

CHAPTER 4 – DEVELOPING PROGRAM GUIDELINES

In many circumstances, an investment of CDBG funds can correct a single blighting factor, make available/accessible essential services, generate a certain number of affordable housing units, create a certain number of jobs, or improve infrastructure to serve basic needs of a neighborhood or community. For declining neighborhoods and communities, however, these types of single-purpose investments are not wholly sufficient to turn the neighborhood and/or community around. For instance, a large investment in housing may attract new buyers or tenants initially, but without safe streets, viable schools, or a healthy commercial district nearby to support the residents, the interest in the neighborhood will not be sustained. Declining neighborhoods require comprehensive revitalization strategies that capitalize on the unique assets and address its palpable challenges. In general, neighborhoods should be residential in character when working with CDBG resources; however, downtown areas can be revitalized through the Downtown Revitalization category.

Successful neighborhood or downtown revitalization initiatives start with a sound redevelopment plan. The planning process is used to bring the neighborhood's stakeholders together, with the specific purpose of assessing and analyzing the socio-economic dynamics in the neighborhood, identifying its unique assets and challenges.

The planning process results in a vision of the neighborhood that is shared by most stakeholders. Once the vision is clear, it can guide all subsequent decisions about redeveloping the neighborhood's physical infrastructure (i.e. housing, commercial buildings, transportation, and other public infrastructure), and coordination and delivery of community services. Many neighborhood revitalization activities will be eligible activities under CDBG.

Typically the redevelopment planning process results in a document or tool, such as a land use plan, that maps types of appropriate development (e.g. residential, commercial, industrial, open space, etc.) for the neighborhood to thrive, and also where and when that development will occur.

In residential neighborhoods, grantees may use CDBG to carry out a new or existing Housing Program, including rehabilitation and purchase, rehabilitation, and resell. Such Programs can be implemented through the CDBG categories of Housing, Comprehensive Development, and Downtown Revitalization. There may be some restrictions on the eligible activities within each CDBG category, consult the appropriate category's Application Guidelines for additional information and/or procedures.

CDBG can also be used in downtown areas to carry out a new or existing Commercial Rehabilitation Program, including façade improvements, restoration, signage, etc. Commercial Rehabilitation programs can be implemented through the Downtown Revitalization category only.

When implementing a Housing or Commercial Rehabilitation Program, it is necessary to develop and maintain Program Guidelines to ensure activities are carried out in accordance with the goals and objectives identified by the local government and its stakeholders. In general, the Program should further the initiatives derived from the planning process and incorporated in the redevelopment plan. For neighborhoods, this might be in the form of a supplement to or the comprehensive plan. Downtown business districts undergoing revitalization must have a discernable downtown revitalization plan, best practices involve a separate planning document from the comprehensive plan as the study area is unique.

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.

DEVELOPING PROGRAM GUIDELINES

Program Guidelines should reflect the vision for the community as developed through formal and informal planning processes. Successful projects are derived from and implemented through a redevelopment/revitalization plan.

A copy of the Program Guidelines should be provided to DED for review that all requirements are met. Deficiencies in this review must be addressed per the appropriate CDBG category Application Guidelines. Consult the Application Guidelines to determine timing of submission and review process. Best practices involve submission of a sample Application form for use by a local business or individual for consideration under the Program.

APPROVAL OF PROGRAM GUIDELINES

Program Guidelines must be reviewed and approved via local internal controls, typically this involves adoption of a resolution by the City Council or Village Board. A copy of the adopted resolution, associated meeting minutes, and other relevant materials are submitted to DED. Consult the category Application Guidelines to determine timing of submission and review process.

COMMERCIAL REHABILITATION PROGRAM GUIDELINES

The following requirements are met:

1. Statement of Purpose of the Program
2. Clearly defined Application process addressing:
 - a. Applicant eligibility
 - i. Geographic boundaries where the properties must be located
 - ii. Historical standards, where applicable
 - b. Eligible Activities
 - i. Prioritized activities (optional)
 - ii. Selection priority ranking system cannot contain discriminatory criteria
 - iii. Use of established Design Guidelines
 - iv. Include list of ineligible activities, where appropriate
 - c. Formal notification of selection and non-selection policy
 - d. Application review process
 - i. Review committee identified
 - ii. Flowchart/timeline for review/approval by the identified committee
 - iii. Required documentation/materials submitted by Applicant, best practices allow for the completion of a checklist to the Application for required supporting documentation
 1. Property ownership documentation
 2. Federal compliance items
 3. US Citizen Attestation Form, where appropriate
 4. Sketches, drawings, photographs, plans, etc.
 - iv. Identification of ERR Tier II process and completion
 1. City inspection
 2. Compliance with State Historical Society and other provisions where identified in the ERR
 - e. Grant/Loan/Assistance Details, including matching requirements

- f. Types and terms of funding/financial assistance provided
 - i. Financial management
 - ii. Amounts of assistance allowed, including CDBG funds and other sources
 - iii. Loan, deferred conditional grant, etc.
 - iv. Line of credit, where appropriate
- g. Conflict of Interest clause
- h. Grievance/Complaint procedures
- 3. Implementation of Program
 - a. Use of Pre-Qualified Contractor list, where appropriate
 - b. Procurement processes based on local standards
 - c. Construction processes
 - i. Permits
 - ii. Agreements and Contracting, including SAM verification
 - iii. Notice to Proceed
 - iv. Davis Bacon requirements
 - d. Federal compliance items
 - e. Provision to maintain before/after construction photographs
 - f. Property maintenance provisions, recapture clause
- 4. Process for amending Program Guidelines, including DED approval of amendments
- 5. Program Income Reuse Plan

HOUSING PROGRAM GUIDELINES

Proposed Housing Program Guidelines (including Owner-occupied Rehabilitation and Purchase/ Rehabilitation/ Resale) and Program Income Reuse Plan must contain the following information. The Program Income Reuse Plan must be clearly identified and placed on the final page of the Applicant's Program Guidelines. Program Guidelines must include a table of contents.

- 1. Statement of Purpose of the Program
- 2. Clearly defined Application process addressing:
 - a. Applicant Eligibility
 - i. Conflict of Interest clause
 - ii. Income eligibility; persons assisted with CDBG funds must have incomes at or below 80% AMI
 - 1. Anticipated Gross Annual Income (See 24 CFR 5.609 income determination)
 - iii. Application review process
 - iv. Priority Ranking System, if applicable, for selection that does not contain discriminatory criteria
 - v. Formal notification of selection and non-selection policy
 - vi. Geographic boundaries where the properties must be located
 - vii. Historical standards, where applicable
 - b. Property Eligibility
 - i. Geographic boundaries where the properties must be located
 - ii. Historical standards, where applicable
 - iii. Assistance that does not exceed NAHP maximum per unit subsidy. Do not include general administration in your per unit costs for this calculation. A listing of subsidy limits by county can be found at:

<http://opportunity.nebraska.gov/community/community-info/documentslibrary-a-forms/trust-fund>

- iv. Policy to ensure the maximum purchase price or after-rehabilitation value will not exceed 95 percent of the median purchase price for the area. For more information, see:
<http://opportunity.nebraska.gov/community/community-info/documentslibrary-a-forms/trust-fund>
 - c. Eligible Activities
 - i. Prioritized activities (optional)
 - ii. Use of established Design Guidelines
 - iii. Include list of ineligible activities, where appropriate
 - d. Types and terms of funding/financial assistance provided
 - i. Amounts of assistance allowed, including CDBG funds and other sources (include minimum and maximum amount)
 - ii. Loan, deferred conditional grant, etc.
 - iii. Methods of ensuring affordability period and principle residence that include 1) program-wide recapture or resale provisions, and 2) legal instruments to be used. Deed restrictions or other enforcement mechanisms must reflect this occupancy requirement
 - iv. Method to ensure the first beneficiary and subsequent beneficiary (unless recapture provisions are used) must occupy property purchased by a new homebuyer as a principle residence for at least 5 years from the date that NAHP funds are invested in the property. Regardless if resale or recapture provisions are utilized, the Affordability Period for the project must be a minimum of 5 years
 - v. If recapture provisions are utilized for the Project, and program income is received, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than NAHP funds) and any closing costs
3. Implementation of Program
- a. Relocation policy for voluntary and involuntary acquisitions as per 49.CFR 24.101. Policy must include the statement, "In cases where either voluntary or involuntary acquisition is anticipated, DED will be contacted prior to any action."
 - b. Use of Pre-Qualified Contractor list, where appropriate
 - c. Procurement processes based on local standards
 - d. Policy for compliance with HUD's lead based paint (LBP) regulations
 - e. Policy for compliance with DED standards or DED Rehab standards
 - f. Policy to ensure all units assisted with NAHP funds will meet DED rehabilitation standards, when applicable.
 - g. Owner-occupied rehabilitation and Purchase/rehabilitation/resale programs must include rehabilitation procedures, including LBP procedures, in the guidelines
 - i. Agreements and Contracting, including SAM verification
 - ii. Notice to Proceed
 - iii. Davis Bacon requirements, if applicable
 - h. Federal compliance items
 - i. Property maintenance provisions, recapture clause

4. Policy to ensure compliance with the Fair Housing Act, including a narrative with specific reference to all areas of the Fair Housing Act applicable to the project
5. Affirmative marketing procedures including, but not limited to, marketing to local or regional residents & tenants of public housing and manufactured housing, other families assisted by public housing agencies, and households identified to be potentially eligible but least likely to apply
6. Policy for collecting photographs of the project, including before, after, indoor, outdoor and grounds photos. The policy must include a method for obtaining a voluntary release and authorization for publication of these photos from the owner or beneficiary
7. Grievance Procedures
8. Process for amending Program Guidelines, including DED approval of amendments
9. Program Income Reuse Plan

The Applicant may retain program income from the project and utilize the funds for other CDBG-eligible activities, if the following items are met:

- a. The Applicant wishes to retain program income funds and reuse those funds for additional housing related activities
- b. The Applicant creates a Program Income Reuse Plan that clearly notes:
 - i. The Grantee will use program income directly generated from the use of CDBG funds to further affordable housing programs eligible under the CDBG
 - ii. Program Income funds are those funds returned to the Grantee during the Affordability Period when the property is sold or is no longer the initial and subsequent homebuyer's principal residence
 - iii. Program Income funds must be utilized for the current Project if the current Project has not been completed. This program income received must be applied to the current Project prior to requesting additional CDBG funds
 - iv. The Grantee understands that if program income is utilized for another housing related activity, other than for the same activity from the Project which generated the program income, then the Grantee will be responsible for developing and utilizing new Program Guidelines for the new eligible activity
 - v. Up to 10% of program income may be utilized for General Administration expenses
 - vi. If resale provisions are utilized for the Project, and program income is received, then the subsequent purchasers of each unit will be eligible homebuyers and the original homebuyer will receive a fair a return on investment
 - vii. If recapture provisions are utilized, the Project and program income is received, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than CDBG funds) and any closing costs
 - viii. All program income will be returned to DED for reuse unless DED offers the option to the Grantee to retain the program income or DED approves the grantee's Program Income Reuse Plan prior to receiving Release of Funds