



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

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Special Attention of:

Notice CPD-2023-10

All CDBG Grantees  
All CPD Field Office Directors

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Expires: This Notice remains in effect  
until amended, superseded, or  
rescinded.

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SUBJECT: Use of Community Development Block Grant (CDBG) Funds in Support of  
Housing

**OVERVIEW:**

This is an updated and expanded Community Planning and Development (CPD) Notice for CDBG grantees and CPD field office staff. It describes how grantees can use CDBG funding to support and promote the development of decent, accessible, equitable, and affordable housing in their communities. The notice addresses how CDBG funding can assist Consolidated Plans and fair housing planning activities that relate to multiple HUD programs.

Given the breadth of possible community development activities, a grantee may need additional guidance to help identify how to connect CDBG funding to its chosen local actions while complying with regulatory eligibility and national objective requirements. Issuance of this Notice provides this technical information. It supports the Administration's *Housing Supply Action Plan* by encouraging the use of CDBG for acquisition, homeownership assistance, conversion of existing structures into rental housing and "starter" homes, housing counseling, manufactured housing, and rehabilitation and reconstruction. In addition, the Notice aligns with HUD strategic goals related to supporting underserved communities, ensuring equitable access to and increased production of affordable housing, promoting homeownership, and advancing sustainable communities.

The Notice also aligns with the Administration's climate priority and HUD FY2022-2026 strategic objective 4A: Guide Investment in Climate Resilience. Throughout the Notice, new guidance highlights ways CDBG may eligibly be used to support resilience planning, rehabilitation, optional relocation, and tornado safe homes and public facilities.

HUD deeply appreciates the efforts communities have made since the first CDBG grants in 1975 to meet CDBG's statutory goal of developing viable urban communities "by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income". The refreshing of this Notice enhances CDBG flexibility; it includes a major eligibility update for manufactured housing, eligibility guidance for housing-related energy and climate activities, and a deeper look at planning activities that can enable and support affordable housing.

More in-depth technical assistance related to both compliance and community development and affordable housing practices, including ideas for activity design, best practices, climate resilience, and examples, is available on the HUD Exchange and hud.gov websites. HUD also encourages grantees to contact their assigned local field offices to discuss ideas and options within the regulatory framework.

Eligible CDBG-assisted activities are specified in title I of the Housing and Community Development Act (HCDA) of 1974, as amended. Section 105(a) of the HCDA indicates that only those activities described in section 105(a) are eligible CDBG activities. For the Entitlement program, the statutory language regarding eligibility is implemented at 24 CFR part 570, subpart C. The State CDBG program does not have similarly detailed regulations regarding eligible activities at 24 CFR part 570, Subpart I; rather, states are given maximum feasible deference to interpret the HCDA and regulatory requirements, provided their interpretations are not plainly inconsistent with the HCDA or Congress's intent. A state may also rely on the interpretation of eligible activities provided in the Entitlement regulations. Although many of the activities described are eligible for Section 108 assistance, some are not, such as public services. Unless noted otherwise, the term "CDBG funds" in this Notice does not necessarily include Section 108 loan proceeds. Additional guidance on Section 108 is available at 24 CFR 570.700 et seq. and on the <https://www.hudexchange.info/programs/section-108> and [www.hud.gov](http://www.hud.gov) websites.

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## **I. KEY CDBG ELIGIBLE ACTIVITY TYPES:**

Many CDBG activities may support improving or increasing a community's affordable housing stock or improving access to affordable housing. This section describes key eligible activity types and summarizes their regulatory and statutory basis and application. The list is in alphabetical order.

### **A. Direct Homeownership Assistance:**

CDBG funds may be used to provide direct homeownership assistance under §570.201(n) and section 105(a)(24) of the HCDA under the low- and moderate-income housing national objective [§570.208(a)(3) and §570.483(b)(3)]. Assistance provided under these provisions is not considered to be a public service that is subject to the 15 percent public service cap. Direct homeownership assistance must benefit low- and moderate-income (LMI) homebuyer(s), and may include at the grantee's discretion, one or more of:

- Subsidizing interest rates and mortgage principal amounts to make loan payments affordable for LMI homebuyer(s). This may include making grants to reduce the effective interest rates charged on the loans. Low- or no-interest subordinate loans can also be used to reduce overall loan repayment amounts;
- Financing the cost of acquiring property already occupied by renter LMI households at terms needed to make the purchase by those occupying households affordable;
- Paying all or a part of the premium on behalf of the LMI homebuyer(s) for mortgage insurance required upfront by a private mortgagee;
- Paying reasonable closing costs associated with the home purchase on behalf of the LMI homebuyer(s); or
- Paying up to 50 percent of the down payment required by the mortgagee for the purchase on behalf of the LMI homebuyer(s).

### **B. Down Payment Assistance as a Public Service (or as a Special Activity by a Community-Based Development Organization:**

#### **1. Down Payment Assistance by a Community- or Neighborhood-Based Organization**

In the State CDBG program, a neighborhood-based nonprofit organization, local development corporation, nonprofit organization serving the development needs of the communities in nonentitlement areas, or entity organized under section 301(d) of the Small

Business Investment Act of 1958 can provide downpayment assistance as part of an activity eligible under section 105(a)(15).

In the Entitlement program, a Community Based Development Organization (CBDO) can provide downpayment assistance as part of a neighborhood revitalization or community economic development activity under section 570.204. Under this provision, the downpayment assistance must meet the requirements for public service activities (e.g., public service cap) unless the downpayment assistance activity is carried out pursuant to the HUD-approved strategy for a Neighborhood Revitalization Strategy Area (NRSA) (see 24 CFR 91.215(g)).

Additionally, the activity must meet the low- and moderate-income housing national objective [24 CFR 570.208(a)(3) and 24 CFR 570.483(b)(3)]. However, when the down payment assistance is undertaken pursuant to a HUD-approved strategy in the NRSA or a state-approved strategy in a Community Revitalization Strategy Area (CRSA) (see 24 CFR 91.315(g)), during each program year, housing units may be considered a single structure for purposes of meeting a national objective. The grantee must maintain documentation that demonstrates at least 51 percent of the units completed were initially occupied by low- and moderate-income households and report such accomplishments in IDIS to comply with CDBG performance measurement requirements. This housing incentive applies to both single-family and multifamily housing in the NRSA or CRSA and provides greater flexibility to carry out housing programs designed to revitalize neighborhoods through housing activities that meet the criteria at 24 CFR 570.208(a)(3) and (d)(5)(ii), or 570.483(b)(3) and (e)(5)(ii). Additional information on NRSAAs can be found at <https://www.hudexchange.info/resource/5159/notice-cpd-16-16-nrsas-in-the-cdbg-entitlement-program/>. Additional information on CRSAs can be found at <https://www.hudexchange.info/resource/2137/notice-cpd-97-01-cdbg-community-revitalization-in-state-cdbg-program/>.

## **2. Down Payment Assistance as a Public Service**

Down payment assistance may also be eligible as a public service, subject to the 15 percent public service cap. When downpayment assistance is provided as a public service, the grantee may pay up to the full amount of the downpayment required by the mortgagee, unlike downpayment assistance under section 105(a)(24), which limits direct assistance to up to 50 percent of the required down payment). The activity must meet the low- and moderate-income housing national objective [24 CFR 570.208(a)(3) and 24 CFR 570.483(b)(3)]. Therefore, if the downpayment assistance is for the purchase of a single-unit residential structure, the unit must be occupied by an LMI household.

## **C. Fair-Housing-Related Activities**

Section 24 CFR 570.601(a)(2) requires CDBG grantees to administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act. Accordingly, every CDBG grantee certifies, as part of its Consolidated or Annual Action Plan submission to HUD, that it will affirmatively further fair housing. See 24 CFR part 91 and 570.487(b). A CDBG grantee may (and most grantees do) fund one or more distinct or dedicated fair housing activities with CDBG funds including developing

plans to affirmatively further fair housing. Grantees must also comply with various civil rights requirements, such as meeting physical accessibility requirements when engaging in construction activities.

Some program administration activities, eligible under 24 CFR 570.206(c) and section 105(a)(13) of the HCDA, are directed toward fair housing enforcement, education, and outreach activities, as well as promoting housing opportunities and deconcentrating poverty in ways that overcome patterns of segregation, eliminate inequities in housing and related community about fair housing rights, assets, and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

Eligible CDBG program administration activities include outreach and referral services, information programs, enforcement, and testing and fair housing counseling:

- Outreach, Counseling, and Referral. CDBG funds may pay the costs of outreach, counseling, or referral services to assist persons seeking housing outside areas containing a high proportion of low-income persons.
- Fair Housing Counseling. Grantees may fund fair housing counseling programs in the community. Such programs provide information on fair housing rights and on the availability of housing in a wide variety of locations, emphasizing housing choice.
- Developing Modified Ordinances. CDBG funds may be used to pay costs of developing modified local ordinances and/or land-use measures in the pursuit of housing opportunities, provided the grantee complies with the regulations regarding unallowable general costs of government at 24 CFR 200.444 and does not fund activities ineligible at 24 CFR 570.207(a)(2).
- Information Programs. Grantees may support training and education programs for real estate agents, housing managers, city officials, and others to increase knowledge of techniques for promoting economically and racially integrated housing. They may also carry out promotional activities to initiate affordable housing proposals in areas outside those with a high proportion of lower-income persons.
- Enforcement. Grantees may undertake efforts to improve the enforcement of fair housing laws and ordinances and in complaint resolution mechanisms.
- Cooperation. As an administrative activity, grantees may enlist the participation of local real estate brokers and mortgage lenders in promoting open housing and in reviewing mortgage credit analysis and underwriting criteria to determine whether they may have an adverse impact on housing opportunities for members of protected classes.
- Testing. The use of testing may assist in the enforcement of fair housing laws, and in identifying the existence or extent of discriminatory housing practices in the community. Testing may include the use of testers to ensure that members of protected classes such as people of color, persons with disabilities, or families with children are not victims of housing discrimination and that there is full compliance with fair housing laws.

CDBG grantees may also use grant funds to assist fair housing planning, under 24 CFR 570.205 and section 105(a)(12) of the HCDA, including plans to identify and create implementation plans to remove barriers to fair housing (see more about fair housing planning in section I. below). (Planning activities consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions to implement plans. See the *I. Planning* section below for more detail.) Fair housing planning and general administrative activities are subject to the 20 percent planning and administration cap.

Fair housing counseling programs may also be eligible as a public service under 24 CFR 570.201(e) and section 105(a)(8) of the HCDA. In this case, a national objective must be met and the counseling would be subject to the 15 percent public service cap.

The Department has a wide range of fair housing technical assistance available at <https://www.hud.gov/fairhousing>. Information developed by technical assistance providers is available at <https://www.hudexchange.info/programs/nfhta/>.

#### **D. Homelessness Prevention, Public Facilities and Public Services for Special Needs**

In addition to housing activities described in this Notice, in a separate Notice CPD-03-14: Using CDBG Funds in Addressing the Challenges of Homelessness, grantees will find an introduction to how to use CDBG funds in efforts to reduce homelessness, working with Continuums of Care, and determining eligibility ([https://www.hud.gov/sites/documents/DOC\\_15296.PDF](https://www.hud.gov/sites/documents/DOC_15296.PDF)). Many activities addressing homelessness are CDBG eligible such as:

1. Homeless facilities (excludes operating costs),
2. Abused and neglected children's facilities
3. Operating costs of Homeless/AIDS patients programs, and
4. Emergency payments for up to 90 days for housing and utilities (for example, emergency payments for housing may be for rent, mortgage, or security deposits)

Such activities usually meet the LMI national objective using the limited clientele criteria at 24 CFR 570.208(a)(2).

#### **E. Housing Counseling**

Housing counseling programs provide information, advice, and assistance to homebuyers, homeowners, and renters with the goal of preventing loan defaults, foreclosures, non-payment of rents, or eviction. Additionally, housing counselors may assist a homeowner in the context of foreclosure mediation programs in which the homeowner is working directly with the lender.

HUD published a Final Rule for Housing Counseling Certification on December 14, 2016. This rule modified CDBG program regulations to require that CDBG-funded housing counseling be provided only by housing counselors certified by HUD under 24 CFR part 214 (see sections 570.201(e), 570.201(k), 570.615, and 570.482(c)(4), which require that if housing counseling, as defined in 24 CFR 5.100, is provided, it must be carried out in



accordance with 24 CFR 5.111). To be certified pursuant to 24 CFR 214.103(n), an individual must both pass a standardized written examination and work for an agency approved to participate in HUD's housing counseling program. This requirement became effective on August 1, 2020, which is 36 months after the date the certification examination became available. For additional information developed by technical assistance providers on this requirement go to <https://www.hudexchange.info/programs/housing-counseling/certification/>.

**1. Housing Counseling as a Public Service**

Housing counseling is eligible as a public service under §570.201(e) and section 105(a)(8) of the HCDA. Housing counseling activities, such as pre-purchase housing counseling, homeownership counseling, credit counseling and renter counseling, assisted with CDBG funds may qualify as benefitting low- and moderate-income persons under either the low- and moderate-income area benefit or limited clientele national objectives [§570.208(a)(1) or (2) and §570.483(b)(1) or (2)]. Any housing counseling activities undertaken as public service activities are subject to the statutory 15 percent public service cap. Tenant/landlord counseling is also eligible to prevent or settle disputes.

**2. Housing Counseling Not as a Public Service**

CDBG funds may be used for housing counseling as part of several other activities that are not subject to the public service cap:

Housing counseling as an activity delivery cost of direct homeownership assistance. Many jurisdictions require prospective homeowners to attend housing counseling classes as part of a direct homeownership assistance program. Housing counseling could be considered an activity delivery cost of such a direct homeownership assistance program carried out under §570.201(n) and Section 105(a)(24) of the HCDA when the program serves low- and moderate-income households. When direct homeownership assistance is provided to an LMI homebuyer, housing counseling that is required as part of the application for direct homeownership assistance will be considered to meet the same low- and moderate-income housing national objective [24 CFR 570.208(a)(3) and 24 CFR 570.483(b)(3)]. If the prospective homeowner leaves the homeownership assistance program or housing counseling prior to purchasing a home, the housing counseling will be considered to meet the LMC national objective.

**3. Rehabilitation housing counseling as an activity delivery cost of rehabilitation activities.**

Rehabilitation housing counseling in conjunction with rehabilitation is an eligible activity as a rehabilitation administrative cost under §570.202(b)(9), §570.482(c)(4) and section 105(a)(4) of the HCDA. This type of counseling would occur when a low- or moderate-income homeowner is having CDBG-assisted rehabilitation performed on their home and may include energy auditing, code compliance, lead-based paint hazard precautions, energy conservation, and budgeting. Such counseling must meet the low- and moderate-income housing national objective [24 CFR 570.208(a)(3) and 24 CFR 570.483(b)(3)].

4. **Housing counseling as a housing service in connection with HOME assistance.**

Under §570.201(k) and section 105(a)(20) of the HCDA, CDBG funds may be used for housing services in connection with activities assisted under the HOME program and meeting the affordability requirements of 24 CFR 92.252 or 92.254 under the HOME program. Housing services may include housing counseling in connection with affordable housing and tenant-based rental assistance (TBRA) programs.

## **F. Housing Services and HOME Program Support**

In addition to housing counseling in connection with HOME-assisted projects, housing services under 570.201(k) and section 105(a)(20) may include activity delivery costs of an affordable housing project assisted with the HOME program funds even if it is not otherwise CDBG-assisted. (Please note that section 570.201(k) includes an outdated citation to section 105(a)(21). The HCDA has been amended, and housing services may now be found at section 105(a)(20) rather than 105(a)(21).) Activity delivery costs may include energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, and management of tenant-based rental assistance (TBRA) associated with the HOME program. If CDBG-funded, these activities must meet all CDBG program requirements including meeting a national objective. Under section 570.208(a)(3)(iii) and 570.483(b)(3)(iii), when CDBG funds are used for housing services eligible under [section 570.201\(k\)](#) or section 105(a)(20) of the HCDA, such funds shall be considered to benefit low- and moderate-income persons if the housing units for which the services are provided are HOME-assisted and the requirements at [24 CFR 92.252](#) or [92.254](#) are met. Alternatively, if the housing services provided do not involve the acquisition, construction or rehabilitation of property for housing, they may meet the low- and moderate-income limited clientele national objective at section 570.208(a)(2) and 570.483(b)(2).

Under §570.206 and section 105(a)(13) of the HCDA, CDBG funds may be used to pay for HOME program administration costs. These costs would be considered planning and administrative costs and would be subject to the 20 percent planning administration cap under the CDBG program.

## **G. In Rem Housing**

Section 105(a)(23) of the HCDA provides a separate category of eligibility under the CDBG program regarding assistance to housing units acquired through tax foreclosure proceedings, In Rem. In Rem is Latin for “against the thing” and is a proceeding against the property directly, rather than against a person, and may be used for taking land and property for non-payment of taxes. Although the In Rem provision has not been incorporated into the CDBG regulations, entitlement grantees may carry out In Rem activities directly under the authority of section 105(a)(23). Section 105(a)(23) authorizes the use of CDBG only for essential repairs and payment of operating expenses that are necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods. The repairs must be considered

essential to be allowable. Activities that are more extensive than essential repairs would need to qualify as rehabilitation activities under §570.202 or section 105(a)(4) of the HCDA.

Under this activity, eligible expenses are statutorily limited to housing located in primarily low-and moderate-income neighborhoods, regardless of the national objective. If the area is primarily residential, the national objective for In Rem activities may be low-and moderate-income area (LMA) under 24 CFR 570.208(a)(1) and 24 CFR 570.483(b)(1). Alternatively, the grantee may use the slum and blight national objective (SBA) under 24 CFR 570.208(b)(1) and 24 CFR 570.483(c)(1) or (2) criteria are met.

## **H. Match Funding for Individual Development Accounts and Other Purposes**

Under §570.201(g) and section 105(a)(9) of the HCDA, a grantee may use CDBG funds to make payment of the non-Federal share required in connection with a Federal grant program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise CDBG-eligible and in compliance with applicable requirements under this subpart.

Under these provisions, CDBG funds may be used as the required match to an individual development account (IDA) if the funds in the IDA are used to carry out an eligible housing activity, such as assisting a low- or moderate-income homebuyer match other public or private resources to purchase a home in accordance with direct homebuyer assistance provisions of §570.201(n) and section 105(a)(24) of the HCDA. Additional information concerning IDAs may be found at CPD Notice 17-07, [Use of Community Development Block Grant \(CDBG\) Funds to Assist Individual Development Accounts](#) .

## **I. Planning**

Effective, data driven, and collaborative planning is key to achieving the CDBG program's primary purpose of providing decent housing, a suitable living environment, and economic opportunity principally for LMI persons. Building one project at a time may achieve a few improved structures; however, a planned, strategic approach can link improvements to a whole community or neighborhood for a generation. CDBG funds may be used to assist planning activities under §570.205 and section 105(a)(12). Planning activities consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions to implement plans. This includes functional plans in the area of housing, including the Consolidated Plan (Con Plan) and annual Action Plan required of every CDBG, HOME, ESG, HOPWA, and HTF jurisdiction. (HUD acknowledges that CPD notice 13-07 specifically regarding distinctions between certain general administrative and planning costs related to the ConPlan and Annual Action plan are outdated, incomplete, and possibly ambiguous. This notice is clarifying that consultation may be charged as a CDBG planning cost or may also be considered a CDBG general administrative cost.) It also includes planning activities to affirmatively further fair housing, as discussed in paragraph I.C.

### **1. Housing strategy and barriers to affordable housing**

The core of the Con Plan is the comprehensive affordable housing strategy (CHAS)

enacted in the National Affordable Housing Act [citation]. According to the implementing regulations at 24 CFR 91.1(a)(1):

“The overall goal of the community planning and development programs covered by this part is to develop viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities principally for low- and moderate-income persons. The primary means towards this end is to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and non-profit organizations, in the production and operation of affordable housing.”

A CDBG grantee must submit a Con Plan to HUD every three to five years. A Con Plan is a planning document which stems from a consultative, participatory process among the public, nonprofit organizations, commercial businesses, and other stakeholders. A Con Plan has multiple components. Generally, staff costs incurred in creating the Consolidated Plan (including the Action Plan and Consolidated Annual Performance and Evaluation Report (CAPER)) are considered program administrative costs. However, HUD has determined that some staff costs associated with the development of the portions of the consolidated plan that involve data gathering (including stakeholder consultation) and analysis for fair housing planning can be assigned as planning costs. These include costs for fair housing planning activities, such as the section on barriers to affordable housing, in which the jurisdiction must explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment. Although many CDBG grantees do not use their grants to produce housing, assisting a planning activity to consider barriers and come up with a corresponding strategy and annual actions for addressing them is a CDBG-eligible planning activity.

## **2. Disaster Resilience Planning**

Consultation with local emergency managers and vulnerable populations is required as part of the Con Plan process. The resulting narrative is part of the Con Plan submission to HUD. Effective disaster response, recovery and resilience planning first begins by identifying and prioritizing the community’s disaster related vulnerabilities and exposure. The CDBG program primarily serves people who are hit the hardest by disasters and have the most difficulty getting information and resources needed to recover afterwards. Consultation with local emergency managers and vulnerable populations is required as part of the Con Plan process and provides insight to fully understand natural hazard risks and the community dynamic. Incorporating resilience into housing plans, Con Plan, improving the local permitting process, and updating key ordinances can help protect and preserve existing affordable housing, remove impediments to expedite housing production, and ensure that all new affordable housing is designed and sited to be

resilient to expected conditions and risks, based on climate-informed science.

3. **Anti-displacement and long-term affordability planning**

The CDBG general policy for minimizing displacement is, consistent with the other CDBG goals and objectives, that for grantees (or States or state recipients, as applicable) to assure that they have taken all reasonable steps to minimize displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of CDBG activities. A CDBG grant may be made only if the grantee certifies that it is following a residential anti-displacement and relocation assistance plan. The residential anti-displacement plan requirements are specified under section 104(d) of the HCDA and at 24 CFR 91.225 (local governments), 91.325 (states), 570.606, and 570.488 (states). In addition to using CDBG assistance for development or updating the required anti-displacement plan, a grantee may also assist a planning activity to analyze and determine appropriate, effective long-term affordability strategies and program design elements to achieve its long-term affordable housing objectives.

4. **Other functional plans**

Transportation, energy conservation, and historic preservation are other types of functional plans that may support housing preservation and production. Other types of plans include geographically targeted plans, such as neighborhood plans or brownfields remediation plans. (Individual project plans have limited eligibility, as their costs are usually project-specific and should be included within the project costs as activity delivery costs, rather than planning.

5. **Implementation plans**

Implementation plans are also eligible under CDBG, including strategies and action programs to implement plans. This may include the development of codes, ordinances, and regulations. A grantee undertaking such an implementation planning activity must take care to **not** use CDBG funds for general costs of government such as the specific implementation (e.g., legislative process) costs of changing, removing, or adopting a code or ordinance, which are ineligible under the entitlement regulations at 24 CFR 570.207 and may be unallowable under 2 CFR 200.444.

6. **Planning-Only Grants from States**

State CDBG grantees may award a planning-only grant to a unit of general local government when such activity is the only activity for which the grant to the unit of general local government is given, or if the planning activity is unrelated to any other activity assisted by the grant. Additionally, the planning-only grant must show that, if the planned activity was funded, it would meet either the National Objective of low- and moderate-income benefit 24 CFR 570.483(b)(5), or the prevention or elimination of slums or blight 24 CFR 570.483(c)(3). While a unit of general local government has a range of planning activities that it may carry out with CDBG funds, the State may only develop the Con Plan as a State administrative cost, limited by 24 CFR 570.489(a)(1)

## **J. Rehabilitation**

CDBG funds may be used to rehabilitate publicly and privately-owned buildings for residential purposes under §570.202 and section 105(a)(4) of the HCDA. Assistance may be offered in the form of direct loans, grants, or other financing mechanisms and may employ a wide range of building technologies including stick-built, modular, and panelized construction. Eligible CDBG rehabilitation activities are discussed in this section. In addition to rehabilitating single-family and multi-family housing, manufactured housing may also be rehabilitated with CDBG funds when it is part of the community's permanent housing stock.

Eligible activities listed under this section may only meet the low- and moderate-income housing (LMH) national objective under 24 CFR 570.208(a)(3) and 24 CFR 570.483(b)(3). For single-unit LMH housing, 100 percent of the units assisted must be occupied by low- and moderate-income households. For a multi-unit LMH structure, 51 percent or more of the units must be occupied by low- and moderate-income households. For duplexes, at least one of the two units must be occupied by low- and moderate-income households. For rental properties, where two or more rental buildings are located on the same or contiguous properties and the buildings are under common ownership and management, the grouped buildings may be considered a single structure. This means not less than 51 percent of all such units must be occupied by low- and moderate-income households. Additionally, for rental housing, occupancy by low- and moderate-income households must be at affordable rents to qualify as LMH. To demonstrate this, the grantee shall adopt and make public standards for determining "affordable rents" for this purpose.

Some rehabilitation activities may also qualify under the prevention or elimination of slum and blight or urgent need national objectives, although this is less common. For more information, see 24 CFR 570.208(b) and (c) as well as 24 CFR 570.483 (c) and (d).

### **1. Eligible Activities and Allowable Costs Under Rehabilitation**

Under 24 CFR 570.202(b) and section 105(a), the following activities may be undertaken as a part of a housing rehabilitation (construction) activity. Note that CDBG may be used to assist single- and multi-unit rehabilitation, including public housing and other publicly owned housing, and is similarly unrestrictive regarding tenure, whether homeownership, rental, or cooperative tenure. As with all CDBG activities, the grantee is responsible for ensuring compliance with all financial management requirements, including procurement, and that project costs are necessary and reasonable.

- a. Acquisition for rehabilitation:** CDBG funds may be used to provide assistance to individuals, for-profit entities, and non-profit organizations to acquire property for the purposes of rehabilitating structures for use or resale for residential purposes. Property acquired for housing must generally meet the LMH national objective, but in

some cases may meet the slum blight national objective if the building is substandard. Care should be taken to avoid spending CDBG funds to acquire properties in markets where they are not likely to be sold or the units are not likely to be occupied by an income-eligible household in the near future. If a national objective is not achieved after a reasonable period of time (such as 3-4 years), HUD may have a legitimate basis to question national objective compliance.

- b. Rehabilitation of properties:** This includes labor, materials, and other costs of rehabilitation, abatement of contaminants, and installation of security devices (e.g. smoke detectors, radon testing and mitigation systems, and door locks). CDBG may provide assistance for housing rehabilitation as minor as painting or as major as gut rehabilitation or reconstruction (see 24 CFR 570.202(b)(2)).
- c. Bonding:** A grantee may pay, as part of rehabilitation activities, the cost of a rehabilitation contractor's performance and payment bonding needed to carry out CDBG-assisted rehabilitation activities.
- d. Insurance:** CDBG funds may be used for initial homeowner warranty premiums, hazard insurance premiums, except that the entitlement regulation at section 570.202(b)(7)(ii) prohibits use of CDBG funds for hazard insurance premiums where assistance is provided in the form of a grant, and flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973.
- e. Lead-Based Paint Hazard Evaluation and Abatement:** CDBG funds may be used to evaluate and treat lead-based paint hazards either as a stand-alone activity or as a part of a residential rehabilitation under §570.202(f) and section 105(a)(26) of the HCDA.
- f. Loan guarantees:** CDBG funds may be used as loan guarantees to encourage lending institutions to make loans available to homeowners for rehabilitation, to encourage financial institutions to lend in neighborhoods where they are not currently doing so, and to induce financial institutions to lend at more favorable rates. In guaranteeing loans, grantees may not deposit CDBG funds in the lending institutions unless it can be determined that without such a deposit the loans will not be made. Drawing funds from the program account before such funds are needed to cover actual defaults must be supported by adequate documentation to demonstrate that no financial institutions in the area would participate in the lending program and accept a payment guarantee without having funds on deposit. The idea behind the guarantee provision is for the CDBG funds to be made available to the lender in the event the borrower defaults. If deposits are necessary, amounts must be limited to expected losses that should equal only a small percentage of the overall loan portfolio or amount loaned.

- g. Post Disaster Insurance Assistance:** CDBG funds can also be used to pay for the deductible amount of a homeowner's hazard insurance after a storm as a public service activity. Under §570.207(b)(4), emergency grant payments may be made directly to the insurance provider on behalf of an income-eligible individual or family. If there is no duplication of benefit, this assistance is likely to be a one-time payment and grantees should be aware this activity would be subject to the public services cap as set forth at §570.201(e) and section 105(a)(8) of the HCDA. (Note that emergency grant payments can also assist one-time utility payments to a provider on behalf of an income-eligible individual or family.) Additional information on duplication of benefits and using CDBG funds for post disaster needs may be found at CPD Notice 17-06 [Using CPD Funds for Disaster Response and Recovery](#).
- h. Reconstruction.** Reconstruction of publicly or privately owned sites housing became more readily eligible for CDBG assistance as a result of a legislative change under section 225 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. This change in Section 105(a)(4) of the HCDA allows grantees to use CDBG funds for the reconstruction of properties. Reconstruction has not been codified in the CDBG regulations but can be carried out in accordance with rehabilitation provisions under §570.202 and Section 105(a)(4) of the HCDA. The statute does not define the term "reconstruction," though reconstruction may be generally defined to mean the demolishing and rebuilding of a housing unit on the same lot or parcel in substantially the same manner. Deviations from the original design are allowable when the grantee can document reasons of safety or if otherwise impractical. The number of units on site may not be increased, however, the number of rooms per unit may be increased or decreased. The number of units on site may be decreased, however, this may trigger the one-for-one replacement of LMI dwelling units requirement at 24 CFR 42.375. Reconstruction of housing also permits the replacement of an existing substandard unit of manufactured housing with a new or standard manufactured housing unit.
- i. Refinancing in conjunction with rehabilitation:** Grantees may make loans to refinance existing indebtedness secured by a property being rehabilitated with CDBG funds if such refinancing is determined by the grantee to be necessary or appropriate to achieve its community development objectives and to make rehabilitation affordable under §570.202(b)(3) and Section 105(a)(4) of the HCDA. The grantee's determination must be made in writing as required at §570.200(e).
- j. Removal of Architectural Barriers:** CDBG funds may be used to remove material and architectural barriers that restrict the mobility and accessibility of elderly and persons with disabilities to buildings and improvements eligible for assistance under §570.202(a), §570.202(b)(11), and Section 105(a)(5) of the HCDA.



- k. Residential Historic Preservation:** CDBG funds may be used for the rehabilitation, preservation, or restoration of properties of historic significance, whether privately or publicly owned, as an eligible housing activity under §570.202(d) and section 105(a)(4) of the HCDA. Historic properties are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local inventory of historic places, or designated as a State or local landmark or historic district by appropriate law or ordinance.
- l. Safe Rooms:** CDBG funds may be used to construct or improve a safe room or stormproof room for use as a tornado-safe shelter in a private home as a rehabilitation activity under §570.202 and sections 105(a)(4) of the HCDA.
- m. Tools for lending:** CDBG funds may be used to pay for the cost of acquiring tools to be lent to owners, tenants, or others who will use such tools to carry out rehabilitation under §570.202 and section 105(a)(4) of the HCDA or as a public service activity subject to the public service cap.
- n. Water and Sewer:** CDBG may be used to pay the cost of connecting existing residential structures to water distribution lines or local sewer collection lines when it is completed as a part of the rehabilitation of the property. Similarly, the installation or replacement of a well water system or septic waste disposal system on a private residential property is eligible when it is a part of the rehabilitation of the property. The eligible activity is §570.202(b)(6) and section 105(a)(2) of the HCDA.
- o. Energy and climate-related:** CDBG funds may be used for electrification of a structure for residential use, installation of solar panels and related equipment on a residential structure, weatherization of homes, energy-efficient and otherwise-eligible appliances such as refrigerators or stoves, and high efficiency residential heating and cooling equipment. When undertaken in conjunction with and incidental to the rehabilitation of a dwelling unit(s), CDBG funds may be used for on-site electric vehicle chargers and climate-appropriate landscaping.

### **3. Broadband Requirements for Substantial Rehabilitation**

To comply with 570.202(g), 570.204(a)(5), and 570.482(c)(5), CDBG funds obligated on or after April 19, 2017, for substantial rehabilitation, as defined by [24 CFR 5.100](#), of a building with more than 4 rental units must now incorporate the installation of broadband infrastructure. Substantial rehabilitation, for the purposes of determining when installation of broadband infrastructure is required, means work that involves:

- Significant work on the electrical system of the multifamily rental housing. “Significant work” means complete replacement of the electrical system or other work for which the pre-construction cost estimate is equal to or greater than 75 percent of the cost of replacing the entire electrical system. In the case of multifamily rental housing with

multiple buildings with more than 4 units, “entire system” refers to the electrical system of the building undergoing rehabilitation; or

- Rehabilitation of the multifamily rental housing in which the pre-construction estimated cost of the rehabilitation is equal to or greater than 75 percent of the total estimated cost of replacing the multifamily rental housing after the rehabilitation is complete. In the case of multifamily rental housing with multiple buildings with more than 4 units, the replacement cost must be the replacement cost of the building undergoing rehabilitation.

Note that a grantee may exclude the installation of broadband when it is able to document in accordance with §570.506 and §570.482(c)(5), the determination that:

- The location of the substantial rehabilitation makes installation of broadband infrastructure infeasible;
- The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or
- The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

#### **4. Conversion of Existing Structures for Housing (Adaptive Re-Use)**

A community may increase its supply of housing by converting a building in whole, or in part, to housing units. The costs of acquiring [§570.202(b)(1)] and converting [§570.202(e)] existing non-residential structures are eligible in the CDBG program. This includes the conversion of office, or other commercial properties, to rental or ownership housing. Grantees may carry out the activity with their own staff or provide funding to non-profit, for-profit entities, or private individuals to assist conversions. Under §570.201(a) and (b), grantees and nonprofits may acquire housing units and either lease or sell them for residential purposes.

The cost of converting an existing non-residential structure to residential is not generally considered to constitute new construction under the CDBG program and is considered a rehabilitation activity. However, in some cases, the conversion may involve construction that goes beyond the envelope of the non-residential structure. Where this is the case, the grantee should consult with their local field office to ensure that the extent of such construction would not constitute new construction of housing, and thus be an ineligible activity.

Note that CDBG assistance to a conversion or other rehabilitation activity may include pre-development assistance for acquisition, or activity delivery costs for architecture plans and drawings or site feasibility studies, if those costs are allocable to a CDBG activity, including direct and indirect costs integral to the delivery of the final CDBG-assisted activity. See [CPD Notice CPD 2023-07 Allocating Staff Costs between Program Administration Costs vs. Activity Delivery Costs in the Community Development Block Grant \(CDBG\) Program for Entitlement Grantees, Insular Areas, and Non-Entitlement](#)

*Counties in Hawaii*, issued August 24, 2023, for more information about CDBG activity delivery costs.

Eligible activities listed under this section must meet the low- and moderate-income housing (LMH) national objective under 24 CFR 570.208(a)(3) and 24 CFR 570.483(b)(3). The requirements for single unit housing, a multi-unit structure, duplexes, and rental properties must meet the same requirements as described in Section II, Rehabilitation.

#### **5. Use of Lump Sum Accounts and Revolving Funds For Rehabilitation**

Normally an entitlement grantee is prohibited from drawing funds down from its line of credit in advance of case needs (2 CFR 200.305). A state grantee's requests for payment, and the Federal Government's payments upon such requests, must comply with 31 CFR part 205, as required by the State CDBG regulation at §570.489(c). However, a grantee may draw down a lump sum amount from its line of credit to establish a rehabilitation loan fund with one or more financial institutions in accordance with §570.513 and section 104(h) of the HCDA. The rehabilitation fund financed with a lump sum drawdown must be used to finance the rehabilitation of privately owned properties eligible under §570.202 and §570.203(a) or 570.203(b) of the Entitlement CDBG program regulations and sections 105(a)(4), (a)(14), and (a)(17) of the HCDA for the State CDBG program. a)(4) State grantees may permit units of general local government to establish local revolving funds under 24 CFR 570.489(f)(1).

Lump sum accounts have several requirements that are addressed under §570.513. Some of the key requirements include: the agreement may not exceed 2 years; the financial institution must agree to provide certain benefits in conjunction with the activities paid for from the account; there are time benchmarks for when the rehabilitation carried out with funds in the account must begin and the pace at which the funds must be used; and there are limits to what the funds can be used for. Additional information on lump sum drawdowns may be found at CPD Notice 17-14: [\*Lump Sum Drawdown Requirements in the Community Development Block Grant Program.\*](#)

#### **6. Ineligible Activities Under Rehabilitation**

A grantee must also be aware of ineligible items. CDBG-assisted rehabilitation does not include the construction of a secondary housing unit attached to a primary unit; the installation of luxury items such as a swimming pool or granite countertops; the costs of equipment, furnishings or other personal property is not an integral structural fixture, such as a window air conditioner (although a stove or refrigerator is allowed); and labor costs for homeowners to rehabilitate their own property.

## II. TOPICS AND CONSIDERATIONS

This section of the Notice discusses some topics and considerations that may cross eligibility categories, be cross-cutting in nature, or contain ineligible aspects. The manufactured housing guidance significantly updates previous sub-regulatory policy to better align with other HUD programs, such as the HOME Investment Partnerships program.

### A. Manufactured Housing Eligibility Category Update

Under this Notice, HUD is updating CDBG guidance to align better with the HOME program and to clarify the uses of CDBG funds in connection with manufactured housing, in a manner that may improve the ability to use those funds in connection with FHA guaranteed financing. **This notice notifies CDBG grantees and HUD field offices that CDBG guidance now aligns with this interpretation: HUD will treat purchases of manufactured housing units that are part of the community's permanent housing stock as CDBG-eligible acquisition or direct homeownership assistance, not ineligible new construction of housing.**

A manufactured home (formerly known as a mobile home) is built to HUD's Manufactured Home Construction and Safety Standards ("HUD Code", 24 CFR Part 3280), which are federal standards for the design and construction of manufactured homes to assure quality, durability, safety, and affordability. HUD was authorized to establish this code by the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Improvement Act of 2000. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported to their site in one or more sections, each section on a permanent chassis. Each manufactured home displays a certification label on the exterior of each transportable section indicating the manufacturer's certification of compliance with the HUD Code. After the certification label is permanently affixed to each section of the home, the section(s) is then ready for transport to an individual home site. At the home site, the home sections are assembled and installed on a foundation and anchoring system which may include pier supports, anchorage to a concrete slab, or placement on another type of permanent foundation. Part of the final assembly or placement process includes connecting the housing unit to the required utilities. This Notice uses the term manufactured home to refer to all types of nonmotorized manufactured housing units that meet the definition of manufactured home in 24 CFR 3280.2 and does not include recreational vehicles exempted from coverage under federal program regulations at 24 CFR 3282.15. Because this Notice pertains only to manufactured homes as covered by the aforementioned statute and HUD's regulatory oversight, the discussions that follow exclude modular homes built to state and local standards.

To be eligible for CDBG funding, manufactured housing must be part of the community's permanent housing stock. Rehabilitation and reconstruction of manufactured housing that is part of a community's permanent housing stock has been eligible for some time.

Specifically, this Notice's guidance means that manufactured homes may be rehabilitated, reconstructed, *or acquired* under CDBG direct homeownership assistance.

Acquisition by the grantee or a subrecipient of manufactured housing units that will be permanently affixed using another source of funding can be CDBG-eligible acquisition for a public purpose, provided the grantee appropriately documents the public purpose. Once acquired, the manufactured housing may be rental or homeownership housing, or mixed tenure (homeowner owns the manufactured housing unit and rents the pad or site), with a note that an entitlement grantee undertaking a rental housing activity with CDBG funds and seeking to meet the low- and moderate-income national objective must first publish its definition of affordable rents as required at 24 CFR 570.208(a)(3). For states, a similar requirement is at 24 CFR 570.483(b)(3). See Attachment I for a discussion of reasons for this policy guidance.

## 1. Limitations

**Important limitations still apply**, so any grantee choosing to assist acquisition of a manufactured home or site should consider the following in designing any activity, to avoid CDBG-ineligible new construction of housing costs.

The key eligible activities applicable to manufactured homes are in the CDBG entitlement regulations at 24 CFR 570.201(a),(b), and (d), 570.201(n), and 570.202, and, for State CDBG grantees, at Section 105(a)(1), (a)(4), and (a)(7), 105(a)(24), and c, respectively. CDBG funds can be used to:

- Acquire manufactured housing (24 CFR 570.201(a) or Section 105(a)(1) of the HCD Act: acquisition of real property, and 570.201(n) or Section 105(a)(24) of the HCD Act: direct homeownership);
- Acquire land for a homesite for manufactured housing (24 CFR 570.201(a) or Section 105(a)(1) of the HCD Act: acquisition or 570.201(n); or Section 105(a)(24) of the HCD Act: direct homeownership);
- Rehabilitate manufactured housing or replace an existing substandard manufactured home with a new or standard manufactured home. (24 CFR 570.202 or Section 105(a)(4) of the HCD Act: rehabilitation/reconstruction); and/or
- Provide improvements to on-site infrastructure or utilities for a manufactured housing community (570.201(c) or Section 105(a)(2): public facilities and improvements; 570.203(a) or Section 105(a)(14) if the community is publicly owned or owned by a subrecipient, or 570.203(b) or Section 105(a)(17) if the community is privately owned)
- Improve sites. Eligible activities include clearance, demolition, or remediation of known or suspected contaminants such as kerosene or gasoline (24 CFR 570.201(d) or Section 105(a)(4)).

## 2. Considerations where the pad or parcel are rented

Some owners and renters of manufactured housing rent the pad or parcel upon which the unit sits. In developing a manufactured housing rehabilitation or reconstruction program, a grantee may want to consider whether it would like to require that recorded deed restrictions be placed against a CDBG-assisted property, or a long-term lease agreement be implemented for the site. This can help to ensure the assisted household is able to

remain on the site for an extended period or that the homesite will be rented to income eligible families. Grantees may also consider supporting tenant acquisition of sites of a manufactured housing community as a strategy to increase housing security, preserve affordability, and prevent eviction.

### **3. Direct homeownership assistance of manufactured units**

Under direct homeownership assistance, a manufactured home may be acquired, either existing or newly constructed. In developing a direct homeownership assistance program that contains a manufactured home acquisition component, a grantee needs to consider the separation of activities to complete a project. Land acquisition for placement of the manufactured unit is allowed, in addition to the preparation of the site, installation of the utilities, clearance, or street improvements, as noted in Section II.D.3., Support of New Construction Through Other Eligible Activities. Regarding the installation, the cost of installing the manufactured unit on site must be paid for with other funds and is not eligible for CDBG, as it is considered new construction of a housing unit. Each of the components described in this paragraph that would complete a direct homeownership assistance or acquisition activity with a manufactured home are eligible, except the expenditure of the installation itself.

### **4. Special Economic Development and Manufactured Housing Production Facilities**

Under 24 CFR 570.203(a) or (b), a grantee may provide CDBG assistance for special economic development activities as part of an economic development project. Special activities authorized under this section do not include assistance for the construction of new housing, however, under this sub-regulatory update, HUD is also updating policy regarding CDBG special economic development assistance for a factory or facility in which manufactured housing is produced. Special economic development activities include:

- The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including a manufactured housing factory or production facility, provided such factory or facility solely or predominantly makes housing units that will be affordable to low- and moderate-income persons and are intended to become part of the community's permanent housing stock. Such activities may be carried out by the recipient or public or private nonprofit subrecipients.
- The provision of assistance to a private for-profit business that makes and sells manufactured housing units as in (a) above, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for an activity where the assistance is appropriate to carry out an economic development project.

## **B. Tornado Safe Shelters**

Under section 105(a)(25) of the HCDA, a grantee may construct or improve tornado-safe shelters for residents of manufactured housing, or provide assistance to non-profit and for-profit entities (including owners of manufactured housing communities) in the form of loans or grants to construct or improve tornado-safe shelters in neighborhoods that contain a minimum of 20 manufactured housing units and make the shelter available to the manufactured housing residents. Additionally, an activity involving a neighborhood (or manufactured housing community) that receives assistance for a tornado-safe shelter must meet the following criteria:

- Consist predominantly of low-and moderate-income persons (note that this may be difficult for grantees designated as “exception grantees” that use the upper quartile for area benefit activities; exception grantees should consider the alternatives below);
- Be in a state in which a tornado has occurred within the past three fiscal years;
- Have a warning siren (that meets certain requirements) in the neighborhood where the shelter will be located or, if the shelter is in a manufactured housing community, within 1,500 feet of the community;
- Ensure the shelter is sufficient in size to accommodate all occupants of the manufactured housing units at the same time and be located in the neighborhood in which the shelter will be used; and
- Comply with the standards for construction as identified by the Federal Emergency Management Agency (FEMA).

CDBG funds may be used to assist tornado shelters as a public facility under §570.201(c) and section 105(a)(2) of the HCDA if the shelter is on publicly owned land or in a facility owned by subrecipient that is open to the public during normal business hours. CDBG funds may also be used to incorporate tornado shelters as part of rehabilitation under §570.202 and section 105(a)(4) of the HCDA. These alternative eligible activities will likely be preferable for grantees that use an upper-quartile percentage for LMI area benefit activities, since these grantees will have trouble meeting the requirement under section 105(a)(25) that the neighborhood in which the shelter is constructed or improved is predominantly of low-and moderate-income persons.

### **C. Accessory Dwelling Units (ADU)**

Accessory dwelling units (ADU) are secondary, independent residential dwelling units located within a single-family home (internal) or adjacent as a stand-alone structure (detached). Depending on state law or local development code, ADUs may be referred to as accessory apartments, secondary suites, and granny flats. ADUs provide more housing options for communities. ADUs may increase housing affordability for tenants and homeowners, provide an option for older adults or persons with disabilities to be near family or caretakers, and increase the capacity and affordability of the existing housing stock within a community. The implementation of ADUs must comply with all local zoning regulations and building codes. The following notes the differences between certain types of CDBG eligible and ineligible ADUs:

- **Converted Internal ADU (eligible):** An internal ADU that can be eligible for CDBG is a portion of an existing housing unit converted to an independent dwelling unit. Examples of this include converting a basement, garage, attic, or other portion that allows for independent access and living.
- **New Attached ADU (ineligible):** An attached ADU is generally ineligible for CDBG, as this would be considered new construction of a housing unit. An example of this is the development of an independent dwelling unit on one of the sides of an existing single-family structure. Note that there is a possible exception: if development of the attached, independent housing unit was developed by a qualified 24 CFR 570.204 CBDO or section 105(a)(15) entity it may be eligible if it meets the criteria in section II.D.1. below.

#### **D. New Housing Construction and Related Activities**

Generally, the use of CDBG funds for new housing construction is prohibited because it is not included on the exclusive list of eligible CDBG activities at 24 CFR 570.207 of the regulations and section 105(a) of the HCDA, which says that only those activities that are listed can be carried out with CDBG funds. However, there are two instances in which CDBG funds may be used for new housing construction. CDBG funds may also be used for other activities that may support new housing construction.

##### **1. Construction by Community- or Neighborhood-Based Organizations (CBDOs)**

In the State CDBG program, a neighborhood-based nonprofit organization, local development corporation, nonprofit organization serving the development needs of the communities in nonentitlement areas, or entity organized under section 301(d) of the Small Business Investment Act of 1958 can undertake new construction of housing as part of an activity eligible under section 105(a)(15).

In the Entitlement CDBG Program, qualified CBDOs may use CDBG funds to acquire property [24 CFR 570.201(a)] and construct housing [24 CFR 570.204(a)]. CBDOs are associations or corporations organized under State or local law to engage in community development activities primarily within an identified geographic area of operation. Organizations must meet the provisions of 24 CFR 570.204(c) to be an eligible CBDO. CBDOs also have two additional requirements under 24 CFR 570.204(a). To receive CDBG assistance:

- An eligible CBDOs must undertake one of three types of projects: (1) neighborhood revitalization, (2) community economic development, or (3) energy conservation. For the purposes of a project qualifying under 570.204(a), the funded activity or activities may be considered either alone or in concert with other project activities either being carried out or for which funding has been committed; and



- A CDBO must carry out the project. Although inexperienced CBDOs may need technical assistance from the grantee, the CBDO must conduct the management and implementation of the activity [24 CFR 570.204(a)(4)].

## 2. Housing of Last Resort

Under 24 CFR 42.1(a), CDBG-assisted activities are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA). Under 49 CFR 24.404, grantees may use CDBG funds to construct housing of last resort. In this context, housing of last resort is housing constructed for households that would be displaced by a CDBG-assisted activity that triggers the URA. Such CDBG-assisted construction is permitted when the project would be prevented from proceeding because comparable replacement housing would not otherwise be available. The eligible activity can be found at §570.207(b)(3)(i). Grantees considering this activity are encouraged to discuss it with their CPD representative in advance of committing funds.

## 3. Support of New Housing Construction Through Other Eligible Activities

While CDBG funds may not be used for new construction, except under limited circumstances discussed above, they may instead support new housing construction through other eligible activities.

- **Acquisition** – A grantee or a nonprofit may acquire property and resell to an affordable housing developer to construct new housing under 24 CFR 570.201(a) and (b) and section 105(a)(1) of the HCDA. As discussed in Section II, Rehabilitation, care should be taken to avoid spending CDBG funds to acquire properties where the market is such that it is not likely to be sold or the units are not likely to be occupied by an income eligible household in the near future. If a national objective is not achieved after a reasonable period of time (such as 3-4 years), HUD may have a legitimate basis to question national objective compliance.
- **Clearance** – A grantee may use CDBG funds to clear a site in preparation to construct new housing under 24 CFR 570.201(d) and section 105(a)(4) of the HCDA.
- **Site improvements** – New housing new construction may be assisted by using CDBG to fund public improvements on publicly-owned property.
- **Street improvements** – New housing construction may be assisted by using CDBG to fund the construction or reconstruction of publicly-owned streets, sidewalks, alleys, and parking lots, including to ensure that such public spaces are accessible to individuals with disabilities, under 24 CFR 570.201(c) and section 105(a)(2) of the HCDA.

Eligible acquisition, clearance, and site improvements activities listed under this section may meet the low- and moderate-income housing (LMH) national objective under 24 CFR 570.208(a)(3) and 24 CFR 570.483(b)(3) when the housing is completed and occupied. The requirements for single unit housing, a multi-unit structure, duplexes, and rental properties must

meet the same requirements as described in Section II, Rehabilitation. Street improvements activities may meet the LMA or LMC objectives, as applicable to the specific improvement.

## **E. Section 108 Loan Guarantee Financing**

The Section 108 Loan Guarantee Program (Section 108) provides communities with a source of low-cost, long-term financing for economic and community development projects. Section 108 financing provides an avenue for communities to undertake larger, more costly projects, where they may have limited resources to invest in upfront.

Section 108 can fund economic development, housing, public facilities, infrastructure, and other physical development projects, including improvements to increase resilience against natural disasters. This flexibility of uses makes it one of the most potent and important public investment tools that HUD offers to states and local governments.

Entitlement grantees and States may apply for Section 108 Loan Guarantees to finance certain CDBG-eligible housing activities, including the acquisition or rehabilitation associated with the conversion of a commercial building to rental housing. (States may directly borrow Section 108 funds on behalf of local governments in non-entitlement areas. In its application to HUD, a state must identify the local governments that will be eligible to be assisted by the state with Section 108 guaranteed funds.) Guaranteed loan funds may be used for any eligible activity identified in §570.703, several of which support housing. For example, under §570.703(h), loan guarantee funds can be used for housing rehabilitation activities that are eligible under §570.202. Under §570.703(i)(1), guaranteed loan funds may also assist special economic development projects eligible under §570.203, including construction of a manufactured housing production facility as described in section II.A.3 above. In addition, guaranteed loan funds may be provided to Community Based Development Organizations (CBDOs) to carry out community economic development projects eligible under 570.204 and in that context, may in limited circumstances be used to fund new housing construction [§570.703(i)(2)]. Other eligible uses of guaranteed loan funds to support housing rehabilitation or new construction include, subject to certain limitations:

- Acquisition [§570.703(a)],
- Clearance [§570.703(e)],
- Site preparation, improvements, and utilities [§570.703(f)]; and
- Public facilities, public streets, sidewalks and other site improvements and public utilities [§570.703(l)].

Further information about Section 108 Loan Guarantee financing, including how to apply, is available on the HUD Exchange [Section 108 landing page](#).

## **F. CDBG Timeliness Considerations**

Section 104(e) of the Housing and Community Development Act requires HUD to review, on an annual basis, each CDBG grantee to determine whether the grantee has carried out

its activities in a timely manner. Under 24 CFR 570.902(a)(1)(i), a CDBG entitlement grantee is considered to be untimely if, 60 days prior to the end of the grantee's program year, the balance of unexpended funds in its line-of-credit exceeds one and one-half (1.5) times its most recent annual grant. The grantee shall be considered untimely in such case unless grantee can, to HUD's satisfaction, either provide contrary evidence or demonstrate that the lack of timeliness has resulted from factors beyond the grantee's reasonable control. A grantee should keep CDBG timeliness requirements in mind and work closely with all potential subrecipients and grantee agencies in the design of its housing programs. It is recommended that a grantee avoid prematurely funding a housing project not ready to move forward quickly. The goal is to minimize the amount of CDBG funds that will sit idle for a long period of time and place the grantee at-risk of being untimely in its expenditure of CDBG funds, as a national objective must be met within a reasonable time frame and land banking is not allowed.

### **G. Environmental Review of Real Property**

To determine the appropriate level of environmental review, all proposed or anticipated activities must be grouped together (24 CFR §58.32), and the environmental review must consider any subsequent use or changes to the site. The environmental review shall also consider any barriers related to the activity that might impair the ability of communities with environmental justice concerns to receive equitable access to human health and environmental benefits and otherwise comply with the requirements of Executive Order 14096, "Revitalizing Our Nation's Commitment to Environmental Justice for All." For example, if a property to be acquired will require rehabilitation or reconstruction, the environmental review must consider the full range of required activities in addition to the acquisition. For additional information developed by technical assistance providers on this requirement go to <https://www.hudexchange.info/programs/environmental-review/>.

### **H. Relocation Assistance**

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA) applies to the acquisition of real property and relocation of persons from real property that occurs as a direct result of acquisition, rehabilitation, or demolition undertaken in connection with any activity or series of activities in any way financed using CDBG funding. The URA regulations for CDBG assisted activities are found at 24 CFR 570.606 and 49 CFR Part 24.

Section 104(d) of the Housing and Community Development Act of 1974 applies when a lower-income dwelling is demolished or converted to a use other than lower-income housing in connection with any CDBG-funded activity. A low- or moderate-income person is considered displaced and therefore eligible for section 104(d) relocation assistance if the person permanently moves from real property, or permanently moves personal property from real property, as a direct result of the demolition or conversion of a lower-income dwelling to a use other than lower-income dwelling unit in connection with any CDBG-funded activity. Section 104(d)'s one-for-one replacement housing requirements may also apply to occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than

lower-income dwelling units in connection with any CDBG-funded activity. Section 104(d) implementing regulations can be found at 24 CFR part 42, Subpart C. Additional HUD policy and guidance for section 104(d) is available in HUD Handbook 1378, Chapter 7.

Additional information and resources on the URA or section 104(d) are available at [www.hud.gov/relocation](http://www.hud.gov/relocation) and for additional information developed by technical assistance providers on this requirement go to at <https://www.hudexchange.info/programs/relocation/> or by contacting a HUD Regional Relocation Specialist. A state-by-state list of Regional Relocation Specialists is available at [https://www.hud.gov/program\\_offices/comm\\_planning/relocation/contacts](https://www.hud.gov/program_offices/comm_planning/relocation/contacts).

- **Optional Relocation**

A CDBG optional relocation activity may be used for voluntary relocation when the URA does not apply. Under section 105(a)(11) of the (Housing and Community Development) Act, the grantee may provide (or the State may permit the state recipient to provide, as applicable) relocation payments and other relocation assistance to persons displaced by activities that are not subject to the URA. The grantee may also provide (or the State may also permit the state recipient to provide, as applicable) relocation assistance in excess of the URA requirements to persons receiving URA assistance. Unless such assistance is provided under State or local law, the grantee (or state recipient, as applicable) shall provide such assistance only upon the basis of a written determination that the assistance is appropriate (see 24 CFR 570.201(i) and 570.606(d)).

The grantee (or state recipient, as applicable) must adopt a written policy available to the public that describes the relocation assistance that the grantee (or state recipient, as applicable) has elected to provide and that provides for equal relocation assistance within each class of displaced persons. This may be done in conjunction with an entitlement grantee's annual action plan.

Improving community resilience is one of many potentials reasons to use optional relocation. For example, such an activity may assist small businesses or low- and moderate-income homeowners located in a repetitively flooded area to move to a safer location with the community.

## **I. CDBG Disaster Recovery (CDBG-DR) Applicability.**

Although CDBG guidance may be considered broadly applicable to CDBG-DR grants, a CDBG-DR grantee may not rely on this Notice alone but must comply with applicable published *Federal Register* Notice requirements. Any CDBG-DR-related questions regarding this Notice should be directed to the assigned HUD Representative for the CDBG-DR grant in question.

## **J. Documenting Compliance**

Grantees and subrecipients must maintain documentation demonstrating compliance with §570.505, §570.506(d), §570.503(b)(7), and §570.489(j) respectively, regarding all disposition costs and any change of use of real property acquired or improved with CDBG assistance.

Under §570.489(k), State grantees must establish and implement policies and procedures that are consistent with State law and with §570.489 governing the use, management, and disposition of real and personal property acquired with CDBG funds.

Both State and Entitlement grantees can safeguard HUD-assisted real property and ensure that the property is used solely for authorized CDBG purposes by placing a lien against the property documenting the change of use requirements (or additional grantee-imposed use conditions or time limits). This will ensure that the change of use requirements are followed when disposition is undertaken years later. Grantees should also maintain a property log to track real property acquired or improved with CDBG funds in excess of \$25,000 (for Entitlements) or in excess of the threshold for small purchase procurement at 2 CFR 200.1 (for States).

Grantees must also comply with applicable fair housing and civil rights requirements, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, Titles II and III of the Americans with Disabilities Act, the Violence Against Women Act Reauthorization Act of 2022, the Age Discrimination Act of 1975, the Architectural Barriers Act of 1969, Title IX of the Education Amendments Act of 1972, and section 109 of Title I of the Housing and Community Development Act of 1974.

## **K. IDIS Specific Compliance**

Compliance is also documented through accurate and complete information in the Integrated Disbursement and Information System (IDIS). Grantees with CDBG-assisted activities are required to enter the address of the activity's physical location into the activity address field. The grantee should not use post office boxes or the address of the organization administering the activity in the activity address field. Entering a post office box, subgrantee address, or grantee address instead of the assisted property's address is inadequate documentation.

Housing counseling is defined at 24 CFR 5.100 as independent, expert advice customized to the needs of the consumer to address the consumer's housing barriers and to help achieve their housing goals and must include the following processes: intake; financial and housing affordability analysis; an action plan, except for reverse mortgage counseling; and a reasonable effort to have follow-up communication with the client when possible. The content and process of housing counseling must meet the standards outlined in 24 CFR part 214.

CDBG funds can be used to pay for housing counseling either as a public service activity or as a part of housing activities. The Office of Block Grant Assistance (OBGA) created several matrix codes for public service and housing activities. If housing counseling is provided as an independent public service, use matrix code "05U - Housing Counseling only, under 24 CFR 5.100". If the housing counseling is provided supporting homebuyer downpayment assistance under 24 CFR 570.201(e) or 570.482(c)(2), use matrix code "05Y - Housing Counseling under 24 CFR 5.100 Supporting Homebuyer Downpayment Assistance (05R)."

CDBG funds can also be used to provide housing information or referral services such as, housing information, education, and referral services, or general budget/financial counseling that does not meet the 24 CFR 5.100 definition of Housing Counseling. To fund an activity under 24 570.201(e), matrix code 05X for housing information and referral services.

There are three specific matrix codes that may be used for housing counseling supporting CDBG or HOME assisted housing rehabilitation activities or CDBG assisted homeownership assistance activities: “13A – Housing Counseling, under 24 CFR 5.1000, for Homeownership Assistance (13B);” “14K – Housing Counseling, under 24 CFR 5.100, Supporting HOME Program Housing Activities;” “14L – Housing Counseling, Under 24 CFR 5.100, in Conjunction with CDBG-assisted Housing Rehabilitation.”

A full listing of the housing counseling matrix codes is provided as an attachment to this Notice, “Housing Counseling Matrix Codes.” For a full listing of matrix codes, please see Appendix A of the IDIS Manual at:<https://files.hudexchange.info/resources/documents/Matrix-Code-Definitions.pdf> (Release Date: March 2019). A full listing of IDIS matrix codes with the allowed national objectives, may be found here:  
<https://files.hudexchange.info/resources/documents/Matrix-Code-National-Objective-Table.pdf>

### **III. CONTACT INFORMATION**

Grantees that have questions on this Notice should contact their assigned HUD CPD Field Office Representative. Field Offices should direct inquiries and comments to their Entitlement Communities Division desk officer or the State and Small Cities Division desk officer.

## ATTACHMENT I – BACKGROUND ON MANUFACTURED HOUSING ELIGIBILITY

In early CDBG memoranda, letters, and technical assistance materials, HUD interpreted purchase of a new manufactured housing unit to be CDBG-ineligible new construction of housing. This was based on early statutory history that did not explicitly include new construction of housing in the list of 13 eligible activities in section 105(a) of the HCDA. (These activities stemmed from the activities under the “predecessor programs” that Congress combined into the new annual block grant.) Discussion of manufactured housing in program correspondence during the 1970’s and 1980’s appeared to conflate off-site construction of a housing unit in a manufacturing facility with on-site construction of a housing unit from raw materials.

In the decades that have passed since HUD made initial interpretations, Congress and HUD have advanced the manufactured housing regulatory framework (including rounds of improvements to the HUD Code for manufactured housing beginning in 1976, and minimum installation standards promulgated in 2007 (24 CFR Part 3285) and continual updates including the more recently published updates to *The Manufactured Home Construction and Safety Standards, 3<sup>rd</sup> set Final Rule* (effective July 12, 2021)). In addition, the list of eligible CDBG activity categories has expanded substantially from the original 13 to 26 in 2023, with several categories introducing new housing eligibility (especially sections 105(a)(15) and 105(a)(20)). Further, as described elsewhere in this notice, reconstruction was added to section 104(a). (Note that, while the list of CDBG eligible activities has grown over the years, new housing construction is generally still an ineligible activity, although certain eligible entities are allowed to carry out CDBG-assisted new housing construction.)

A new formula grant program, the HOME Investment Partnerships program was enacted in 1991. Subsequently, the HCDA was amended to add a new CDBG-eligible activity, housing services, provided in section 105(a)(20) of the Act. Housing services assist owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities assisted under HOME. HOME housing activities may, for example, include acquisition and new construction. This new housing services activity category created another strong connection between the two programs in addition to the National Affordable Housing Act (NAHA) requirement for recipients / participating jurisdictions to follow the jurisdiction’s Comprehensive Housing Affordability Strategy (CHAS) for both programs. In practice, HUD recognizes that some HOME projects will also be CDBG activities and has sought to align program terms and definitions as appropriate to enable recipients to avoid confusion in implementation.

At this time, there is a serious shortfall of affordable housing opportunities affecting almost every CDBG community. Therefore, HUD decided to revisit programs with the goal of supporting affordable housing preservation and production. This included considering activity eligibility under section 105(a) of the HCDA and the CDBG regulations. This review led to a particular focus on policy related to manufactured housing with its potentially greater speed to market and naturally occurring affordability. Because CDBG funds are frequently used in conjunction with other funding sources, HUD also reviewed approaches taken by HOME and FHA so any CDBG change would use similar terminology and work smoothly with the most

likely other HUD co-funding or regulatory resources. HUD found that HUD-Code-compliant manufactured homes are not considered by HOME to be materials for on-site construction, they meet a housing code coming out of the manufacturing facility and are considered eligible as acquisition of real property. HUD also found that FHA has mortgage guarantee products compatible with manufactured housing units, and that units that are not permanently affixed through methods meeting permanent foundation types are considered chattel, or personal property, while units that are installed in accordance with HUD's Permanent Foundations Guide for Manufactured Housing are eligible as real property. This is important because personal property is ineligible for CDBG assistance under section 105(a) of the HCDA and 24 CFR 570.207(b)(1)(iii) of the regulations.

There is one other precedent in the CDBG program for considering a factory-built product on a wheeled chassis to be real property. Purchase of factory-built fire protection equipment is considered an integral part of a public facility and thus, purchase of such equipment is eligible as CDBG acquisition of real property (see 24 CFR 570.207(b)(1)(iii)). Other major equipment, such as heating, ventilation, and cooling (HVAC) equipment, such as a geothermal heat pump, becomes part of a real property structure when it is permanently installed or affixed. In another area of the CDBG program related to new construction and acquisition, in letters and memoranda dating back into the 1990's involving case applications of existing statute and regulations, HUD allowed CDBG funds to assist acquisition of newly constructed housing units provided other resources assisted on-site construction. This means, for example, an LMI household can use CDBG direct homeownership assistance to buy a newly constructed home offered on the market or a grantee or subrecipient could use CDBG funds to acquire a newly constructed housing unit on the market. Combining these two lines of interpretation, the CDBG program could consider purchase from a manufacturing facility or dealer of an already code-compliant housing unit to be eligible as acquisition of real property (noting that the grantee must take proper precautions to ensure the unit will be properly installed) or direct homeownership assistance (24 CFR 570.201(a) and 570.201(n)).

This aligns with the HOME program's interpretation regarding manufactured housing. Under the HOME program, because manufactured homes are constructed at the factory and transported to the site whole, new construction is not an applicable activity for manufactured housing projects. Such activities are designated as housing acquisition projects in Notice CPD-03-05.



## ATTACHMENT II

### *Housing Counseling Matrix Codes*

The following IDIS matrix codes are effective March 2019.

New Matrix Code	Description	Allowed National Objective Codes	Note
13A	Housing Counseling, under 24 CFR 5.100, for Homeownership Assistance (13B)	LMH, LMHSP	<p><i>24 CFR 570.201(n) or 42 USC 5305(a)(24)</i>                      Housing counseling under 24 CFR 5.100, is provided in conjunction with direct homeownership assistance 13B. Report housing counseling under matrix code 13A, as a separate activity.</p>
13B	Homeownership Assistance-excluding Housing Counseling under 24 CFR 5.100	LMH, LMHSP	<p><i>24 CFR 570.201(n) or 42 USC 5305(a)(24)</i>                      Forms of assistance include subsidizing interest rates and mortgage principal, paying up to 50% of down payment costs, paying reasonable closing costs, acquiring guarantees for mortgage financing from private lenders, and financing the acquisition by LMI households of the housing they already occupy. If housing counseling under 24 CFR 5.100 is provided in conjunction with direct homeownership assistance, report housing counseling under matrix code 13A, as a separate activity. If referral services, homeownership education programs, or general budget/financial counseling is provided to homebuyers in conjunction with homeownership assistance, the services are considered activity delivery costs as a part of 13B activity.</p> <ul style="list-style-type: none"> <li>• All recipients of assistance provided under matrix code 13B must be LMI.</li> <li>• Only report the number of households that received homeownership assistance as accomplishments for 13B.</li> </ul>
14J	Housing Services - Excluding Housing Counseling, under 24 CFR 5.100	LMH, LMHSP	<p><i>24 CFR 570.201(k) or 42 USC 5305(a)(20)</i>                      Housing services, except housing counseling, under 24 CFR 5.100, in support of the HOME Program, eligible under 570.201(k).</p>
14K	Housing Counseling, under 24 CFR 5.100, Supporting HOME Program Assistance Housing Activities	LMH, LMHSP	<p><i>24 CFR 570.201(k) or 42 USC 5305(a)(20)</i>                      Housing counseling, under 24 CFR 5.100, in support of a HOME-funded housing assistance program.</p>

New Matrix Code	Description	Allowed National Objective Codes	Note
14L	Housing Counseling, under 24 CFR 5.100, in Conjunction with CDBG Assisted Housing Rehab	LMH, LMHSP, SBA, SBS, SBR, URG	<i>24 CFR 570.202 or section 105(a)(4) (42 USC 5305(a)(4))</i> Housing Counseling, under 24 CFR 5.100, in support of CDBG assisted housing rehabilitation activities, including 14A-14D, 14F-14I, and 16A.
05Y	Housing Counseling, under 24 CFR 5.100 Supporting Homebuyer Down Payment Assistance (05R)	LMH, LMHSP, LMCSV, SBA, URG	<i>24 CFR 570.201(e) or 42 USC 5305(a)(8) + 24 CFR 570.482(c)(2)</i> Housing counseling, under 24 CFR 5.100 is provided to in conjunction with homebuyer down payment assistance (05R) as public services.
05R	Homebuyer Down Payment Assistance- Excluding Housing Counseling, under 24 CFR 5.100	LMH, LMHSP, LMCSV, SBA, URG	<i>24 CFR 570.201(e) or 42 USC 5305(a)(8) + 24 CFR 570.482(c)(2)</i> Homebuyer down payment assistance provided as a PUBLIC SERVICE. If housing counseling (under 24 CFR 5.100) is provided in conjunction with down payment assistance, report housing counseling separately under matrix code 05Y. If referral services, homeownership education programs, or general budget/financial counseling is provided to homebuyers in conjunction with down payment assistance, the services are considered activity delivery costs as a part of an 05R activity. <ul style="list-style-type: none"> <li>• Assistance provided under 05R must meet the low/mod housing national objective.</li> <li>• Unless the assistance is provided by a CBDO in an NRSA or a 105(a)(15) entity, it is subject to the public service cap.</li> <li>• Only report number of households that received down payment assistance as accomplishments for 05R.</li> </ul> For more extensive types of homeownership assistance provided under authority of the National Affordable Housing Act, use code 13B.
05X	Housing Information and Referral Services	LMH, LMHSP, LMC	<i>24 CFR 570.201(e) or 42 USC 5305(a)(8) + 24 CFR 570.482(c)(2)</i> An activity provides housing information and referral services, homeownership education program, or general budget/financial counseling that does not meet the 24 CFR 5.100 definition of housing counseling.
05U	Housing Counseling only, under 24 CFR 5.100	LMH, LMHSP	<i>24 CFR 570.201(e) or 42 USC 5305(a)(8) + 24 CFR 570.482(c)(2)</i> Housing counseling, under 24 CFR 5.100 for renters, homeowners, and/or potential new homebuyers that is provided as an independent public service (i.e., not as part of another eligible housing activity).

New Matrix Code	Description	Allowed National Objective Codes	Note
05Z	Other Public Services Not Listed in 05A-05Y, 03T	LMA, LMC, LMCSV, SBA, URG	Replaces original matrix code 05
03Z	Other Public Improvements Not Listed in 03A-03S	LMA, LMAFI, LMASA, LMC, LMH, LMH, LMHSP, LMJ, LMJP, SBA, SBS, URG	Replaces original matrix code 03