaced as a result of use of CDBG funds in cases which are not governed by the Uniform Relocation Act.

10. LABOR STANDARDS

Applicants must comply with all applicable Federal and state labor standards as required by the Davis-Bacon Act and Article 8 of the New York State Labor Law. It is the Applicant's sole responsibility to fully understand and comply with the requirements of the labor laws that impact the activity being proposed prior to submitting an application. The impact of Federal and/or state labor laws on the proposed activity must be reflected in the application for funding, particularly the cost of the project. Additional information may be obtained from <http://www.dol.gov/whd/govcontracts/dbra.htm>.

11. LEAD-BASED PAINT REQUIREMENTS

The Residential Lead-Based Paint Hazard Reduction Act of 1992 amended the Lead-Based Paint Poisoning Act of 1971, which established the Federal lead-based paint requirements. In 1999, HUD issued a lead-based paint regulation, 24 CFR Part 35, in response to the regulations effective September 15, 2000. The lead-based paint regulation defines new work practices that must be followed when dealing with lead-based paint in older structures and expands requirements to protect occupants and workers from lead-based paint hazards until lead hazard reduction work is completed.

Applicants must comply with the lead-based paint requirements implemented at 24 CFR part 35, if proposing activities involving residential properties or facilities, operated by the owner and commonly used by children under seven years of age, such as a child care center, purchased or rehabilitated in whole or part with CDBG funds excluding:

- housing constructed on or after 1978;
- housing for the elderly or persons with disabilities, unless a child under 6 resides or is expected to reside in the housing;

- dwellings without bedrooms, i.e., efficiencies and military barracks;
- foreclosure sales;
- short-term leases of 100 days;
- renewal of leases where all information has been disclosed previously and where lessor has acquired no new information ("renewal" is defined under the regulations to "include both re-negotiation of existing lease terms and/or ratification of a new lease"); or
- housing which has been inspected and found to be free of lead-based paint by a certified inspector.

Applicants are required to identify lead-based paint compliance in their application and outline their local plan for addressing lead-based paint hazards. Additional information can be found in [Chapter 6 of the CDBG Grant Administration Manual](#).

B. GRANT ADMINISTRATION AND PROGRAM DELIVERY COSTS

Applicants are not required to request NYS CDBG program delivery and administration funds. However, if desired, program delivery and administration funds must be requested at the time of application and must be included within the maximum requested amount. Program delivery and administration funds are available on a reimbursement basis and will therefore be reviewed for eligibility prior to disbursement of funds. Disbursement requests for program delivery and administration costs are not eligible for reimbursement until the approval of a Request for Release of Funds by HCR. Additionally, applicants are encouraged to identify alternate sources of funds for administrative and program delivery expenses. Additional funding commitments for administrative expenses and project delivery strengthen an application.

Public Facilities and Public Infrastructure

Applicants may request up to 18% of the CDBG award in program delivery, administration, and engineering costs combined. Of the 18%, administration must not exceed more than 5% of the total CDBG award.

- **Grant Administration Costs:** Generally, these are costs associated with salaries, wages, and related costs of the grant recipient's staff, the staff of local public agencies, or other staff engaged in program administration for the awarded grant. General operating expenses are ineligible for reimbursement from the grant funds. Examples of eligible administrative costs include:
 - Providing local officials and citizens with information about the program;
 - Preparing program budgets and schedules and amendments thereto;
 - Developing systems for assuring compliance with program requirements;
 - Costs associated with the Environmental Review Process for the overall program, including the release of funds;
 - Preparing Requests for Proposals with Consultants for grant administration or other consulting work, such as architectural or engineering services;
 - Developing interagency agreements and agreements with sub recipients and contractors to carry out program activities;
 - Monitoring program activities for progress and compliance with program requirements;
 - Preparing reports and other documents for submission to the State regarding the grant;
 - Coordinating the resolution of audit and monitoring findings;
 - Evaluating program results against State objectives; and
 - Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described above;
 - Costs incurred for official business travel in carrying out the program and administrative services performed under a third-party contract;
 - Purchase of capital equipment, such as file cabinets, for grant administration;
 - Training on CDBG grant administration requirements;
 - For more information concerning eligible administrative costs, applicants should read 24 CFR Subpart C 570.206.

- **Program Delivery Costs:** These are those costs that can be directly attributed to activities for delivery of specific proposed activities. These include in-house staff or third-party costs.

Public Infrastructure, such as Public Water and Public Sewer and Public Facility projects such as Senior Centers and Daycare Facilities can include the following activities:

- Marketing grant activities;
- Services verifying client eligibility;
- Providing education or counseling to beneficiaries;
- Preparation of site-specific environmental review and environmental assessment such as well testing or Phase 1 archaeology;
- Legal expenses related to construction such as temporary or permanent easements and filing fees;
- Any required building or regulatory permit or fees associated with regulatory compliance;
- Labor standards compliance work including completion of required on-site employee interviews, verifying and reviewing certified payrolls;
- Development of construction specifications, bid preparation, and contracting;
- Professional service fees including engineering and architectural fees required to deliver the program;
- Client/contractor troubleshooting;
- Any other professional services required to deliver the program.

C. LMI NATIONAL OBJECTIVE COMPLIANCE REQUIREMENTS

1. DATA COLLECTION

As part of the application process, applicants will need to provide income data to demonstrate the need and/or market for each activity proposed and to provide evidence that each activity will meet a National Objective. For activities meeting the National Objective of assisting LMI persons and/or households, two types of data can be used to demonstrate compliance – Census data or income survey data. In addition to collecting income data, applicants must use other methods for documenting need.

2. CENSUS DATA

The most recent Census data can be used to determine and provide evidence of compliance with the LMI Area Benefit National Objective. If it is believed that the data does not accurately reflect the current economic condition of the area, the Applicant may conduct an income survey. Income surveys may be conducted if:

- The proposed activity is located in a Census Tract or Block Group that has less than 51% LMI persons based on the most recent available Census data and the Applicant has reason to believe that the Census information is not accurate and the area is primarily LMI;
 - The activity is located in a Census Tract or Block Group that has at least 51% LMI persons, based on the most recent available Census data, but does not serve the entire Census Tract, or Block Group, or it serves portions of several Census Tracts or Block Groups;
 - The service area (area benefiting from the activity) of the proposed activity is not contiguous with any Census designated area for which data is provided.

3. INCOME SURVEYS

Applicants may need to conduct an income survey to document compliance with the LMI Area and Direct Benefit National Compliance requirements. Applicants using a third-party to conduct an income survey must obtain all of the survey documents (instrument, summary, surveys) and retain this information in their project files.

- **LMI Direct Benefit National Objective**

For projects meeting a Direct Benefit National Objective such as housing rehabilitation, homeownership, job creation and retention, and wastewater and drinking water laterals where eligibility is directly based on the individual household income, with the use of income survey data, applicants must demonstrate that there is a LMI market and a need for the direct benefit activity being proposed.

- **LMI Area Benefit National Objective**

For Area Benefit activities, income survey data may be used to demonstrate that 51% of the area is LMI and to aid in demonstrating the LMI need for the proposed activity.

Defining the Service Area

Applicants must first determine the service area for their project to determine the total number of residential units (occupied, vacant and seasonal) in the project area. Activities that benefit an entire community are considered to have an area wide benefit and the service area is the entire community excluding social service residences such as those operated by the New York State Office of Mental Retardation and Developmental Disabilities, group quarters, prisons, dormitories, etc. Activities that benefit a smaller or targeted group only benefit a designated area of a community. If you are trying to determine the LMI status of households in a neighborhood that is benefiting from a NYS CDBG funded activity, that neighborhood is the service area. Instead of a neighborhood, the service area may be a town, it may be as large as a county, or it may be defined some other way.

Non-Random Income Survey

A non-random income survey is conducted when an Applicant wants to survey the entire service area of an activity. This type of income survey is typically used in areas with a relatively small population and the intent is to gather information from 100% of the households in the service area.

Response Rates

After defining the size of the service area, the Applicant must determine the number of responses needed to estimate the overall characteristics of the service area accurately. Using the tables below, applicants can determine the number of households that must respond to the income survey.

NON-RANDOM INCOME SURVEY: REQUIRED RESPONSE RATE

# OF HOUSEHOLDS IN THE SERVICE AREA	REQUIRED RESPONSE RATE
1 - 50	95%
51-100	90%
101-200	80%
201-300	70%
301-400	60%
401-600	55%
601-800	50%
800-1000	45%
1,000 or more	40%

The following formula should be used to determine the survey response rate:

$$\frac{\text{Total Number of Surveys Returned}}{\text{Total Number Surveyed}} = \text{Response Rate}$$

If the initial response rate is lower than the required response rate, applicants must either repeat follow-up actions or survey additional persons. **Applicants that do not meet the minimum response rate will be at risk of a determination of non-compliance of the LMI National Objective. Applicants must include as an attachment to their application, the survey methodology and a tabulation of the survey results. OCR reserves the right to review, re-tabulate and ultimately reject any questionable survey methodology, instruments and data. Applicants should be prepared to defend the validity of their survey methodology, instruments and data when the LMI Area Benefit is demonstrated to be no more than 55%.**

Applicants can achieve more accurate estimates if they do not write off a household as unreachable too quickly. When conducting a door-to-door income survey, applicants should make two or more passes through the area (at different times) in order to catch a family at home. Only after at least two tries or an outright refusal should a sampled household be replaced. No matter what you do, however, some households just will not be home during the time of interviewing, some probably will refuse to be interviewed, some will terminate the interview before you finish, and some will complete the interview, but fail to provide an answer to the key question on household income. In order to be considered an adequate response, the interview must be completed, and you must obtain complete and accurate information on the respondent's household income.

Applicants must ensure that the entire service area is surveyed. When tabulating the results of the survey, applicants may identify surveys that were not completed accurately, or vital information is missing. In such cases, the survey must be rejected and included as non-LMI in the tabulation.

Vacant and Seasonal Housing

All vacant and seasonal housing units must be included in the total number of households and persons benefiting. However, for the purpose of conducting an income survey and meeting the required response rate, these units are deducted from the group to be surveyed. The Applicant must clearly demonstrate on a map, the exact location of all vacant and seasonal housing.

4. DESIGNING THE INCOME SURVEY QUESTIONNAIRE

It is important that all of the individuals surveyed are asked the same exact questions in the same format and the responses are recorded correctly. To ensure this, a written questionnaire is needed. Each question should be clear, written in simple language, and convey only one meaning. Applicants should include questions designed to elicit information that will substantiate compliance with the National Objectives as well as questions that are considered important to the activity.

Applicants should be aware that experience has shown that overly detailed surveys may adversely affect the response rate. Income survey questions should be designed to provide, at a minimum, data regarding family size, household income, housing tenure, head of household status and racial and ethnic composition. The survey should request the respondent to provide their annual household income or the most recent HUD Income Limits should be listed in ranges that will allow the Applicant to determine whether the respondent is at or below 30%, 50%, or 80% of area median income or above.

Types of Survey Questions

When designing the income survey questionnaire, applicants should select the best format that will solicit the information needed. There are two question formats that applicants can use in an income survey: open-ended and closed-ended. An example of an open-ended question is: "What do you think is this community's most important need?" The respondent is allowed to answer in any way he/she chooses. Usually, several blank lines are provided for an answer.

A closed-ended question is one that forces the respondent to make a choice: "Do you like the new community center?" Answer yes or no. "Is your income below \$5,000; between \$5,000 and \$10,000; or above \$10,000?" Typically, closed-ended questions have a box to check for the appropriate answer.

Income survey questions should be brief and simple and should not be loaded or biased. The interviewer should not imply that the neighborhood would benefit or receive Federal funding if respondents say that they are of LMI. The questions must be designed to determine truthfully and accurately whether respondents have LMIs. It is permissible to note that the reason for the income survey is to gather essential information to support an application for funding under the State or to undertake a CDBG funded activity in the area.

Applicants should also bear in mind that questions about income are personal. Many people are suspicious or reluctant to answer questions about incomes -- especially if they do not understand the reason for the question. One way to handle this problem is to ask questions about income at the end of a somewhat lengthy questionnaire on other community development matters. In this instance, a local agency can use this questionnaire to gather some information on what the neighborhood sees as important needs or to gather feedback on some policy or project. At the end of such a questionnaire, it usually is possible to ask questions on income more discreetly. If this option is chosen, however, the interviewer should be cautioned that an excessively lengthy questionnaire might cause respondents to lose interest before the survey is completed. The ideal length would probably be less than ten minutes, although certainly you could develop a longer questionnaire if it were necessary.

Of course, it is also possible to ask only the critical questions on income. You should know best how people in your community will respond to such questions. With a proper introduction that identifies the need for the information, you can generate an adequate level of response through a questionnaire with just two questions on income level.

Income limits can be found at [2020 HUD Income Limits](#) (Limits) for use in determining eligible income. The Limits are arranged by Metropolitan Statistical Area and County. They show the area median income and the income limits at 30%, 50% and 80% by household size. Applicants use the income limits in the income survey instrument and/or in calculating the results of the income survey. Household size and income are needed to determine if a household meets the LMI requirements.

Racial/Ethnic Composition Data

HUD requires racial and ethnic composition data on all beneficiaries of the State CDBG Program for input into their Integrated Disbursement Information System. OCR also provides this data to HUD in its Annual Performance Report to HUD. **Even though racial and ethnic data is not required as part of this application, OCR will request this information from Recipients in the Semi-Annual Performance Report.**

Applicants may choose to collect the racial/ethnic composition data from potential program participants during the income survey or application intake (direct benefit activities) stages. The following chart represents the racial and ethnic categories designated by HUD and how they should be reported.

5. INCOME SURVEY MATERIALS

Racial/Ethnic Composition		
Racial Categories (HUD Designated)	Racial Group	*Hispanic
	Total # Of	Total # Of
White		
Black/African American		
Asian		
American Indian/Alaskan Native		
Native Hawaiian/Other Pacific Islander		
American Indian/Alaskan Native and White		
Asian And White		
Black/African American And White		
American Indian/Alaskan Native & Black/African American		
Other Multi-Racial		
Totals		

* HUD has designated Hispanic as an ethnic group that is applicable to all races. A household or person may be identified as both a member of a racial group and an ethnic group.

Income survey materials should include detailed concise information that will aid in the successful collection of the information solicited. At a minimum, the following information should be provided to the residents:

- A brief description of why the income survey is being conducted (without stating the preferred response) and an explanation of why demographic data is being requested. This may be presented in a written or verbal format depending on the survey method.
- A statement assuring that the information is confidential. **OCR strongly advises applicants to inform candidates of the survey that the information collected is confidential and is not subject to the Freedom of Information Act (FOIA).**
- The name and telephone number of a person to be contacted if the respondent has any questions.
- Instructions for completing the questionnaire, such as **what types of income are counted toward household income and the difference between household size and number of dependents.**

At a minimum, the household size, income and demographics, the respondent's signature, date, and address should be collected.

6. CONFIDENTIALITY

Applicants must ensure that the income survey process used to substantiate compliance with the LMI National Objectives includes a way to identify specific households who responded to the questionnaire yet ensures the respondent's confidentiality. **Each income survey should include a statement ensuring respondent confidentiality and the process the Applicant will undertake to ensure confidentiality.**

To preserve confidentiality, the income survey materials should be in two parts or consist of two separate pages. **The section with the respondent's name and address must be separated from the income and demographic data after receipt.** All documents related to the income survey should be stored in a locked cabinet or other secure area, which has limited access. The Applicant must impress upon those working with the income survey data the importance of confidentiality.

Questions concerning household income and other personal questions are sensitive topics and applicants need to take this under consideration when developing their questionnaire and determining their income survey method. **If a respondent's address is requested on the questionnaire, many persons may not answer the questions relating to income truthfully, answer the questions at all, or not complete the questionnaire in its entirety.** To promote a high response rate and solicit accurate information, the questionnaire should not include identifying information, such as the person's name or address. The following are examples of acceptable methods for preserving anonymity of income survey respondents:

- a. Applicants may hand deliver the questionnaire to the respondent or conduct the income survey orally. At the time of delivery or upon completion of the interview, the surveyor would mark off the respondent's address from an

address list. If the hand delivered questionnaire is to be returned by mail or collected by the Applicant at a later date, the collector can check off the respondent's address on the address list at the time of collection.

- b. If the questionnaire is to be mailed and returned by mail, the identifying information (respondent's address) can be on the return envelope. Upon receipt of the completed questionnaire, the Applicant can check off the respondent's address on the address list. The envelope and questionnaire can then be separated, and the envelope destroyed.
- c. Questionnaires may be coded which entails a simple method of placing a number on the questionnaires or return envelopes. Each number is assigned an address from an address list. When the questionnaire is received, a list of the codes is maintained.
- d. Questionnaires may consist of two parts or two separate pages. The section with the respondent's name and address can be separated from the income and demographic data after receipt. Where a door- to- door income survey is being conducted, the interviewer can instruct the respondent to separate the two parts of the questionnaire after completion and place the part with the income information in one envelope and the other part in another envelope.

Excluding the two-part questionnaire method, applicants can review the address list to determine which addresses did not respond to the questionnaire and require follow-up contact.

**SURVEYS OF HOUSING CONDITIONS SHOULD BE CONDUCTED
SEPARATELY TO ENSURE RESPONDENT CONFIDENTIALITY**

C. HUD INCOME LIMITS

The most current and up to date [HUD income limits](#) are available online.

For projects claiming LMA National Objective for area wide for projects benefitting a population that is more than 51% low and moderate income, [community wide census data is available here](#).

D. DEFINITIONS OF ANNUAL HOUSEHOLD INCOME (24 CFR PART5)

General Category	Statement from 24 CFR 5.609 paragraph (c) (April 1, 2004)
1. Income of Children	Income from employment of children (including foster children) under the age of 18 years.
2. Foster Care Payments	Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).
3. Inheritance and Insurance Income	Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers' compensation), capital gains and settlement for personal or property losses (except as provided in number 5 of Income Inclusions).
4. Medical Expense Reimbursements	Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
5. Income of Live-in Aides	Income of a live-in aide (as defined in 24 CFR 5.403).
6. Disabled Persons	Certain increases in income of a disabled member of qualified families residing in HOME-assisted housing or receiving HOME tenant-based rental assistance (24 CFR 5.671(a)).
7. Student Financial Aid	The full amount of student financial assistance paid directly to the student or to the educational institution.
8. Armed Forces Hostile Fire Pay	The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
9. Self-Sufficiency Program Income	<ul style="list-style-type: none"> a. Amounts received under training programs funded by HUD. b. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS). c. Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program. d. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time. e. Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program.
10. Gifts	Temporary, nonrecurring, or sporadic income (including gifts).
11. Reparations	Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
12. Income from Full-time Students	Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household or spouse).
13. Adoption Assistance Payments	Adoption assistance payments in excess of \$480 per adopted child.
14. Social Security & SSI Income	Deferred periodic amounts from SSI and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts.
15. Property Tax Refunds	Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
16. Home Care Assistance	Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep this developmentally disabled family member at home.
17. Other Federal Exclusions	<p>Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions of 24 CFR 5.609(c) apply, including:</p> <ul style="list-style-type: none"> ▶ The value of the allotment made under the Food Stamp Act of 1977; ▶ Payments received under the Domestic Volunteer Service Act of 1973 (employment through VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions); ▶ Payments received under the Alaskan Native Claims Settlement Act; ▶ Income derived from the disposition of funds to the Grand River Band of Ottawa Indians;

- ▶ Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes;
- ▶ Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;
- ▶ Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
- ▶ The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands;
- ▶ Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs;
- ▶ Payments received from programs funded under Title V of the Older Americans Act of 1985 (Green Thumb, Senior Aides, Older American Community Service Employment Program);
- ▶ Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);
- ▶ Earned income tax credit refund payments received on or after January 1, 1991, including advanced earned income credit payments;
- ▶ The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990;
- ▶ Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, Veterans employment programs, state job training programs and career intern programs, AmeriCorps);
- ▶ Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;
- ▶ Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990;
- ▶ Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran;
- ▶ Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the Applicant under the Victims of Crime Act; and
- ▶ Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998.

F. APPLICABLE LAWS AND REGULATIONS

There are numerous Federal, state and local regulations that govern or impact the State CDBG Program. It is the responsibility of the Applicant to ensure compliance with all applicable Federal, state and local regulations and statutes. The following is a listing that is not all inclusive, of Federal regulations that apply to the State CDBG Program:

- Efforts to Affirmatively Further Fair Housing;
- Davis-Bacon Fair Labor Standards Act (40 USC 276a);
- Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333);
- Copeland Anti-Kickback (18 USC 874)
- Title VI of the Civil Rights Act of 1964 (42 USC 200(d));
- Title VIII of the Civil Rights Act of 1968 (42 USC 3601);
- Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 792 and 3601);
- Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC 1701 (u));
- Section 109 of the Housing and Urban Development Act of 1974, as amended (42 USC 5309);
- Age Discrimination Act of 1975, as amended (42 USC 6101);
- Architectural Barriers Act of 1968, as amended (42 USC 4151);
- Americans with Disabilities Act of 1991;
- Equal Employment Opportunity (Executive Order 11246, September 24, 1965);
- Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259);
- The Hatch Act (5 USC 1501 et seq.);
- The National Environmental Policy Act of 1969;
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and amendments of 1987;
- Title IV of the Lead-Based Poisoning Prevention Act (42 USC 4831);
- HUD Reform Act of 1989;
- 24 CFR Parts 35, 58, 85, and 570;
- Housing & Community Development Act of 1974, as amended;
- 2CFR 200, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments; Section 104(d) of the Housing and Urban Development Act of 1974, as amended (Anti-Displacement);