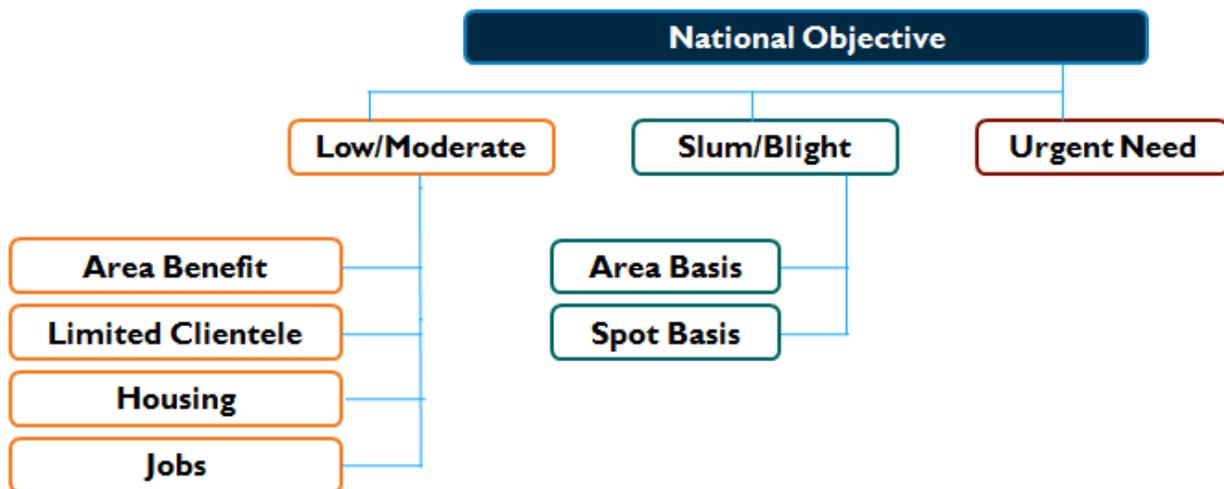


CHAPTER 3 – CDBG NATIONAL OBJECTIVES & FUNDABILITY

Before any activity can be funded in whole or in part with CDBG funds, a determination must be made as to whether the activity is eligible under Title I of the Housing and Community Development Act of 1974, as amended. Activities must also address at least one of the following three National Objectives of the CDBG Program:

- Benefit low and moderate income (LMI) persons,
- Aid in the prevention or elimination of slums or blight, and
- Meet other community development needs having a particular urgency, because existing conditions pose a serious and immediate threat to the health or welfare of the community and are of recent origin or recently became urgent, and where other financial resources are not reasonably available to meet such needs.

There are a number of different criteria by which an activity can meet a national objective, as shown in the following Table.



Below is additional information on each of the CDBG National Objectives.

LOW AND MODERATE INCOME (LMI) PERSONS

The LMI National Objective is often referred to as the “primary” national objective in so far as federal regulations require the Department to expend at least 70% of its CDBG funds to meet this particular objective. Grantees must ensure that the activities proposed, when taken as a whole, will not benefit moderate-income persons to the exclusion of low-income persons. Activities that benefit low and moderate income (LMI) persons are divided into four types:

- Area benefit activities (LMA);
- Limited clientele activities (LMC);
- Housing activities (LMH); and
- Job creation/retention activities (LMJ)

Area Benefit Activities (LMA)

An Area Benefit activity is one whose benefits are available to all the residents in a particular service area, where at least 51 percent of the residents are LMI persons. For example, building a community center in an LMI town could qualify as an Area Benefit activity. The benefits of this type of activity are available to all persons in the area regardless of income.

The activity's service area does not need to be consistent with census tracts or other officially recognized boundaries, but it must be the entire area served by the activity. Activities of the same type that serve different areas must be considered separately on the basis of their individual service areas.

In determining whether an activity will actually benefit LMI persons, the net effect of the completed activity is considered. The mere location of an activity in an LMI area does not conclusively demonstrate that the activity benefits LMI persons.

Examples of activities that may qualify as an Area Benefit activity include: building a library that serves an LMI area; providing drainage improvements in an LMI neighborhood; or constructing a water tower that serves an LMI area.

Limited Clientele Criteria (LMC)

A Limited Clientele activity benefits a specific group of people (rather than all the residents in a particular area), at least 51 percent of whom are LMI persons. For example, the construction of a Senior Center for severely elderly persons could be a Limited Clientele activity. However, the following kinds of activities do not generally qualify under this category:

- Activities where the benefits are available to all the residents of an area.
- Activities involving the acquisition, construction, or rehabilitation of property for housing.
- Activities where the benefit to LMI persons is the creation or retention of jobs (except for certain microenterprise and job training activities as described below).

To qualify under Limited Clientele criteria, the activity must meet one or more of the following criteria that would benefit a clientele generally presumed to consist principally of LMI persons, provided there is no evidence to the contrary. The only groups that are in the presumed category include:

- Abused children,
- Elderly persons (62 and older),
- Battered spouses,
- Homeless persons,
- Severely disabled adults (as defined by the Census),
- Illiterate adults,
- Persons living with AIDS, and
- Migrant farm workers.

Housing Activities (LMH)

An LMI Housing activity is one carried out for the purpose of providing or improving permanent, residential structures that will be occupied by LMI households upon completion. This would include, but not necessarily be limited to, owner occupied rehabilitation of residential property, rental rehabilitation, and down payment assistance to LMI persons.

Housing units can be either owner or renter-occupied in either one family or multi-family structures. Rental units occupied by LMI persons must be occupied at affordable rents as defined by the Department.

Job Creation/Retention (LMJ)

A Job Creation/Retention activity is demonstrated, in nearly all Economic Development (ED) projects through job creation, job retention, or both job creation and job retention, by a benefited business. Such job creation or job retention must involve the employment of persons, the majority (51% or more) of whom are LMI persons.

SLUM AND BLIGHT

The prevention or elimination of slum and blight is a CDBG National Objective that focuses on activities that create a change to the physical environment of a deteriorating area. HUD wishes to ensure that activities that qualify under this National Objective are clearly eliminating objectively determinable signs of slums or blight in a defined slum or blighted area or are strictly limited to eliminating specific instances of blight outside such an area.

The Slum and Blight National Objective can be met in 2 ways that include:

- Area Basis (SBA)
- Spot Basis (SBS)

Area Basis (SBA)

To qualify under the national objective of slums/blight on an area basis, an activity must meet all of the following criteria:

- 1) The area must be officially designated by the grant recipient and must meet a definition of a slum, blighted, deteriorated, or deteriorating area under State or local law. (For these purposes, it is not necessary to formally designate/declare the area to be blighted, but the area must meet the definitions for designation.)
- 2) The area must exhibit signs of economic disinvestment as indicated by at least one of the following physical signs of blight or decay:
 - a. There must be a substantial number of deteriorated or deteriorating buildings throughout the area. As a “safe harbor,” HUD will consider this test to have been met if either:
 - i. The proportion of buildings in the area that are in such condition is at least equal to that specified in the applicable State law for this purpose; or
 - ii. In the case where the applicable State law does not specify the percentage of deteriorated or deteriorating buildings required to qualify the area, then at least one quarter of all the buildings in the area must meet the grant recipient’s definition of:
 - deteriorated or deteriorating;
 - abandoned;
 - experiencing chronic high occupancy turnover rates or chronic vacancy rates in commercial or industrial buildings;
 - experiencing significant declines in property values or abnormally low property values relative to other areas in the community; or
 - known or suspected of environmental contamination
 - b. The public improvements throughout the area must be in a general state of deterioration. (For this purpose, it would be insufficient for only one type of public improvement, such

as a sewer system, to be in a state of deterioration; rather, the public improvements taken as a whole must clearly exhibit signs of deterioration.)

- 3) Documentation must be maintained by the grant recipient on the boundaries of the area and the conditions that qualified the area at the time of its designation. The recipient must establish definitions of the conditions (listed above) and maintain records to substantiate how the area met the slums or blighted criteria.

Note: The area must be re-designated every 10 years for continued qualification and documentation must be retained.

- 4) Activities to be assisted with CDBG funds must be limited to those that address one or more of the conditions that contributed to the deterioration of the area. (Note that this does not limit the activities to those that address the blight or decay itself, but it allows an activity to qualify if it can be shown to address a condition that is deemed to have contributed to the decline of the area.)

Spot Basis (SBS)

The elimination of specific conditions of blight or deterioration on a spot basis (SBS) is designed to comply with the statutory objective for CDBG funds to be used for the prevention of blight, on the premise that such action(s) serves to prevent the spread to adjacent properties or areas.

To comply with the SBS National Objective an activity must meet the following criteria:

- 1) The activity must be designed to eliminate specific conditions of blight, physical decay or environmental contamination not located in a designated slum or blighted area and
- 2) The activity must be limited to one of the following:
 - a. Acquisition;
 - b. Clearance;
 - c. Remediation of environmentally contaminated properties;
 - d. Relocation;
 - e. Historic Preservation; or
 - f. Rehabilitation of buildings, but only to the extent necessary to eliminate specific conditions detrimental to public health and safety.

Where the assisted activity is acquisition or relocation, it must be a precursor to another eligible activity (funded with CDBG or other resources) that directly eliminates the specific conditions of blight or physical decay, or environmental contamination. This requirement is not intended to discourage acquisition and relocation as pre-development activities and does not mandate that a proposed plan be in place before CDBG funds can be spent. For example, a grantee could clean up a contaminated site without acquiring the site; however, if the grantee acquired the site first, the project would be considered to meet the slum/blight national objective criteria only after clean-up occurred.

For more information please review the specific HUD guidance on the Slum and Blight topic.

URGENT NEED

Use of this national objective category is extremely rare. It is designed only for activities that alleviate emergency conditions. Urgent Need activities must meet the following qualifying criteria:

- The existing conditions must pose a serious and immediate threat to the health or welfare of the community,
- The existing conditions are of recent origin or recently became urgent (generally, within the past 18 months),
- The recipient is unable to finance the activity on its own, and
- Other sources of funding are not available.

CDBG PROGRAM FUNDABILITY

Fundability refers to key thresholds that determine the ability of projects and programs to receive CDBG funding. The Department's review process for all local government CDBG funding applications must include a fundability determination that is completed prior to Notice of Award.

All CDBG activities, and activities completed for CDBG Match, must meet two criteria:

- 1) Meet a CDBG National Objective (National Objective Compliance); and
- 2) Must be eligible for funding (Activity Eligibility);

National Objective Compliance refers to the determination made as to whether or not an activity meets a CDBG National Objective based on a grantee's application narrative and the activity description noted within the Part II – Funding Summary and Part III – Budget of a grantee's application.

Activity Eligibility refers to the determination made as to whether or not an activity is eligible based on a grantee's application narrative and the activity description noted within the Part II Funding Summary and Part III – Budget of a grantee's application. Once a project is awarded, and an Executed Contract has been obtained, the grantee must complete the activities that were identified within the Contract. Failure to complete an activity as awarded, and identified within the Contract, will result in disallowance of CDBG funds and repayment by the grantee to the Department for funds previously drawn down.

Eligible and Ineligible Activities

There are several activities that are eligible for funding with the CDBG Program. The Housing and Community Development Act of 1974 (HCDA), as amended, is the primary authority for determining the eligibility of potential CDBG activities. The eligible activities section of the State CDBG regulations and guidance is minimal, thus the States and grantees must use Section 105(a) of the HCDA.

The complete list of eligible and ineligible activities is also identified and summarized within HUD's "Guide to National Objectives and Eligible Activities for State CDBG Programs" that is available on HUD's website at: <https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>.

All activities identified within HUD's Guide to National Objectives are eligible for funding, these may not be considered a priority within the State of Nebraska's CDBG Program. The State has the authority to be more restrictive in identifying activity priorities that are completed through the State CDBG Program.

Eligible Activities

All project activities must be eligible for funding according to the HCDA Section 105(a). The general rule is that any activity that is not authorized by the HCDA is ineligible to be assisted with CDBG funds.

Common eligible activities include, but are not limited to, the following:

- Acquisition
- Clearance
- Code enforcement
- Fire equipment (including the purchase of fire trucks)
- Public facilities
- Public services
- Payment of non-federal share
- Planning and Capacity Building
- Façade Improvements of Commercial Buildings
- Relocation
- Owner Occupied Rehabilitation (OOR) of residential units
- Down Payment Assistance (DPA)
- Rental rehabilitation of residential units
- Street improvements including curb, gutter, and sidewalk, which may include energy efficiency improvements for lighting; storm sewer improvements; flood control drainage improvements;
- Removal of architectural barriers; and single or multi-use facility improvements that are designed to provide public recreational and social activities;
- Removal of architectural barriers that restrict accessibility for elderly and handicapped persons in support of public facilities/infrastructure, which includes buildings used predominantly for the general conduct of government
- Job Training
- Economic Development (ED)
- Technical Assistance
- General CDBG Administration expenses

Ineligible Activities

Any activity that is not authorized by the HCDA Section 105(a) is ineligible to be assisted with CDBG funds.

Common ineligible activities include, but are not limited to, the following:

- Payment of salaries for public employees (not related to the CDBG program)
- Operating/Maintenance expenses
- Public improvement repairs
- Construction equipment
- Motor vehicles
- Filling of pot holes in streets
- Reconstruction of City Hall or County Courthouses
- General government operating expenses
- Political expenses
- Capitalizing CDBG funds for City Hall construction
- General government expenses
- Mowing recreation areas
- Repairing cracks in sidewalks
- Purchase of furniture

- New housing construction
- Construction or rehabilitation of buildings for the general conduct of government (except for special cases)

Overall, the grantee should work with a DED Program Representative in order to determine which activities are appropriate for CDBG funding for any given project.