



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

Special Attention of:

All CPD Division Directors
CDBG-DR and NSP Program Managers
and CDBG-DR and NSP grantees

Notice CPD-15-05

Issued: April 21, 2015
Expires: This Notice is effective
until it is amended, superseded or
rescinded.

Supplements: Notice CPD-14-10
Notice CPD-14-11

Cross References: 24 CFR 570.208(a) Entitlements
24 CFR 570.483(b)(1) States

SUBJECT: Transition Policy for Low-Moderate Income Summary Data
Updates during Fiscal Year 2015 for Community Development Block Grant Disaster
Recovery (CDBG-DR) grantees and Neighborhood Stabilization Program (NSP1,
NSP2, and NSP3) grantees

This Notice provides policy guidance for CDBG-DR and NSP grantees regarding the updated 2014 Low-Moderate Income Summary Data (LMISD). The LMISD supports the CDBG national objective of providing benefit to Low- and Moderate-Income (LMI) persons on an area basis for CDBG-DR grantees; and Low-, Moderate- and Middle-Income (LMMI) persons on an area basis for NSP grantees.

This Notice supplements Notice CPD-14-10: Transition Policy for LMISD Updates during FY 2014 for the State CDBG Program and Notice CPD-14-11: Transition Policy for LMISD Updates during FY 2014 for the Entitlement Grantees and Non-entitlement Hawaiian County CDBG Grantees. Unless otherwise specified in this Notice, the guidance provided in CPD-14-10 and CPD-14-11 is applicable to CDBG-DR and NSP grantees.

The CDBG-DR and NSP programs are generally subject to CDBG program requirements. Appropriations Acts provide alternative requirements and waivers as described in various *Federal Register* Notices. CDBG-DR and NSP grantees must comply with requirements specific to each appropriation and accompanying HUD-issued requirements and guidance. This Notice does not replace or change those waivers and alternative requirements. This Notice describes which LMISD may be used to demonstrate compliance with the LMI or LMMI national

objective for current and planned area benefit activities that will be carried out as of the effective date of this Notice.

Publication

Updated LMISD (CDBG-DR and NSP) are located at:

<https://www.hudexchange.info/manage-a-program/acs-low-mod-summary-data/>

Prior CDBG-DR LMISD are located at:

<https://www.hudexchange.info/manage-a-program/census/low-mod-income-summary-data/>

Prior NSP LMISD are located at:

http://www.huduser.org/portal/datasets/nsp_target.html

Distribution

Each Field Office is responsible for notifying its CDBG-DR and NSP grantees of this Notice.

Definitions

For the purpose of this Notice, the term “Updated LMISD” means the LMISD based on the 2014 ACS data (American Community Survey 5-Year 2006-2010 Low-and Moderate-Income Summary Data).

The term “Prior LMISD” means the LMISD based on the 2000 Census; which is to be phased out in accordance with the Transition Policy described in this Notice.

Effective Date for Updated LMISD

The Department has established an effective date of July 1, 2015, for the Updated LMISD referenced in this Notice. On or after July 1, 2015, grantees using LMISD to qualify area benefit activities must use the Updated LMISD based on the ACS. Grantees will have access to the updated data before the effective date for planning purposes. Please see the Transition Policy for more details.

Transition Policy

All CDBG-DR and NSP grantees must use the Updated LMISD for all area benefit activities that were planned or underway as of July 1, 2015, unless the grantee can demonstrate that an activity meets the Four Part Test or Limited Exceptions and Clarifications to the Four Part Test in this Notice, thereby permitting the continued use of the Prior LMISD for that activity only. In addition, the guidance in CPD-14-10 and CPD-14-11 is referenced throughout this Notice. Grantees are reminded that each CDBG-DR and NSP appropriation has unique alternative requirements and waivers, and therefore each grant must be considered separately when following the guidance in this Notice.

Unless otherwise permitted by a waiver or alternate requirement published in a *Federal Register* Notice, Entitlement grantees receiving a CDBG-DR or NSP grant must comply with 24 CFR 570.208(a)(1) and States must comply with 24 CFR 570.483(b)(1)(i).

- On or after July 1, 2015, if the service area of an area benefit activity no longer qualifies per 24 CFR 570.483(b)(1)(i) because the Updated LMISD demonstrate a percentage of low- to moderate-income persons that is less than 51%, then carrying out the activity is to be governed by this Transition Policy and the guidance in CPD-14-10.

- On or after July 1, 2015, if the service area of an area benefit activity no longer qualifies per 24 CFR 570.208(a)(1) because the Updated LMISD demonstrate a percentage of low-to moderate-income persons that is less than 51% or the determined proportion per the exception criteria at 24 CFR 570.208(a)(1)(ii), then carrying out the activity is to be governed by this Transition Policy and the guidance in CPD-14-11.

Note: In certain cases, States that received a CDGB-DR or NSP grant were permitted to carry out activities directly just as CDBG entitlements do under 24 CFR 570.200(f). In addition, non-traditional grantees such as NSP2 Consortia and NSP3 grantees that entered into a joint agreement were subject to certain alternative requirements. This Notice does not replace or change those waivers and alternative requirements. However, this distinction is important for the purposes of determining which regulations to follow to comply with the Transition Policy described in this Notice. Grantees should consult with their CPD Representative to determine if the Entitlement or State regulations apply to their grant(s).

The Four Part Test

Refer to CPD-14-10 and CPD-14-11 for guidance on using the Prior LMISD to qualify for area benefit activities when the CDBG-DR funds are “awarded” (CPD-14-10) or “obligated” (CPD-14-11) to the activity by the grantee on or after July 1, 2015, regardless of the source year of the funding, and regardless of activity set-up status in the Disaster Recovery Grant Reporting (DRGR) System.

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

- an award (CPD-14-10) or obligation (CPD-14-11) by the grantee before the July 1, 2015 effective date,
- specific activity,
- specific amount, and
- clearly defined service area.

Additionally, the definitions of “CDBG funds,” in 24 CFR 570.481 (States) and 24 CFR 570.3 (Entitlements), 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 before July 1, 2015, is not exceeded.

Limited Exceptions and Clarifications to the Four Part Test

Refer to CPD-14-10 and CPD-14-11 for guidance regarding limited exceptions and clarifications to the Four Part Test:

- Exceptions for States described in CPD-14-10: Formula-Based Methods of Distribution, Competitive Methods of Distribution, Acquisition of Real Property, Pre-award Costs, Activities Involving Loan or Grant Programs, and Cost Overruns.
- Exceptions for Entitlements described in CPD-14-11: Multiple Contracts, Acquisition of Real Property, Pre-award Costs, Activities Involving Loan or Grant Programs, and Cost Overruns.

Waivers and Alternative Requirements for States

Certain CDBG-DR and NSP appropriations acts and *Federal Register* Notices provide a waiver to permit States receiving CDBG-DR or NSP funds to carry out eligible activities directly for some or all of its assisted grant activities, just as CDBG entitlements do under 24 CFR 570.200(f). For only those activities carried out directly by a State in accordance with such waivers, the following guidance is applicable:

- **Four Part Test:** States that carry out an activity directly will not be making “awards” to Units of Local Government (UGLGs) for that activity. Therefore, the term “award” is replaced by the term “obligation” as defined in CPD Notice CPD 14-11 when determining if an activity meets the Four Part Test.
- **Limited Exceptions and Clarifications to the Four Part Test:** The “Formula-Based Methods of Distribution” and “Competitive Methods of Distribution” Limited Exceptions and Clarifications to the Four Part Test in CPD-14-10 are non-applicable for States that carry out an activity directly. In addition, the following Limited Exception and Clarification to the Four Part Test is available to States that carry out an activity directly:

Multiple Contracts. Often, more than one contract is involved in a single activity. If the contracts are dependent upon one another, the obligation date of such an activity will be the date of execution of the first contract.

For example: Springfield planned on using \$300,000 for a new recreation center in the Hilltop neighborhood which qualified on the Prior LMISD, but not the Updated LMISD. Springfield was able to close on the \$100,000 property acquisition for the center before July 1st. However, the \$200,000 construction contract wasn't signed until after July 1st. For this activity, the obligation date is before July 1, 2015, and the activity would continue to qualify based on the Prior LMISD, provided that the use of the property does not change.

Geographic Format

For CDBG-DR and NSP grantees, HUD published LMISD datasets at both the Summary level 150 (Block Groups), and at the Summary level 160 (Incorporated Cities and Census-designated Places). Grantees cannot define a single service area 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. Refer to CPD-14-10 and CPD-14-11 for guidance regarding the application and use of the new datasets.

HUD will update DRGR to make available the Updated LMISD Summary level 150 (Block Groups) on July 1, 2015, and Summary level 160 (Incorporated Cities and Census-designated Places) on or after July 1, 2015. Therefore, grantees using the Prior LMISD to qualify area benefit activities must ensure existing DRGR activities accurately reflect the correct Prior LMISD block groups and places by June 30, 2015, in order to have the option of selecting the Prior LMISD. The Prior LMISD will not remain available in DRGR after the effective date.

Reporting Area Benefit Activities in DRGR

DRGR allows grantees to provide data to demonstrate an area benefit activity's compliance with the LMI national objective. Grantees have the option of indicating whether data are derived

from Census or survey¹. Both options prompt the user to enter the Census tract and block group(s) corresponding to the LMI service area. However, entering the corresponding Census tract and block group(s) is optional if the survey method is selected.

Grantees are “highly encouraged” to examine all area benefit activities that are planned or underway as of the effective date of this Notice and take the appropriate steps to ensure compliance with the LMISD Transition Policy. Additionally, HUD advises grantees to use the *Activity Description* field in DRGR to indicate which LMISD is used for each area benefit activity planned or underway as of the effective date of this Notice by typing either “2000 Census” or “2014 ACS”.

The following guidance describes how to enter data into DRGR based on the data set used and the timing of the data entry. This guidance is summarized in **Table 1** on page 6.

Activities using the Prior LMISD

If a grantee used the Prior LMISD to qualify area benefit activities, the grantee must consider whether or not the activity is subject to the Four Part Test. Grantees are encouraged to consult with their HUD representative(s) regarding activities that are planned or underway to ensure the activity will remain eligible after July 1, 2015. For all activities in which the use of the Prior LMISD are permitted, grantees have until June 30, 2015, to ensure the Prior LMISD block groups and places in DRGR are accurate.

All existing activities set-up with the Prior LMISD as of July 1, 2015, will remain unchanged. Beginning on this date, however, only the Updated LMISD will be available to the grantee to set-up new activities or edit existing activities, even if the grantee used the Prior LMISD to qualify the activity. If an activity meeting the Four Part Test or exceptions in this Notice was not set-up in DRGR Prior to July 1, 2015, grantees may select the *Area Benefit – Survey* option in DRGR and enter the LMI persons into the required fields. In addition, grantees must use the *Add Supporting Documentation* feature in DRGR to attach documentation demonstrating compliance with the Four Part Test or exceptions in this Notice in addition to the Prior LMISD tabulations for the service area.

Activities using the Updated LMISD

Grantees are allowed to use more current Census or ACS data before the effective date of this Notice as described at 24 CFR 570.208(a)(1)(vi) for Entitlements and 24 CFR 570.483(b)(1) for States.

Therefore, if a grantee uses the Updated LMISD to qualify an area benefit activity before July 1, 2015, the grantee would select the “Survey method” in DRGR and enter the LMI data into the required fields. In addition, grantees must use the *Add Supporting Documentation* feature in DRGR to attach documentation demonstrating compliance with the Updated LMISD tabulations for the service area. After July 1, 2015, the Updated LMISD tabulations will be available in DRGR. Grantees are not required to update the block groups in DRGR using the Updated LMISD for those activities with the Updated LMISD entered under the Survey Method before July 1, 2015.

¹ See CPD-14-13: Guidelines for Conducting Income Surveys to Determine the Percentage of Low- and Moderate-Income (LMI) Persons in the Service Area of a Community Development Block Grant (CDBG)-Funded Activity.

If grantees used the Updated LMISD to qualify area benefit activities on or after July 1, 2015, the activity must meet the definition of an area benefit activity using the “Census Method” in accordance with this Notice. Grantees must select from the Updated LMISD in DRGR beginning on July 1, 2015.

Table 1: Summary of actions based on LMISD data set and timing of DRGR data entry

LMISD Data Set	Date of activity eligibility	Requirements to use data set	Date entered into DRGR	DRGR requirements
2000 Census	Before July 1, 2015	Allowable per regulations in accordance with CPD-14-10 and CPD-14-11	Before July 1, 2015	<ol style="list-style-type: none"> 1. Select <i>Area Benefit – Census</i> 2. Select census tracts and block groups or places 3. Indicate 2000 Census in <i>Location Description</i>
			After July 1, 2015	<ol style="list-style-type: none"> 1. Select <i>Area Benefit – Survey</i> 2. Manually enter the low- and moderate-income persons 3. Indicate 2000 Census in <i>Location Description</i> and list the census tracts and block groups or places 4. Use the <i>Add Supporting Documentation</i> feature to attach the 2000 Census LMISD for the service area
	After July 1, 2015	Must meet the Four Part Test or exception criteria in accordance with this Notice, CPD-14-10, and CPD-14-11	After July 1, 2015	<ol style="list-style-type: none"> 1. Select <i>Area Benefit – Survey</i> 2. Manually enter the low- and moderate-income persons 3. Indicate 2000 Census in <i>Location Description</i> and list the census tracts and block groups or places 4. Use the <i>Add Supporting Documentation</i> feature to attach the 2000 Census LMISD for the service area and compliance with the Four Part Test or exception criteria
2014 ACS	Before July 1, 2015	Allowable per regulations in accordance with CPD-14-10 and CPD-14-11 as “Survey” method	Before July 1, 2015	<ol style="list-style-type: none"> 1. Select <i>Area Benefit – Survey</i> 2. Manually enter the low- and moderate-income persons 3. Indicate 2014 ACS in <i>Location Description</i> and list the census tracts and block groups or places 4. Use the <i>Add Supporting Documentation</i> feature to attach the 2014 ACS LMISD for the service area
	After July 1, 2015	Allowable per regulations in accordance with this Notice, CPD-14-10, and CPD-14-11	After July 1, 2015	<ol style="list-style-type: none"> 1. Select <i>Area Benefit – Census</i> 2. Select census tracts and block groups 3. Indicate 2014 ACS in <i>Location Description</i>

Guidance for Grantees Qualifying Under Both Data Sets

If an activity was qualified using the Prior LMISD and remains eligible under the Updated LMISD, grantees should keep the Prior LMISD block group selected and indicate the activity is eligible under both LMISD in the *Location Description*.

Guidance for NSP Grantees' use of LMMI Data

For NSP grantees using the Prior or Updated LMISD to qualify area benefit activities using LMMI data (includes households earning up to 120% AMI), grantees must:

1. Select the *Area Benefit – Survey* option in DRGR and enter the low- and moderate-income data into the required fields;
2. Select the block groups from the Prior or Updated LMISD (which only includes LMI data for households earning up to 80% AMI); and
3. Use the *Add Supporting Documentation* feature to attach a table and demonstrate compliance with the LMISD LMMI tabulations for the service area.

Guidance for use of Updated LMISD Summary level 160 (Place)

HUD will update DRGR to provide Summary level 160 (Incorporated Cities and Census-designated Places) on or after July 1, 2015. In the meantime, grantees should select the *Area Benefit – Survey* option in DRGR and enter the low- and moderate-income data into the required fields. Grantees should also indicate when place data have been used by typing “Place Data Used” in the *Activity Description* field.

Guidance for use of Prior LMISD Summary level 160 (Place)

DRGR will contain the Prior LMISD census places until July 1, 2015. Grantees using Prior LMISD census places must ensure such activities are set-up properly and the places are selected in DRGR prior to July 1, 2015.

If you have any questions about the guidance provided in this memorandum, please contact Ryan Flanery, Assistant Director, Disaster Recovery and Special Issues Division, at (202) 402-5059.