

New York State
COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM

Microenterprise Assistance

APPLICATION KIT



**Homes and
Community Renewal**

OFFICE OF COMMUNITY RENEWAL

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I. INTRODUCTION

In accordance with New York State's approved Consolidated Plan and its Annual Action Plan, 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 Application requests 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 (NYS) 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.

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

1. Support a mix of rehabilitation, and conversion activities to preserve and increase affordable housing, for both renters and homeowners;
2. 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;
3. Revitalize the vibrancy of NYS' communities and enhance the quality of life;
4. Develop and implement strategies, which facilitate the coordination of NYS CDBG funding with other federal, state, and local community development resources.

III. PROGRAM OUTLINES

A. Funding Availability

Available CDBG funds may be allocated according to the following categories: Community Development Funding; Economic Development Assistance; Imminent Threat; Technical Assistance & Capacity Building; and Program Administration. Actual allocation percentages are dependent upon the number of applications received in any given year.

The NYS CDBG Microenterprise program provides resources to support and foster the development of microbusinesses by providing grants in conjunction with capacity building and entrepreneurial assistance. The program is designed to stimulate economic growth and create businesses and jobs that will improve and preserve NYS homes and communities. An objective of the NYS CDBG Microenterprise program is to create opportunities for the development of businesses that promote employment opportunities for persons of low- to moderate- income families.

Applicants that have received an Invitation to Apply may submit a full application for Microenterprise funding. Only applications that have been submitted in response to an Invitation to Apply will be considered for funding.

This Application consists of the instructions and forms required for eligible Applicants to apply for Microenterprise assistance. For more information on the competitive (annual) application process, contact the Office of Community Renewal at (518) 474-2057 or visit our website at <https://hcr.ny.gov/community-development-block-grant-economic-development-program>

B. Funding Limits

Microenterprise Assistance

\$100,000 to \$300,000

Applicants seeking Microenterprise funds may submit multiple applications. However, the total amount awarded in a program year may not exceed a total of \$300,000. Please note that the NYS OCR may exceed these caps if a project or projects have significant and transformational impacts beyond the immediate public benefit.

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. 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.

C. Eligible Applicants

Eligible applicants are non-entitlement units of general local government (cities, villages, towns or counties), 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: <https://hcr.ny.gov/community-development-block-grant-economic-development-program>

Counties may apply on behalf of units of general local government located within their jurisdiction when the unit of 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 exhibit to the application.

D. Eligibility Restrictions

Prior Recipients of the NYS CDBG Program 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

The Microenterprise Program provides grant funds to eligible communities for economic development projects that result in the creation of permanent jobs, principally for persons from low- and moderate-income families, and that benefit low/moderate income business owners of microenterprises.

For more information on the traditional Economic Development and Small Business Assistance programs, please visit

<https://hcr.ny.gov/community-development-block-grant-economic-development-program>

F. Program Guidelines

- The maximum total allocation for which a community can apply is \$300,000.
- A minimum of 50% of a total allocation (less grant administration costs) must be awarded to start-up businesses. A start up business is one which has been in operation less than six (6) months from the time of application.
- Although it is not required that specific microenterprises are identified as part of the application for Microenterprise Program funding, an application that identifies microenterprises and entrepreneurs that have gone through a prescreening stage is recommended. The prescreening stage should verify eligibility, evaluate the proposed project and determine funding need.
- NYS CDBG Microenterprise funds must be allocated as a grant to each microenterprise.
- Grant assistance to an individual microenterprise must be between \$5,000 and \$35,000. The maximum award is not intended to serve as a target amount for requests for assistance. The amount of CDBG assistance should be based on need and CDBG funds should not be used to reduce the amount of non- federal financial support for the project.
- Grants may not exceed 90% of the total project cost to assist in the start-up or expansion of a microenterprise.
- A minimum amount of 10% owner equity contribution to the project is required.
- Each microenterprise owner must complete an approved entrepreneurial assistance or small business training program prior to receiving CDBG Microenterprise grant funds. The cost for the owner to attend the training may be an eligible CDBG expense.
- Applicants may request up to 15% of the CDBG award in program delivery, administration, and training combined. Of the 15%, administration must not exceed more than 5% of the total project cost.
- Retention is not permitted in the Microenterprise Program.

The maximum award is not intended to serve as a target amount for requests for assistance. Applicants should apply for the amount of funds needed to undertake the project and the amount that can be expended within the term of the grant.

G. Application Review Process

The review process for the NYS CDBG Program is designed to ensure that the limited NYS CDBG funds available are awarded to communities that have met all of the Federal CDBG requirements, demonstrated a significant need for the proposed activity, demonstrated the project is financially feasible, shown a significant positive impact to the community, is consistent with the NYS HCR Investment Strategy and complies with the Smart Growth Public Infrastructure Act.

In evaluating projects, the OCR will analyze the following specific factors:

- The documented need for microenterprise assistance in the project area.
- The extent to which the program will create permanent, full time equivalent job opportunities for persons of low- and moderate- income either through the support of LMI entrepreneurs or the creation of LMI jobs.
- The usefulness and practicality of the entrepreneurial training program.
- The degree to which the program supports a community-approved strategic or comprehensive plan.
- The program's impact on increasing the viability of the "Main Street" business sector and/or targeted industry sectors.
- Demonstration of expertise in technical assistance.
- The degree to which the program is financially and technically feasible.
- Reasonableness of program costs.
- The extent of documentation that supports the timely completion of the proposed activities within the term of the grant agreement. Issues which may hinder timely completion of the program must be addressed prior to award
- Demonstrated assurance of the success of the program
- Capacity to complete activities in a timely & effective manner
- Leveraging and availability of other resources
- CDBG and administrative performance history, if any
- Extent to which activity complements other federal, state, & local programs

OCR will review an applicant's program history, beginning with Program Year 2000, to determine whether or not the Applicant has completed and/or made appropriate progress with any and all prior OCR grants including the number of extensions requested in order to complete a project beyond the specified deadline. 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. 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. **Recipients of past CDBG Microenterprise assistance must have committed at least 85% of any current awards prior to applying for additional funding.**

H. Technical Assistance

Prior to submission of the application, 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 for assistance.

I. Smart Growth (Chapter 433 of the Laws of 2010)

Please note that the New York State 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.

J. Procuring for Professional Services

Consultants

Applicants may contract with a consultant for the preparation of application materials and/or for the administration of the 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 found at 24 CFR Part 85 are complied with.

For NYS CDBG funded professional services, the selection of a provider must be conducted in a manner so as to provide maximum open and free competition. The provisions of OMB Circular A-87 and applicable state, federal (24CFR 85.36) 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 preparation of an application is not an allowable 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 Chapters 1 and 4 of the OCR Grant Administration Manual, which is available on the OCR website, <https://hcr.ny.gov/community-development-block-grant-economic-development-program>.

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 Proposal (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 by NYS CDBG funds**. While permissible under state law, communities should also be aware when soliciting for professional services that federal requirements restrict the use of 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.

Subrecipients

Applicants may decide to use a Subrecipient to carry out the NYS CDBG funded activity including administration and/or program delivery tasks required to administer NYS CDBG programs. 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 all vendors and

make all grants from their bank account.

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 any period that the Subrecipient has control over NYS CDBG funds, including program income. For additional information on Subrecipients, reference Chapter 1 of the OCR Grant Administration Manual, which is available on the HCR website, <https://hcr.ny.gov/community-development-block-grant-economic-development-program>

IV. PRE-SUBMISSION

A. Pre-Submission Process

Pre-Submission Forms:

- Pre-Submission Certification Form
- Preliminary Budget Table
- Job Creation Table (ME)

All pre-submission forms can be found on the OCR website at: <https://hcr.ny.gov/community-development-block-grant-economic-development-program>

Once the applicant clicks 'Submit' within the Pre-Submission part of the application, the applicant will receive one of three notifications via email:

- **Accept** - The Pre-Submission has been approved and the applicant can proceed to the full application within the CFA Portal. An Invitation to Apply will be sent to the applicant via USPS mail.
- **Reject** - The Pre-Submission form has not been approved. The applicant will not be able to proceed to the full application within the CFA Portal. An Invitation to Apply will not be sent.
- **Needs More Information** - OCR has determined that additional information is required before the application can be approved and an Invitation to Apply sent.

For all the above, OCR staff will be in contact with the applicant to discuss the next steps.

B. Submission Instructions

The Microenterprise application is submitted through an Open Round process and completed through the CFA portal. The Open Round applications require the completion of a Pre-Submission Form. The Pre-Submission Form will be reviewed by The Office of Community Renewal and if accepted, the applicant will receive an invitation to apply and will have 60 days to complete a full application within the CFA portal.

The Open Round and Pre-Submission Form process does not share the CFA deadline. Open Round applications may be submitted anytime as projects are deemed ready. Applicants applying for Microenterprise assistance through the Open Round will not be allowed to apply for any other CDBG sources within the same application.

The Pre-Submission Form must be completed as follows:

- Go to the CFA Portal: <https://apps.cio.ny.gov/apps/cfa/>
- Select the Microenterprise (Open Round) Application.
- Complete all required questions and documents and upload as attachments
- Submit Pre-application for approval. **NOTE:** *Once submitted, the CFA portal will not allow*

applicant to proceed to the full application until the Pre-Application form has been approved by the Office of Community Renewal (OCR)

- OCR will review application. Once approved, the applicant will receive an Invitation to Apply.
- Once an Invitation to Apply is issued by OCR, applicants will have **60 days** from the date of the Invitation to Apply to complete the application within the CFA portal. After 60 days, the CFA portal will not allow this application to be submitted

Pre-Submission Certification Form Instructions

A Certification Form is required for each applicant. The Chief Elected Official must confirm that they:

- As the applicant, fully intend to submit a pre-submission form for the NYS CDBG Microenterprise funds to assist the business.
- certify that the CEO is authorized to designate an individual to submit the pre-submission form on behalf of the applicant.
- certify that should the Office of Community Renewal invite us to submit a full application, we, as the Applicant, will be required to document our efforts of how we affirmatively further fair housing.
- understand that the submission of a Pre-Submission form does not guarantee that the application will be reviewed and does not guarantee that the Office of Community Renewal will make funds available.
- understand that the use of NYS CDBG funds requires meeting a National Objective. If jobs are to be created/retained, at least 51% will be 'taken or held by' or 'made available to' low and moderate-income persons.
- certify that all of the data contained in the Pre-Submission form is true, complete and correct to the best of my knowledge and belief. I will report any changes or additions to the information provided in this Pre- Submission form and will furnish such further documentation or information as may be requested by the Office of Community Renewal.

Pre-Submission Preliminary Budget Table Instructions

Project (Business) Name. Enter the legal name of the business/unit of government.

Use of Funds. Enter descriptive, concise names of each proposed use of funds. For example, real estate acquisition, construction, machinery and equipment, etc.

Source of Fund:

NYS CDBG \$ Requested. Enter the amount of CDBG funding allocated for each of the uses listed.

Sources. If there are other funding sources financing the proposed uses, identify all of these in the columns provided in this form. For each of the other funding sources, enter the Name of the Lender associated with the funding source and the amount of funding.

*If more than three Non-CDBG funding sources are contributing to the project, please contact OCR for assistance.

Committed. Committed funding is defined as a written documentation provided by the funding source. Committed funds should be able to provide written documentation at the time of application. Identify whether funding is committed or not committed with a Y or N (Yes or No) in the 'C**' column.

Total. Enter the total amount of CDBG and non-CDBG funding for each use.

Administration. Enter the amount of funds to be expended on the administration of this project.

Program Delivery. Enter the amount of funds to be expended on program delivery activities. The total cost of program delivery and administrative **may not exceed 15%**the total CDBG funds requested with administration not to exceed 5%. (See Appendix B for more details.)

Total. Enter the total amount of funds requested/available for each funding source listed.

Pre-Submission Job Creation Table (ME) Instructions

A job table must be completed for the proposed project. Complete the following information:

Applicant Name. Enter the legal name of the municipality.

Name of Project. Enter the name of the project (if applicable).

Number of Microenterprises to be assisted. Enter the total proposed number of businesses to be assisted.

Start-ups. Enter the proposed number of start-up businesses to be assisted.

Existing. Enter the proposed number of existing businesses to be assisted.

Total LMI Owned Microenterprises. Enter the proposed number of businesses to be assisted which are owned by low-to moderate-income persons.

Number of FTE Jobs to be created*. Enter the proposed number of FTE jobs to be created.

Total Jobs Made Available to LMI.** Enter the proposed number of FTE jobs which will be made available to low-to moderate-income persons.

Additional Narrative (if applicable). Enter any additional information not captured in the chart, relative to the proposed numbers for job creation and/or businesses to be assisted, if applicable.

*A full time equivalent (FTE) job is any combination of two or more part-time jobs that, when combined together, constitute the equivalent of a job of at least 40 hours per week.

**A job is considered to be made "available to" a low- and moderate-income (LMI) person if the position does not require any special skills acquired from substantial training or work experience, and education beyond high school is not a prerequisite to employment.

C. Pre-Submission Forms

PRE-SUBMISSION CERTIFICATION FORM

In order to complete the online Pre-Submission form for NYS CDBG Economic Development/Small Business/Microenterprise funds, the Chief Elected Official must certify the following:

1. The _____ fully intended to submit a Pre-Submission
(Applicant Name)
form for NYS CDBG Economic Development/Small Business/Microenterprise funds to assist
_____.
(Business/Program Name)
2. I certify that I am authorized to designate _____ from
_____.
(Agency/Company) (Name)
to submit the Pre-Submission form on behalf of _____.
(Applicant)
3. I certify that should the Office of Community Renewal invite us to submit a full application, we, as the Applicant, will be required to document our efforts of how we affirmatively further fair housing.
4. I understand that the submission of a Pre-Submission form does not guarantee that the application will be reviewed and does not guarantee that the Office of Community Renewal will make funds available.
5. I understand that the use of NYS CDBG funds requires meeting a National Objective. If jobs are to be created/retained, at least 51% will be 'taken or held by' or 'made available to' low-moderate income persons. For retained jobs, please reference Chapter 5 of the Grant Administration Manual.
<https://hcr.ny.gov/system/files/documents/2019/04/cdbg-grant-administration-manual-chapter-5-eligible-activities.pdf>
6. I certify that all of the data contained in the Pre-Submission form is true, complete and correct to the best of my knowledge and belief. I will report any changes or additions to the information provided in this Pre-Submission form and will furnish such further documentation or information as may be requested by the Office of Community Renewal.

(Name of Chief Elected Official)

(Signature)

(Date)

| PRE-SUBMISSION JOB CREATION TABLE (ME) | | |
|--|--|--|
| APPLICANT NAME (Village, City, Town, County): | | |
| NAME OF PROJECT: | | |
| CFA APPLICATION NUMBER: | | |
| <i>Please complete the chart below using estimated projections</i> | | |
| Businesses | | |
| | Number of Microenterprises to be assisted | |
| | Start-ups | |
| | Existing | |
| | Total LMI Owned Microenterprises | |
| Jobs | | |
| | Number of FTE Jobs to be created* | |
| | Total Jobs Made Available to LMI** | |
| Additional Narrative (if applicable): | | |
| | | |

*A full time equivalent (FTE) job is any combination of two or more part-time jobs that, when combined together, constitute the equivalent of a job of at least 40 hours per week.

**A job is considered to be made "available to" a low- and moderate-income (LMI) person if the position does not require any special skills acquired from substantial training or work experience, and education beyond high school is not a prerequisite to employment.

V. FULL APPLICATION

A. Full Submission Instructions

Once the Pre-Submission Form and required documents have been completed and reviewed by the Office of Community Renewal (OCR), applicants may receive an Invitation to Apply. Applicants must submit an electronic application to OCR within sixty (60) days of receipt of an Invitation to Apply.

Applicants are strongly advised to thoroughly read the application, review the requirements of the NYS CDBG program and observe all of the application requirements. Applicants seeking consideration for funding must comply with all requests for information including completion of all required forms, providing descriptions, narratives and exhibits. All parts of the application and required exhibits must be completed 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. It is the Applicant's responsibility to provide OCR with an application that is clear, concise, well-organized and that provides all of the information requested.

Attachments (fillable forms):

- Applicant Certification
- CDBG Program Income Report
- Applicant/Recipient Disclosure/Update Report

All full-application forms can be found on the OCR website at: <https://hcr.ny.gov/community-development-block-grant-economic-development-program>

Applicant Certification Instructions

Place of performance is the street address, county, state, and zip code for the Applicant's administrative offices. The Chief Elected Official of the Applicant must sign and date the Form where indicated.

CDBG Program Income Report

A CDBG Program Income Report Form is required to be submitted with the full application.

Fill in the name of the applicant and indicate the amount of uncommitted program income on hand at the time of application. The form must be signed and dated by the Chief Elected Official. Follow the instructions on the form for all returned program income.

Supporting Documents List

Attach, as appropriate, those items applicable to the proposed project. Each of the items listed are associated with an individual question within the CFA Portal.

A. Full Submission Forms

APPLICANT CERTIFICATION

CERTIFICATION REQUIRED BY TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED, WITH RESPECT TO THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

In accordance with the Title I of the Housing and Community Development Act of 1974, as amended, the Applicant hereby certifies that:

- a. It possesses legal authority to make a grant submission and to execute a community development and housing program;
- b. Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the Applicant to submit the subject application and all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the Applicant to act in connection with the submission of the application and to provide such additional information as may be required;
- c. Prior to submission of its application to the Office of Community Renewal (OCR), the Applicant has met the citizen participation requirements at 24 CFR 570.486 and New York State's Citizen Participation Plan as amended;
- d. The grant will be conducted and administered in compliance with:
 - Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 42 USC 2000d et seq.); and
 - The Fair Housing Act (Public Law 90-284, 42 USC 3601-20);
- e. It will affirmatively further fair housing;
- f. It has developed its application so as to give maximum feasible priority to activities, which will benefit LMI families or aid in the prevention or elimination of slums or blight. The application may also include activities, which the Applicant certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. The grant shall principally benefit persons of LMI in a manner that ensures that not less than 70% of such funds are used for activities that benefit such persons;
- g. It will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds provided under section 106 of the Act or with amounts resulting from a guarantee under section 108 of the Act by assessing any amount against properties owned and occupied by persons of LMI, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 - 1) Funds received under section 106 of the Act are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title I of the Act; or
 - 2) For purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies that it lacks sufficient funds received under section 106 of the Act to comply with the requirements of subparagraph (1) above;
- h. Its notification, inspection, testing and abatement procedures concerning lead-based paint will comply with the applicable laws and regulations found at 24 CFR 570.608;
- i. It will minimize the displacement of persons as a result of activities assisted with CDBG funds;
- j. It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, as required under 24 CFR 570.606 (c) governing the residential anti-displacement and relocation assistance plan under section 104 (d) of the Act (including a certification that the Applicant is following such a plan); and the relocation requirements of 24 CFR 570.606 (d) governing optional relocation assistance under section 105 (a)(11) of the Act;
- k. It has adopted and is enforcing:
 - 1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and

- 2) A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within its jurisdiction;

I. To the best of its knowledge and belief:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- 3) It will require that the language of this anti-lobbying certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly;
- 4) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

m. It will or will continue to provide a drug-free workplace by:

- 1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- 2) Establishing an ongoing drug-free awareness program to inform employees about:
 - i. The dangers of drug abuse in the workplace;
 - ii. The Applicant's policy of maintaining a drug-free workplace;
 - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- 3) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (1);
- 4) Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the grant, the employee will:
 - i. Abide by the terms of the statement; and
 - ii. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- 5) Notifying the OCR in writing, within ten calendar days after receiving notice under subparagraph (4) (ii) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- 6) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (4) (ii), with respect to any employee who is so convicted:
 - i. Taking appropriate personnel action against such an employee, up to and including termination

consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

- ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency

7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5) and (6).

8) The Applicant may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

9) Workplaces under grants, for Applicants other than individuals, need not be identified on the certification. If known, they may be identified on the certification. If the Applicant does not identify the workplaces at the time of the application, or upon award, if there is no application, the Applicant must keep the identity of the workplace(s) on file its office and make the information available for federal inspection. Failure to identify all known workplaces constitutes a violation of the Applicant's drug-free workplace requirements.

10) Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g. all vehicles of a mass transit authority or State highway department while in operation, state employees in each local unemployment office, performers in concert halls or radio stations).

11) If the workplace identified to OCR changes during the performance of the grant, the Applicant shall inform OCR of the change(s), if it previously identified the workplaces.

12) This certification is a material representation of fact upon which reliance is placed when OCR awards the grant. If it is later determined that the Applicant knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, OCR may take action authorized under said Act.

- n. It will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135. Section 3 requires that employment and other economic opportunities arising in connection with housing rehabilitation, housing construction, or other economic opportunities arising in connection with housing rehabilitation, housing construction, or other public construction projects shall, to the greatest extent feasible, and consistent with existing federal, state, and local laws and regulations, be given to low- and very low-income persons;
- o. It will comply with the other provisions of the Act and with other applicable laws;
- p. It is in compliance with a HUD-approved Consolidated Plan;
- q. It is in compliance with grant spending threshold requirements as outlined in the Application; and
- r. It will comply with all applicable federal/state/local affirmative action requirements.
- s. To the best of its knowledge and belief all data provided in this application is true and correct.

Signature of Authorized Official

Date

**NYS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
CDBG PROGRAM INCOME REPORT**

Each Recipient must certify to the Office of Community Renewal (OCR) the amount of uncommitted* program income from New York State administered CDBG grants currently on hand. This includes any additional program income received since last reported. **All recipients** must fill out, sign and return the completed form to the OCR.

I certify that _____ has \$ _____
(Community Name)

in uncommitted NYS CDBG Program Income for the fiscal year 4/1/___ through 3/31___.

If the Applicant has a zero (\$0.00) balance in NYS CDBG program income, please indicate that above. Do not leave blank. Any uncommitted program income must be returned following the guidelines below.

Chief Elected Official Signature

Title

Typed Name

Date

All program income received must be returned to the Housing Trust Fund Corporation (HTFC) as follows:

- For any revolving loan fund (RLF) receipts, the funds must be returned monthly to HTFC to the address below
- For all other receipts, the funds must be accumulated in a separate local account and returned to HTFC at the end of the State fiscal year, along with a Program Income Report, if the amount exceeds \$35,000
- Recipients with \$35,000 or less in uncommitted program income on hand must provide a bank statement to verify this

Please send any program income payments to:

Housing Trust Fund Corporation
PO Box 1339
Albany, NY 12201-1339

Checks should be made payable to the *Housing Trust Fund Corporation*

Please note: Funds must be returned by the local recipient, not by any subrecipient or beneficiary

Any funds received after April 1, 2019 may not be directly disbursed to activities by the local recipient

Forms and/or questions should be submitted to OCRREPORTS@nyshcr.org, or contact the Office of Community Renewal directly at (518) 474-2057.

* "Commitment" means either that the local recipient legislative body has formally approved funds for a specific project in the public record prior to 4/1/19, or that the local recipient has entered into a written agreement with a business, household or other eligible person that is the intended recipient of the funds committing to a specific activity prior to 4/1/19. This commitment cannot be subject to contingencies that could result in cancellation of the activity. For more information, please see the CDBG Program Income Fact Sheet [here](#):

B. Supporting Documents List:

Attach, as appropriate, those items applicable to the proposed project. Each of the items listed below are associated with an individual question within the CFA Portal.

REQUIRED

Program Information:

- Program Design Plan,
- Draft program application and other application forms that are to be completed by each program beneficiary
- List of Grant Committee members and experience (Grant committee is a panel chosen by the applicant to review grant applications and to make recommendation and/or approval of grant award)
- Entrepreneurial Training Program Syllabus
- Draft CDBG Grant Agreement (Agreement between Recipient and Microenterprise)

Project Budget Related Documents:

- Commitment Letter(s) from all other funding sources, including proposed terms
- Documentation of unsuccessful attempts at pursuing non-CDBG funding sources (if applicable)
- Documentation for all third-party costs (Applicants proposing Microenterprise projects that include soft costs such as classroom instruction, technical assistance to businesses, marketing, etc. must provide supporting cost documentation)

Compliance with Citizen Participation requirements:

- Copies of public hearing notices to demonstrate compliance with Citizen Participation requirements.
- Affidavit of Publication, Meeting Minutes, and List of Attendees

Civil Rights

- Fair Housing Statement/Documentation
- Section 3 Plan

Certifications:

- Applicant Certification

Other Supporting Documentation (as applicable):

- Documentation from the business owners interested in participating in the program
- Written Documentation of Support for the Project
- If businesses are identified in the application, business plan, with resumes of principles, market analysis, marketing strategy, and impact on local competitors
- Program Income Report

VI. Additional Program Requirements

A. National Objective Compliance

Activities funded under the NYS CDBG Program must primarily benefit low- and moderate-income persons, aid in the prevention or elimination of slums or blight or meet community development needs having a particular urgency. **Most economic development activities (including small business) are undertaken for the purpose of job creation or retention where at least 51% of the jobs are either held by, or made available to, low- and moderate-income persons.**

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 the most recent HUD Income Limits or visit, <https://www.huduser.gov/portal/datasets/il.html>.

Low and Moderate Income Jobs

A *LMI Jobs activity* is one which creates or retains permanent jobs, at least 51 percent of which, on a full time equivalent (FTE) basis, are either *held by* LMI persons or considered to be *available to* LMI persons.

What jobs can be counted:

In counting the jobs to be used in the calculation for determining the percentage that benefit LMI persons, the following policies apply:

- Part-time jobs must be converted to full-time equivalents (FTE);
- Only permanent jobs count (temporary jobs may not be included);
- Seasonal jobs are considered only if the job is the employee's principal occupation; and
- Jobs indirectly created (i.e., "spin off" jobs) may not be counted.

Jobs "held by" LMI persons:

A job is considered to be held by a LMI person if the person is, at the time their employment commences, a member of a family whose income falls at or below the applicable Section 8 program income limits. The family's entire income must be counted (This is particularly important when dealing with part-time jobs or jobs taken by students). The annual salary or hourly wage of the job that the person fills is irrelevant.

Jobs "available to" LMI persons:

Jobs that are not held (filled) by LMI persons may be claimed to be "available to" LMI persons *only when both* of the following are met:

- The jobs do not require special skills that can only be acquired with substantial (i.e., one year or more) training or work experience, and education beyond high school is not a prerequisite to fill such jobs, unless the business agrees to hire unqualified persons and train them and
- The state grant recipient and/or the assisted business takes actions to ensure that LMI persons receive "first consideration" for filling such jobs.

Principles involved in providing "first consideration":

- The business must use a hiring practice that under usual circumstances would result in over 51 percent of LMI persons interviewed for applicable jobs being hired,
- The business must seriously consider a sufficient number of LMI job applicants to give reasonable opportunity to fill the position with such a person, and
- The distance from residence and availability of transportation to the job site must be reasonable before a particular LMI person may be considered a serious applicant for the job.

Special rules for retained jobs (ED/SB Only):

In order to consider jobs *retained* as a result of CDBG assistance, there must be clear and objective evidence that permanent jobs will be lost without CDBG assistance. For these purposes, "clear and objective" evidence that jobs will be lost would include:

- Evidence that the business has issued a notice to affected employees or made a public announcement to that effect, or
- Analysis of relevant financial records which clearly and convincingly shows that the business is likely to have to cut back employment in the near future without the planned intervention.

To meet the LMI job standard, 51 percent or more of the retained jobs must be either:

- Known to be held by LMI persons at the time CDBG assistance is provided and/or
- Jobs which can be reasonably expected to “turn over” to LMI persons within two years.

General:

When assistance is provided to a business for the purpose of creating or retaining jobs, the grant recipient must have on file a written agreement with the business in which that business agrees to keep or create a specific number of jobs and identifies each such job by type and whether the job will be full- or part-time. The agreement must also specify the actions the business and the grant recipient will take to ensure that at least 51 percent of the jobs created or retained will benefit LMI persons pursuant to the program rules.

The program records also must document which jobs were actually created and retained, whether each such job was held by, taken by, or made available to a LMI person, and the full-time equivalency status of each job.

Job creation:

When demonstrating that at least 51 percent of the jobs created will be **made available to** LMI persons, documentation for each assisted business must include:

- A written commitment by the business that it will make at least 51 percent of the jobs on a full-time equivalent basis available to LMI persons and will provide training for any of those jobs requiring special skills or education;
- A listing by job title of employees at the time the application for assistance is submitted;
- A listing, by job title, of the total permanent jobs to be created, indicating which jobs will be available to LMI persons, which jobs require special skills or education, and which jobs are part-time;
- Evidence supporting the estimate of the total number of jobs;
- A description of actions to be taken by the recipient and business to ensure that LMI persons will receive first consideration for these jobs;
- A listing, by job title, race, ethnicity, gender and handicapped status of the permanent jobs created; which jobs were made available to LMI persons, and a description of how first consideration was given to such persons for those jobs. That description should include the hiring process used; the number of LMI persons considered for each job; and the number of LMI persons actually hired;
- A description of how the LMI status of those given first consideration was determined; and
- A description of how the total number of jobs was determined.

When demonstrating that at least 51 percent of the jobs will **be taken by** LMI persons, documentation for each assisted business must include:

- A written commitment by the business that at least 51 percent of the jobs on a full-time equivalent basis, will be held by LMI persons;
- A listing, by job title, of employees at the time the application for assistance is submitted;
- A listing, by job title, of the permanent jobs to be created;
- Evidence supporting the estimated total number of jobs to be created;
- A listing, by job title, race, ethnicity, gender and handicapped status of the permanent jobs actually created and those initially taken by LMI persons;
- A description of how the LMI status of those hired was determined by the applicant during the review of the recipient; and
- A description of how the total number of jobs was determined.

Job retention (ED/SB Only):

Following are record-keeping requirements for documenting records that support compliance with job retention goals.

- Clear and objective evidence that in the absence of the CDBG assistance the jobs will be lost;
- A written commitment by the business to meet the standard for retained jobs involving the employment of LMI persons; and

- A listing by job title, race, ethnicity, gender and handicapped status of the employees at the time the assistance is provided;

For each activity determined to benefit LMI persons based on jobs to be created for or retained by LMI persons:

- The number of jobs to be created and the number of additional jobs expected to be created, if any;
- The nature of the jobs created to date (number skilled, semiskilled, and unskilled, and for semi-skilled jobs, any special education or experience required) and the nature of additional jobs expected to be created; and,
- Any other evidence to support the conclusion that a majority of jobs will be filled by LMI persons, such as:
 - ✓ Evidence to assure accessibility of the jobs to areas where substantial numbers of LMI persons reside; and
 - ✓ Evidence to support any special outreach and/or training to be directed toward LMI persons.

Additional information on National Objective Compliance can be found at:

<https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>

B. State Environmental Quality Review Act (SEQR) Compliance

Applicants must conduct an assessment to determine the SEQR Classification of the proposed activities and include 2-3A Certificate of State Environmental Quality Review Act (SEQR) Classification as an exhibit to the application. This form is available on the CDBG website here: <https://hcr.ny.gov/community-development-block-grant-economic-development-program>. If the Applicant determines the SEQR classification to be an Unlisted Action, the Applicant must include a completed Short Environmental Assessment Form (Short Form) as an exhibit to the application. If the Applicant determines the SEQR classification to be a Type I action, the Applicant must include a completed Full Environmental Assessment Form (Full EAF) as an exhibit to the application. Additional information on SEQR, including the SEQR Short and Full EAF Forms, can be found at: <http://www.dec.ny.gov/permits/6191.html>

VII. APPENDICES

A. Program Requirements

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 at: <https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>

1. Acquisition of real property;
2. Disposition of any real property acquired with CDBG funds or its retention for public purposes;
3. Acquisition, construction, reconstruction, or installation of public works, facilities and site or other improvements;
4. Clearance, demolition, removal, reconstruction, and rehabilitation of buildings and improvements;
5. Public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs;
6. Code enforcement in deteriorated or deteriorating areas;
7. Removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;
8. Payments to housing owners for losses of rental income;
9. Assistance to institutions of higher education;
10. Payment of the non-Federal share required in connection with a Federal grant-in-aid program;
11. Relocation payments and displacement assistance;
12. Activities necessary to develop a comprehensive community development plan;
13. Payment of reasonable administrative costs;
14. Assistance including loans (both interim and long-term) and grants for activities which are carried out by public or private nonprofit entities;
15. 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;
16. Activities necessary to the development of energy use strategies;
17. Assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project;
18. Provision of technical assistance to public or nonprofit entities;
19. Housing services;

20. Assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to facilitate economic development;
21. Activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings;
22. Provision of direct assistance to facilitate and expand homeownership;
23. Lead-based paint hazard evaluation and reduction; and
24. Special assessments.

Ineligible Activities

25. 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.
26. General government expenses, except for those costs directly attributable to administration of a local CDBG program and documented as such.
 - (a) 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.
 - (b) 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.
 - (c) 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.

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.

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).

National Objectives

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

- Benefit LMI persons;
- Aid in the prevention or elimination of slums or blight; or
- 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.

Meeting the National Objectives

Additional information on National Objective Compliance can be found at:

<https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>

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).

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. Visit <https://www.huduser.gov/portal/datasets/il.html> for the most recent 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 a microenterprise assistance activity carried out in accordance with the provisions of HCDA Section 105(a)(22) or 24 CFR 570.482(c) with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity during each program year who are LMI persons.
 - 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.

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 wellbeing 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.

B. Citizen Participation

*** Public hearings must be held in the same calendar year in which the application is submitted. Exceptions may be made for projects under board consideration in January. In those cases, OCR will accept hearings held in December of the previous year.**

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. The purpose of the citizen participations requirement is to:

- 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 a LMI National Objective; and
 - 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;
 - Obtain citizens' views and respond to proposals and questions. The public hearings should provide citizens with reasonable advance notice of, and an opportunity to comment on, proposed activities in an application to the State and on-going grant administration activities; and
 - 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.

Applicants must comply with the following citizen participation requirements for **both hearings**:

- All hearings must also be conducted in accordance with the New York State Open Meetings Law
- The municipality must provide a minimum seven (7) day period between the publication of the hearing notice and the hearing itself. 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
- The hearing must be conducted by a quorum of the legislative body of the municipality only, not by a sub recipient, department or arm of the applicant
- The notice for the hearing must specifically mention the municipality's intent to apply for NYS CDBG funds and the current program year
- 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. The notice must identify all activities that the Applicant may be applying for during current program year, which may include Housing, Public Infrastructure/Facilities, Economic Development, or Community Planning. Public notices 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. 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.
- For economic development projects, the initial hearing notice must name the business to be assisted
- Public hearings must be held in a location accessible to persons with disabilities and/or provide reasonable accommodations to allow all interested parties to participate
- The municipal resolution authorizing the public hearing, the hearing notice, affidavit of publication, list of attendees, hearing minutes, and evidence of conspicuous public posting must be included as an attachment to the application
- A copy of the application must be available for public inspection at the municipal office(s).

Templates for both public hearings can be found in Chapter 8 of the NYS CDBG Grant Administration Manual (GAM) here: <https://hcr.ny.gov/community-development-block-grant-economic-development-program>

c. Environmental Review

Environmental review procedures contained in 24 CFR Part 58 apply 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 CDBG Microenterprise Application Kit (4/21)

environmental review, decision making and action pursuant to the National Environmental Policy Act of 1969 and the State Environmental Quality Review Act (SEQR) 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.

D. 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, occupiable 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.

E. 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 <https://www.dol.gov/agencies/whd/fact-sheets/66-dbra>

F. 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.

G. Affirmatively Furthering Fair Housing

Effective with the 2017 Community Development Block Grant (CDBG) funding cycle, any non-CFA full application for NYS CDBG funding assistance that is due on or after September 22, 2017, will be required to report whether within the CDBG Microenterprise Application Kit (4/21)

past ten (10) years the applicant 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 housing funding assistance based on full applications that are due on or after September 22, 2017, 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 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 (518) 473-3089 or 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 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.

H. Grant Administration and Program Delivery Costs

Microenterprise: Program delivery, entrepreneurial training and grant administration costs combined **cannot exceed** 15% of the total award with administration not to exceed 5%.

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. Examples of program delivery costs include:

- Marketing grant activities;
- Services verifying client eligibility;
- Providing education or counseling to beneficiaries;
- Preparation of site-specific environmental review and environmental assessment
- Preparation of loan closing documents, all costs associated with perfecting security, repayment processing, loan disbursement;
- 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;
- Client/contractor troubleshooting;
- Any other professional services required to deliver the program;

I. 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:

- 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;
- Office of Management and Budget Circulars: A-87 -- Cost Principles for State and Local Governments and 24 CFR Part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments; A-133 C Single Audit Act; Section 104(d) of the Housing and Urban Development Act of 1974, as amended (Anti-Displacement); A-122-Cost Principles for Non-Profit Organizations.