



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Community Planning and Development

Special Attention of:

All CPD Division Directors
State CDBG Program Managers

Notice CPD-14-10

Issued: June 10, 2014
Expires: This Notice is effective until it is amended, superseded or rescinded.

Supersedes: Notice CPD-03-02
Notice CPD-07-02

Cross References: 24 CFR 570.483(b)(1)

SUBJECT: Transition Policy for Low/Moderate Income Summary Data
Updates during Fiscal Year 2014
for the State Community Development Block Grant Program

This Notice describes policy guidance regarding the updated 2014 Low/Moderate Income Summary Data (LMISD). The LMISD support the Community Development Block Grant (CDBG) National Objective of providing benefit to low- and moderate-income persons on an area basis (LMA).¹ The LMISD are derived from special data tabulations provided to HUD by the U.S. Census Bureau. The special tabulations include data on family income, which were based on the Decennial Census in previous years and are now based upon the American Community Survey (ACS).² HUD anticipates receiving these special tabulations of ACS data every five years.³ As always, the LMISD will be slightly revised each year for changes to grantee jurisdictions and Entitlement CDBG program participations.⁴ However, the family income data from ACS, upon which the LMISD are based, will only be fully updated upon receipt of the special tabulations every five years.

¹ The LMA National Objective is described at 24 CFR 570.483(b)(1). State grantees have the option of utilizing HUD's LMISD data, or survey data that are methodologically sound, for determination of an activity's LMA compliance.

² The U.S. Insular Areas, American Samoa, Guam, Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, are not included in the American Community Survey. HUD will continue to utilize decennial Census 'long form' datasets for these communities, as it has in the past.

³ The U.S. Census Bureau's processing time following the end of the period of data collection and the provision of the special tabulation to HUD can be about 2 years.

⁴ For more information on how the LMISD are calculated, see http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/systems/census

This Notice will address the publication format of the updated 2014 LMISD and the transition policy for compliance with the LMA national objective of area benefit activities which are beginning or ongoing as of the effective date of the updated dataset.

Publication.

Updated LMISD are posted on HUD's website:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/systems/census.

Distribution.

Each Field Office is responsible for notifying their State CDBG grantees of this Notice.

Effective Date for Updated LMISD.

The Department has established an effective date of **July 1, 2014** for the updated 2014 LMISD referenced in this Notice. As of July 1, 2014, grantees using LMISD to qualify area benefit activities shall use the updated LMISD based upon the ACS, notwithstanding the transition policy below. Grantees will have access to the updated data prior to the effective date for planning purposes. Please see the transition policy for more details.

Transition Policy.

Upon July 1, 2014, if the service area of an area benefit activity no longer qualifies per 24 CFR 570.483(b)(1)(i) because the updated LMISD demonstrates a percentage of low- to moderate-income persons that is not at least 51%, then starting and/or finishing the activity is to be governed by the following guidance.

The Four Part Test:

With limited exceptions, grantees may not use the prior LMISD to qualify for area benefit when the CDBG funds are awarded for a specific activity by the grantee on or after July 1, 2014, regardless of the source year of the funding, and regardless of activity set-up status in the Integrated Disbursement and Information System (IDIS). CDBG funds are considered "awarded" when a state officially announces the CDBG award; and, for the purpose of this Notice, there must be a relationship established before the effective date between the award and the specific area benefit activity with both a clearly defined service area and a specific amount of funds budgeted for the activity.

In order for the prior LMISD to remain in use, an activity must meet a four part test which requires:

- an award before the effective date,
- a specific activity,
- a specific amount, and
- a clearly defined service area.

Additionally, "CDBG funds," per 24 CFR 570.481, include both grant funds and program income; therefore, grant funds and program income may be interchanged when funding an activity qualified on prior LMISD, provided that the total amount awarded for that activity, prior to July 1, 2014, is not exceeded.

For example: The State awarded the Town of Springville \$300,000 to build a recreation center in the Oak Park neighborhood, which qualified under the prior LMISD, but not the updated LMISD. The award was publically announced before July 1, 2014, and the State had a description of the recreation center, the amount of the award, and a description of the Oak Park neighborhood. Construction did not begin until after July 1, 2014. In this case, the

Oak Park neighborhood would still qualify based on the prior LMISD, and the activity may continue as planned since it passed the four part test.

Limited Exceptions and Clarifications to the Four Part Test

- *Formula-Based Methods of Distribution.* Some state grantees might utilize a formula-based method of distribution to award funds to units of local governments based solely upon demographic data and not upon specified activities. If the prior LMISD are incorporated into a state's formula, there is a risk that a distribution for area benefit activities could be made before July 1, 2014 to a given local government which may have a difficult time qualifying an area benefit activity after July 1st under the updated LMISD. In this situation, areas that qualified based on the prior LMISD without specified activities, amounts and service areas will not be accepted. To the extent permitted by the State, the locality may explore activities that meet national objectives other than LMA, or conduct a survey of a service area to determine its LMA eligibility.
- *Competitive Methods of Distribution.* Some states utilize competitions to award CDBG funds to units of local government. Grantees should remember to update their processes if LMISD are used to provide any preference or bonus points to applications for activities in areas with a high percentage of low- and moderate-income persons. Furthermore, local government applications to a state for CDBG funding of an area benefit activity may only reference the prior LMISD if the application due date is before July 1, 2014 and the application contains the other three parts of the four part test: the specific activity description, the amount requested, and a clearly defined service area.

For Example: Springville submits an application to the State for CDBG funding prior to the July 1, 2014 for the recreation center in the Oak Park neighborhood. The application has the specific activity, amount, and a clearly defined area. However, a due date of July 5, 2014 was announced in the State's notice of funding availability. In this case, the State cannot fund this activity based on the prior LMISD. The State or Springville would either have to obtain local survey data showing that Oak Park actually does qualify, or determine whether the activity could be re-designed to meet another national objective criterion.

- *Acquisition of Real Property.* For area benefit activities based on the prior LMISD that include the acquisition of property with CDBG funds, the development of the property may be completed only if CDBG funds were awarded for acquisition prior to July 1, 2014 and the use planned for the property at the time of acquisition does not change. If the planned use changes after the effective date, the new activity must re-qualify based upon the updated LMISD.
- *Pre-award Costs.* For those area benefit activities that involve authorized pre-award costs, CDBG funds may be used to reimburse the costs previously incurred as long as the activity's service area meets the low- and moderate-income qualifying standard based on the LMISD in effect at the time the costs were incurred. Pre-award costs incurred on or after July 1, 2014 are not eligible for area benefit activities that no longer qualify based upon the updated LMISD.
- *Activities Involving Loan or Grant Programs.* Certain activities involving direct financial assistance to individuals or businesses may be designed as area benefit

activities. The most common types are loans or grants to businesses that provide goods or services to residents of a neighborhood, where at least 51 percent of the residents are low- and moderate-income. In general, each separate provision of assistance with CDBG funds, including program income, must meet the LMA national objective criterion as of the date the assistance is obligated to the business. Even if a state awarded a grant to a community for such an activity before July 1, 2014, each separate provision of assistance must qualify based on the LMISD effective as of the date that the assistance is obligated to each business or individual.

For example: The State awarded a grant to Springville for “economic development loans to businesses located in and serving the Oak Park neighborhood,” which is a qualified low/mod area based on the prior LMISD, and only one loan had been made prior to July 1, 2014. Because each loan would be considered a separate provision of assistance, subsequent loans made after July 1st could only qualify if the Oak Park neighborhood is still eligible based on the updated LMISD or survey data.

- *Cost Overruns.* If there is an unexpected increase in the cost of an area benefit activity which was qualified on prior LMISD data, and there is no change in the scope, purpose or service area of the activity, grantees may provide additional funding to cover the cost overrun even though it exceeds the amount awarded. This exception is limited to unexpected increases in the cost. If the scope, purpose or service area of the activity changes on or after the effective date, the activity must re-qualify based on the updated LMISD.

For example: Springville Construction found an underground storage tank at the site of the new Oak Park recreation center. The cost of the activity rose from \$300,000 to \$380,000. The State can award another \$80,000 to Springville for construction contingencies, even if the service area no longer qualifies per the updated LMISD. Springville may also use program income to cover the cost overrun. The State’s method of distribution should allow for such contingencies.

Continued funding for an ongoing activity category is not considered a cost overrun:

For example: The Town of Welcome receives an annual formula-based award of funds from the State, and has been budgeting \$20,000 per year to replace sidewalks in the East End neighborhood since 2009. If the East End neighborhood no longer qualifies under the updated LMISD, the Town may not obligate additional funds to the activity starting July 1, 2014, under the LMA national objective.

Geographic Format.

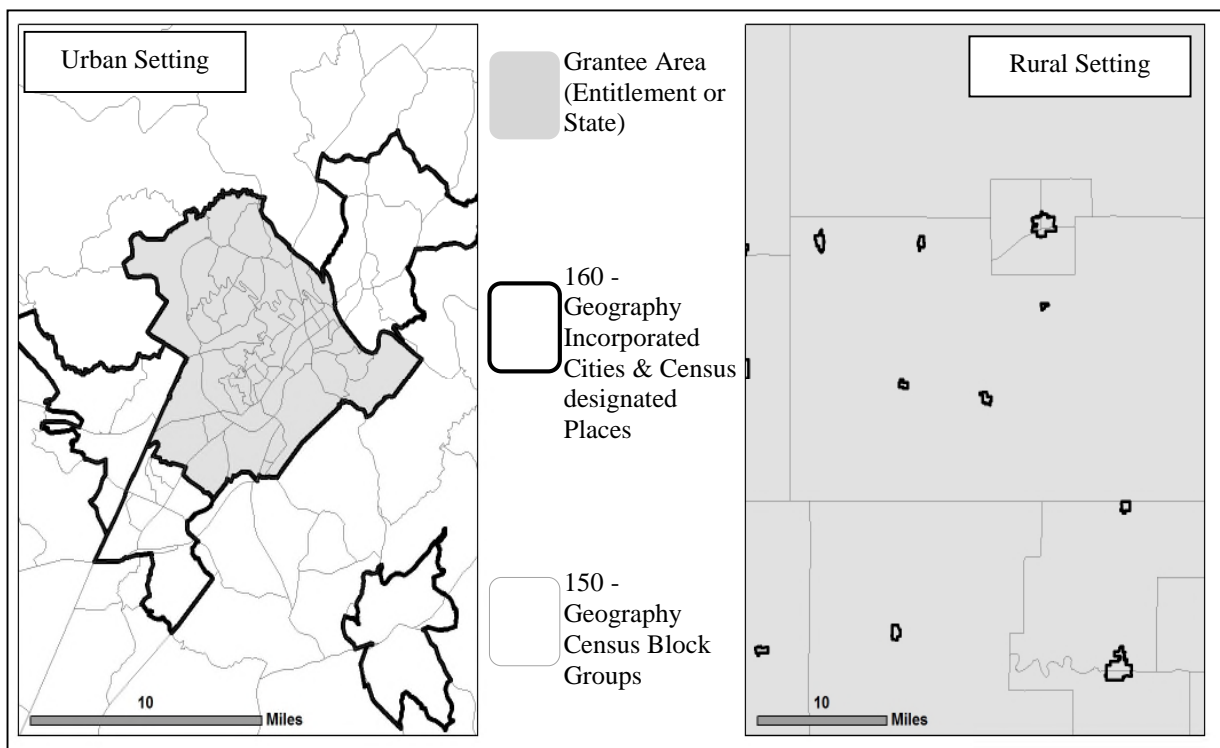
The new ACS-based LMISD datasets will be in a slightly different geographic format from the previous datasets based upon the decennial Census. The principal reason for this change is due to lower data confidence interval at the smaller geographies. Prior versions of the LMISD were based on the long form of the decennial Census, which was sent to 1 in 6 households (17%). The American Community Survey is administered continuously, with a target of approximately 1 in 40 households (2.5%) each year. ACS estimates used for the LMISD combine 5 years of surveys, meaning that the effective sample size is 1 in 8 households (12.5%). The fact that the ACS has a smaller sample than the decennial Census long form means that resulting estimates have larger confidence intervals and are less precise, especially for small areas. In 2012, the U.S. Census Bureau provided HUD with a special tabulation of 2005-2009 ACS data only down to the census tract level. Given the numerous

programmatic and regulatory references to block groups, HUD requested block group level data for the 2006-2010 ACS special tabulation, which delayed the LMISD data release.

Unfortunately, the smaller “split-block groups” will not be available as they have in the past. The split-block group or Summary level 090 geography is one of the smaller geographic building blocks, which can be utilized to reconstruct other higher level geographies that are otherwise incompatible with one another, such as places and block groups.⁵ A dataset with small geographic building blocks meant that grantees could more easily match activity service areas to Census geographies.

Entitlement or urban grantees had often utilized the Summary level 090 geography to reconstruct block groups; and rural grantees under the State program had frequently utilized the Summary level 090 geography to reconstruct place geographies. Figure 1 below demonstrates how block groups and places differ in urban versus rural settings. In urban settings, block groups are typically the most specific geography available, often resembling small neighborhoods; and the place geography reflects the grantee’s entire jurisdiction. In rural settings, the grantee is the state whose jurisdiction is the entirety of the nonentitlement area; furthermore, block groups can be larger than places and may include more than one rural town, thus making places the most specific geography available.

Figure 1



Therefore, in lieu of providing the Summary level 090 geography, HUD will be publishing LMISD datasets at both the Summary level 150 (Block groups), and at the Summary level 160 (Incorporated Cities and Census-designated Places). Grantees are advised against defining a single service area

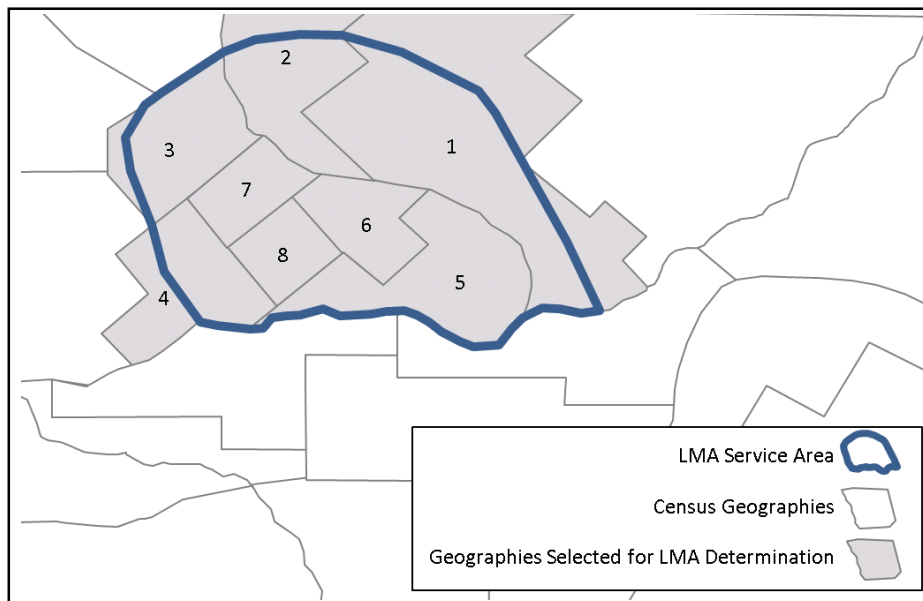
⁵ For more information about Census geographies, see <http://www.census.gov/geo/>

using a combination of both Summary level 150 data and Summary level 160 data because the geographies may have overlapping areas, thus double counting residents.

Furthermore, grantees are not to prorate the data when a given service area includes only a portion of a particular geography from either of our published datasets. The LMA determination from LMISD shall be made based on the entirety of the data of the census geography which the service area both completely encloses and partially overlaps.

For example, in Figure 2 below, the LMA service area completely encloses geographies 5, 6, 7 and 8; additionally, geographies 1, 2, 3 and 4 are partially overlain by the service area. The entirety of the data for all geographies 1 through 8 must be included in the determination of LMA compliance in order to use the LMISD.

Figure 2



If the geographies provided do not adequately represent the service area, grantees may consider conducting a survey to determine LMA compliance or reconsider the National Objective and activity.

When using multiple Census geographies in the determination of LMA compliance of a service area, grantees are reminded that percentages shall not be averaged across multiple geographies. The proper calculation is as follows:

$$LMI \% = \frac{(LMI \text{ Persons Geography A} + LMI \text{ Persons Geography B} + LMI \text{ Persons Geography C...})}{(LMI \text{ Universe Geography A} + LMI \text{ Universe Geography B} + LMI \text{ Universe Geography C...})}$$

For example, a grantee wants to qualify an LMA service area incorporating two Census block groups. Block group 1 is 80% LMI and has a very small population, 8 LMI persons of a universe of 10 total persons. Block group 2 is 49% LMI and has a large population, 490 LMI persons of 1,000 total persons. Correctly performing the percent LMI calculation can mean the difference between this area qualifying or not. If 80% and 49% are averaged, the result is 64.5% LMI, which is incorrect. The correct calculation is 498 persons divided by 1,010 persons, resulting in 49.3% LMI.

Grantees that utilize geographic information systems (GIS) to join LMISD data to map layers should download the 2010 versions of the Summary level 150 and 160 geographies from Census, which will continue to update decennially.⁶ Future LMISD and ACS datasets will continue to reference the corresponding decennial geography releases. In addition, due to the possibility of annual changes in grantee jurisdictions and grantee participations in the entitlement program, it is recommended that GIS users annually download the updated grantee boundary map layers and corresponding LMISD datasets from HUD.⁷

There is an additional item to note for advanced users that choose to reconstruct areas from the Summary level 150 geographies, specifically when those block groups overlay multiple grantee jurisdictions. Previously, the Summary level 090, split-block group layer, allowed HUD to associate a portion of a single block group with one grantee, and another portion of that same block group with a different grantee. However, since the split-block group layer is not provided, HUD now creates the LMISD block group file with duplicate block group records for each block group that overlays one or more grantee jurisdictions, thus associating that block group with each of the grantees who share it. Therefore, when performing analyses on the block group data, it is important to address this by either removing duplicate records for the same block group or establishing one-to-many data relationships, as appropriate.

Reporting LMA Benefit in IDIS.

IDIS allows grantees to provide data to demonstrate an activity's compliance with the LMA national objective. Grantees have the option of indicating whether data are derived from Census or survey. Both options prompt the user to enter the Census tract and block groups corresponding to the LMA service area. At the time of publication of this Notice, those fields only accept the block group code format to be entered, followed by the manual entry of the population and LMI percentage. HUD intends to improve IDIS to allow the entry of either place codes or block group codes, as well as to indicate the use of a prior year's LMISD data.

In the meantime, HUD advises that grantees utilize the *activity description* field to indicate the dataset referenced by typing either "2000" or "2010". Additionally, grantees should indicate when place data have been used by typing "Place Data Used" in the *activity description* field. Since IDIS currently requires a Census tract and block group entry, in the instances when the Summary level 160 geography (places) best describes the area of benefit, State grantees shall check the box indicating the use of Survey data and enter the single most overlapping or centrally located block group's code, followed by manually entering the population and LMI percentage of the place geography. For example, if block group 1 contains Town A, Town B and Town C, and the LMA activity is benefitting the entirety of Town A only, then the grantee should check "Survey", and enter block group 1's code into IDIS, but with the population and LMI percentage for just Town A as found in the LMISD data set for the Summary level 160 geographies (Places). Again, HUD's intent is to improve the system to allow the entry of either place codes or block group codes, as well as to indicate the use of prior year's LMISD data for those activities that comply with the policy set forth in this Notice.

⁶ www.census.gov/geo

⁷ CDBG Grantee jurisdiction data

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/systems/mapping/formula

Questions.

If you have any questions about the guidance provided in this memorandum, HUD field staff should contact the State and Small Cities Division at (202) 708-1322; grantees should contact their HUD Field Offices.