

CHAPTER 4

Public Works

2017

Community Development Block Grant
APPLICATION GUIDELINES
March 2017, Revised May 2017

NEBRASKA

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DEPT. OF ECONOMIC DEVELOPMENT

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Section A. Overview

These application guidelines are for all Public Works (PW) applications. Any eligible applicant must follow the instructions and information within this Chapter in order to apply for any PW resources.

The purpose of the Public Works (PW) Program Category is to provide for a broad range of investments to communities investing in effective and affordable infrastructure and/or facilities that address strategic long-term developments. This category recognizes the importance of the availability and condition of infrastructure and community facilities. Funded projects shall develop the state's communities and counties by providing residents with basic infrastructure and/or facilities with the opportunity to maximize energy efficiency and provide a suitable living environment.

The maximum grant amount for PW activities is up to \$250,000. The cost per resident beneficiary cannot exceed \$3,000, except for daycare centers where it cannot exceed \$5,000.

For the current Program Year, \$1,000,000 in CDBG funds are anticipated for PW activities.

FOR MORE INFORMATION

For further information, please contact the following primary contact for this program. See also Chapter 1 for more information and Chapter 10 for Exhibits required for each application.

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Housing and Community Development Division
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rebecca.schademann@nebraska.gov
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1. ELIGIBLE APPLICANTS

Except as provided in *Section 1.03* of the Application Guidelines, eligible applicants include every Nebraska incorporated municipality or Nebraska county (that is not a CDBG Entitlement Community). See the “Fundability Threshold Requirements” for specific thresholds that are also considered in determining eligibility. For more information, see *Sections 1.01* and *1.03* of the Application Guidelines.

2. ELIGIBLE ACTIVITIES

The following activities are eligible within the PW Program. Where any activity is not identified among the list below, please consult the Program Representative.

Facilities

- Community Centers
- Senior Centers exclusively for persons aged 62 and over
- Nonprofit centers for day care, dependent care, primary health, and mental health care outpatient clinics
 - Excluding shelters defined as: hospitals, nursing homes, convalescent homes, battered spouse shelters, shelters for the homeless, halfway houses, group homes, temporary housing;
- Remodel shelter facilities for the homeless (excludes costs for operation)
- Accredited public libraries
- Neighborhood parks
 - a new facility/improvement or
 - a quantifiable increase of an existing facility/improvement;
- Single- or multi-service fire/rescue buildings
 - Fire trucks are specifically considered “public facilities” and thus eligible;
- Removal of architectural barriers for accessibility;
- Tornado-safe shelters in manufactured home parks
 - Containing not less than 20 manufactured housing units that are within such proximity of shelter to be of use in a tornado.

Infrastructure

- Street improvements including curb, gutter, and sidewalk;
- Storm sewer improvements;
- Flood control designed to influence or affect the flow in a natural water course such as a river, stream, or lake;
- Removal of architectural barriers for accessibility;
- Drainage improvements (e.g. retention ponds or catch basins);

For more information, see *Section 3.04* of the Application Guidelines. Restrictions are identified in *Section 3.03*.

3. GRANT AMOUNTS & MATCHING FUNDS

The maximum grant amount for a PW project is \$250,000. No more than \$8,000 may be used for construction management, and no more than 10% of the amount of the grant may be used for general administration. The CDBG cost per beneficiary cannot exceed \$3,000, except for daycare centers where it cannot exceed \$5,000.

Match Requirements

Under the PW program category, activities require a 25% match. No more than half of the total project match may be in-kind source contributions.

	Match
Public Works	25%

Proposed match must be from CDBG eligible activities directly related to the proposed project(s) or directly benefitting a substantial majority of the LMI persons or families residing within the service area during the grant award period.

Consideration for match will be given for such sources as public and/or private funds, or in-kind services such as materials, labor, or other items that are directly related to the project. The amount of match must be calculated in dollars.

The applicant would be allowed 10% of the CDBG award for General Administration. Up to \$8,000 can be used for Construction Management.

General Administration and Construction Management do not require match.

Grantees with open Comprehensive Development (CD), Comprehensive Revitalization (CR), or Comprehensive Investment & Stabilization (CIS) awards cannot apply within the Public Works or Water/Wastewater Program Categories.

For more information, see *Section 4.02* of the Application Guidelines.

4. APPLICATION DUE DATES AND PROCESS

Applications are prepared at the applicants' expense and costs are not reimbursable. Applications for PW program category will be accepted as shown in the table below based on US Postal Service postmark date or date of delivery by other means.

Applications will be reviewed by DED on a competitive basis according to the selection criteria established in *Section 5.03* of the Application Guidelines. The highest scoring applicants, who also meet all required thresholds, may be recommended for award.

Applications recommended for award through these processes will be presented to DED's Director for a grant award (i.e. Notice of Approval). DED will send a formal Notice of Approval Letter to the applicant upon approval of the recommendation. A letter of non-selection will be issued to those applicants not recommended for award.

Where PW category funds remain after the first cycle awards, a second cycle may be held at DED's discretion. If held, this second cycle will be announced later. Below is a summary of the milestones:

Milestone Summary	Date
Public Works Application Due (Cycle 1)	July 30
Anticipated Award	September
Public Works Application Due (Cycle 2)	TBD (if needed)

5. FUNDABILITY THRESHOLD REVIEW CRITERIA

The following threshold requirements must be met by the local government applicant in order to be eligible for program resources. These requirements include:

- a. Activities proposed are eligible and comply with CDBG National Objectives and State CDBG priorities.
- b. Applicant has no significant, unresolved audit finding.
- c. Applicant has no legal actions under way that may significantly impact its capacity.
- d. Applicant is following a detailed Citizen Participation Plan (CPP) and Anti-Displacement Plan.
- e. Applicant has adopted an authorizing participation resolution.
- f. Applicant must have addressed and cleared all compliance (i.e. Davis Bacon, acquisition, fair housing, etc.) Found during monitoring, if any, from past awarded projects, and have had a response accepted by DED.
- g. Applicant is current with all reporting requirements (semi-annual status reports, closeout reports, audit reports, notification of annual audits, etc.); and
- h. Applicant has shown progress (including expenditures) on prior CDBG grants.
- i. All land for the project **MUST** be in the possession of the community or an option to purchase in place at the time of application.

CDBG National Objective

All PW projects funded, and CDBG-funded project activities, must meet a National Objective of the CDBG Program. This includes:

- LMI: Benefitting low-to-moderate-income persons (including on an area basis or serving a limited clientele)

A project or project activity that fails to meet the national objective is ineligible for CDBG resources.

For more information, see *Section 2.01* of the Application Guidelines.

Public Works Category – Key Maximums and Requirements	
Individual Community or County, or Joint Application	\$250,000
General Administration	10% of total non-admin costs
Construction Management	\$8,000
Local matching funds	25% of non-admin CDBG costs

For more information, see *Sections 4.01 and 4.02* of the Application Guidelines.

6. POST AWARD REQUIREMENTS

Each eligible application must also comply with any necessary post award requirements. These requirements include recordkeeping, environmental review, Davis-Bacon compliance, procurement, requested audit information, etc. For more information, and for a complete list of Post Award Requirements, see *Section 5.06* of the Application Guidelines.

7. APPLICATION SELECTION CRITERIA MATRIX

Applicants are required to submit a one-page summary describing the nature and scope of the project. This summary is utilized to determine eligibility of project activities and provides overall context to the selection

criteria. This summary is of vital importance to the ability of DED to review and score an application based on the thresholds set forth in this section. Details can be further articulated under the subsequent project narrative and/or use of supplemental attachments provided by the applicant to substantiate project need, impact, readiness, and community support.

The matrix below describes each selection criteria as a numerical score within the PW Category. The maximum number of points available within any application is 1,000 points. A minimum score of 300 points is required and some criteria require a minimum score as noted below. All selection criteria will be scored in five-point increments and shall be scored on a scale.

Selection Criteria	Maximum	Threshold Minimum
1. Project Need	200	75
2. Project Impact	150	75
3. Project Readiness	250	100
4. Community Support	150	50
5. Match	50	-
6. LMI Benefit	50	-
7. Municipal Equalization Fund (MEF) Score	100	-
8. Achievements	50	-
Total	1,000 points	300 points

For more information see Section B. Application Forms and Instructions, and for a complete list of selection criteria, see *Section 5.03* of the Application Guidelines.

Section B. Application Forms & Instructions

This section contains all forms and exhibits to be submitted so that your application can be scored and ranked effectively. Application narratives should be clear and concise. The Department reserves the right to verify all information, and to consult with other agencies on the proposed project. The Department may “non-select” any application that does not contain all of the required items and these items cannot be verified.

There are more applicants requesting funds than there are funds available. Applicants must carefully read and review the current Program Year’s **Application Guidelines** and the selection criteria described to develop a competitive application. Each applicant must attach a Table of Contents to their application and must include a Table of Contents Checklist, this is provided on the following page. In submitting your application, these instructions must be followed:

Submit **ORIGINAL**, a complete PDF copy (10 MB max), and **TWO (2)** copies [Parts I-IV only].

- Two-hole punched at top.
- Do not fold, staple, or bind in any way.
- Recommend no less than 2” top margin and 1” side and bottom margins.
- Table of Contents must be included.
- All pages numbered in sequence at the bottom of the page.
- All Exhibits labeled at the bottom right-hand corner of the page.
- All Attachments labeled at the bottom right-hand corner of the page.

Failure to follow these instructions may result in the return of your application for correction. All applicants will be given one week to correct and resubmit their application.

Below is an outline of a PW application:

- **Cover Sheet** (*include project name and location*)
- **Table of Contents** (*use Table of Contents Checklist*)
- **Part I. General Information** (*use required form*)
- **Part II. Funding Summary** (*use required form*)
- **Part III. Project Budget**
- **Part IV. Project Description & Scoring Criteria**
 - **Project Summary** (*follow instructions, See Section 5.03*)
- **Part V. Required Exhibits and Attachments**
 - **Required Attachments**
 - **Required Exhibits** (*See Exhibits Chapter for more information*)
- **Part VI. Additional Attachments** (*if applicable, supplemental materials provided by applicant*)

Table of Contents & Checklist

Applicants must attach this Table of Contents to their application. Type in additional appendix items as deemed necessary to your project. List appropriate page numbers under PAGE NUMBER column. ***Please note: Table of Contents continues on the following page***

Please use the language verbatim in each exhibit. Incorrect language may cause a delay in application review and award, if successful. Also, provide the bracketed information as requested in each exhibit. The omission or incomplete description as requested in bracketed text may cause a delay in application review and awards.

PROJECT INFORMATION	PAGE NUMBER
Part I – General Information	
Part II – Funding Summary	
Part III – Project Budget	
Part IV – Project Description & Scoring Criteria	
One Page Summary	
Item 1 – Project Need	
Item 2 – Project Impact	
Item 3 – Project Readiness.....	
Item 4 – Community Support.....	
Item 5 – Match.....	
Item 6 – LMI Benefit	
Item 7 – MEF	
Item 8 – Achievements	
Part V – Required Attachments	
Attachment 1 – Facility Floor Plan (for all building projects).....	
Attachment 2 – Commitment letters for all sources listed in Part II	
Part V – Required Exhibits	
A. Notice of Public Hearing	
B. Authorizing Resolution Endorsing Project.....	
C1. Statement of Assurances and Certifications	
C2. Citizen Participation Plan.....	
D. Residential Anti-Displacement & Relocation Assistance Plan.....	
E1. LMI Documentation/Low- to Moderate-Income Worksheet (<i>Only for LMI Area Benefit</i>)	
E2. LMI Random Sample Worksheet (<i>Only for LMI Area Benefit</i>).....	

E3. LMC Worksheet (*Only for Limited Clientele*)

K1. Waiver of Procurement Process*

K2. Procurement Process Completed Prior to Application**

L. Federal Funding Accountability and Transparency Act (FFATA) Form

M. Map of Proposed Project Area

N. System for Award Management (SAM) Record and Clearance Documentation

O1. Four Factor Analysis Assessing Limited English Proficiency

O2. Language Assistance Plan (*optional at the time of application*)***

Part VI – Additional Attachments (when applicable)

Attachment (number and title).....

- * Only required when Applicant will act in its official capacity or has retained the services of a professional and can provide documentation to the appointed person(s) or firm(s) for three consecutive years, including the program year for which they are seeking funds.
- ** Only required when the procurement process has been completed prior to the application, all procurement procedures must follow state and federal requirements when CDBG funds are used.
- ***Language Access Plan is only required if found to be necessary through completion of the Four Factor Analysis Limited English Proficiency.

Part I. General Information

Type or print all information except where signatures are required.

- 1. Applicant Identification:** Enter the name, mailing address, telephone, and fax number of the local government that is the applicant in an individual application or the lead applicant in a joint application. Enter the name of the local government contact person. Such person is the **applicant's employee who is most familiar with the application**, and not a regional council, community action agency staff person, consultant, or other applicant non-employee. Include the Federal Tax Identification number and DUNS number of the Applicant. The DUNS number can be obtained via D&B online at <http://fedgov.dnb.com/webform> or requested by phone at 866-705-5711 or for persons with a hearing impairment, the TTY number is 866-814-7818. Enter the e-mail address for the local unit of government or local contact.
- 2. Person Preparing Application:** Enter the name and contact information of the person who prepared the application. If prepared by a firm, identify the staff contact person. Include the Federal Tax Identification number of the firm, development district, or nonprofit. Provide preparer's e-mail address. Check the appropriate application preparer status box. For more information regarding use of consultants, see Section 5.04 of the Application Guidelines.
- 3. Activity Type:** Check the appropriate box under which funds are being requested.
- 4. Funding Sources:** Enter the dollar amounts of CDBG funds requested for this project. Enter the amount of all other funds identified in the application **that you are committing** to this project. **ROUND AMOUNTS TO THE NEAREST DOLLAR.** ("Matching Funds" are those project funds required in *Section 4.02*. Be certain that the figures are correctly added and are the same as provided on the "Total" line for each funding sources in *Part II.*)
- 5. Application Type:** Check the appropriate application type box under which funds are being requested.
- 6. Project Summary:** Provide a short, explicit description of the project activities in measurable terms for which funds are requested. *There is no need to include funding information. **IN ADDITION, ATTACH A ONE-PAGE PROJECT SUMMARY AS A PART OF PROJECT NARRATIVE.*** For a joint application, attach a copy of the written agreement as stipulated in *Section 1.03(3)* and include a list of other applicants. For more information about the one-page project summary, see Part IV and *Section 5.03* of the Application Guidelines.
- 7. Certifying Official: Only the signature of the applicant's chief elected official will be accepted. Blue ink for signature is advisable.** Alternate signatures (e.g. city council president, city manager) are not allowed, except where there exist extenuating circumstances (e.g. chief elected official is out for an extended period), and the applicant receives prior written approval from DED. Type the name and title of both signers and the date of their signatures.

Public Works (PW) Application

Community Development Block Grant (CDBG)
Nebraska Department of Economic Development (DED)

2017

DED USE ONLY

Application No.
17-PW-

Date Received

PART I. GENERAL INFORMATION

TYPE OR PRINT ALL INFORMATION

1. APPLICANT IDENTIFICATION	2. PERSON PREPARING APPLICATION
-----------------------------	---------------------------------

Applicant Name _____
 Mailing Address _____
 City, State, ZIP _____
 Local _____
 Government Contact _____
 Telephone _____
 Fax Number _____
 Federal ID # _____
 DUNS # _____
 Email Address _____
 SAM Expiration Date _____

Name _____
 Address _____
 City, State, ZIP _____
 Telephone # _____
 Federal ID _____
 Email Address _____
 Application Preparer (Check One)
 Local Staff Out-of-State Consultant
 In-State Consultant Non-Profit
 Economic Development District

3. ACTIVITY TYPE

<input type="checkbox"/> ADA Accessibility	<input type="checkbox"/> Community Center
<input type="checkbox"/> Day Care	<input type="checkbox"/> Fire Hall/Truck
<input type="checkbox"/> Health Clinic	<input type="checkbox"/> Streets/Sidewalks
<input type="checkbox"/> Library	<input type="checkbox"/> Tornado Shelter
<input type="checkbox"/> Senior Center	<input type="checkbox"/> Other _____
<input type="checkbox"/> Storm Sewer	_____

4. FUNDING SOURCE

CDBG Funds Requested \$ _____
 Other Funds \$ _____
 Total Project Funds \$ _____
(Round amounts to the nearest dollar.)

5. APPLICATION TYPE

Individual
 Joint

6. PROJECT SUMMARY: Brief quantitative description of the project for which CDBG funds are requested.

One-page project summary attached

7. CERTIFYING OFFICIAL: Chief elected officer of local government requesting CDBG funds.

To the best of my knowledge and belief, data, and information in this application are true and correct, including any commitment of local or other resources. This application has been duly authorized by the governing body of the applicant following an official public hearing. This applicant will comply with all federal and state requirements governing the use of CDBG funds.

Signature in Blue Ink	Typed Name and Title	Date Signed
-----------------------	----------------------	-------------

Attest	Typed Name and Title	Date Signed
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PAGES MUST BE TWO-HOLE PUNCHED AT TOP. DO NOT BIND, FOLD, OR STAPLE.

Individuals who are hearing and/or speech impaired and have a TTY, may contact the Department through the Statewide Relay System by calling (711) INSTATE (800) 833-7352 (TTY) or (800) 833-0920 (voice). The relay operator should be asked to call DED at (800) 426-6505 or (402) 471-3111. Additional information is at the Nebraska Relay website at <http://www.nebraskarelay.com/>. Nebraska Relay offers Spanish relay service for our Spanish-speaking customers. Spanish-to-Spanish (711) or 1-888-272-5528/Spanish-to-English (711) or 1-877-564-3503. Nebraska le ofrece el servicio de relevo a nuestros clientes en español. Los consumidores de TTY pueden escribir por maquina en español y las conversaciones seran retransmitidas en español y ingles.

Part II. Funding Summary

INSTRUCTIONS: Using the activity code number and description provided on the Funding Summary, enter the national objective code for each activity (as identified on the application form).

Enter the dollar amount of CDBG funds requested for each activity. Enter the amount of other funds **that you are committing** to each activity and identify the source. Select the single most specific code to describe the nature of the activity being funded. For example, if property will be acquired and a senior center will be constructed with CDBG funds, code the activities 0091 Senior Center rather than 0010 Acquisition. You would include appraisal, acquisition, architectural, and construction costs with 0091 Senior Center. You would include costs for environmental review, fair housing activities, labor standards enforcement, record keeping, progress reports, general office expenses, contractual services for administration, and audits under Code 0181 General Administration.

Note: Labor Standards Enforcement costs can now be identified under 0181 General Administrative Activity or 0380 Construction Management Activity.

Limit the Funding Summary information to allowable CDBG eligible costs incurred during the CDBG program period only. Exclude any “other” project costs not eligible for CDBG reimbursement or match (i.e. test holes completed, preliminary architectural or engineering fees incurred or obligated prior to Release of Funds, fees for services not procured by CDBG guidelines, equipment or furnishings not affixed to building, etc.). Written documentation of commitment of source matching funds must be included as an **Attachment 2**.

Identify the sources of other funds and provide written documentation of availability of matching funds. Please be certain that the figures are correctly added and the column totals are the same as provided in the Part I Application.

For more information, see *Sections 4.01* and *4.02* of the Application Guidelines.

PART II – FUNDING SUMMARY (Round amounts to the nearest dollar)

Code-Activity	*National Objective	CDBG Funds	**Matching Funds	Total Funds	Sources of Matching Funds
010 Acquisition/Easements	1				
030 Clearance/Demolition	1				
050 Disposition	1				
070 Public Facilities & Improvements***					
081 Day Care Centers					
082 Health Care Clinics					
090 Community Centers					
091 Senior Centers					
092 Public Libraries					
093 Fire Station/Equipment					
230 Streets/Bridges					
250 Storm Sewers					
370 Flood Control & Drainage Facilities					
380 Construction Management	1		N/A		
450 Relocation					
490 Architectural Barriers	1				
0180 Total Non-Administration					
0181 General Administration			N/A		
1000 TOTAL PROGRAM COSTS					

¹ Must correspond to CDBG National Objective for primary activity.

***NATIONAL OBJECTIVE:** For each activity, enter the most appropriate National Objective Code. See *Section 2.01* of the Application Guidelines for more information. The CDBG National Objectives include:

LMA: Benefit Low/Moderate Income Person Area Basis: **Attach Exhibit E1 or E2**
Census Data ____% or (year) Income Survey ____%

LMC: Benefit Low/Moderate Income Persons on a Limited Clientele Basis. **Attach Exhibit E3**

****MATCHING FUNDS:** Provide “Attachment 2”, written documentation supporting the amount and source of funding. The documentation should come from the provider of the matching funds.

*****070 PUBLIC FACILITIES & IMPROVEMENTS:** For remodel shelter facilities for the homeless (excludes costs for operation) and parks (a new facility/improvement or a quantifiable increase of an existing facility/improvement).

Part III. Project Budget

The proposed budget includes project delivery costs and administration costs as stated in the project budget text. All items listed as match and CDBG costs must be allowable and eligible under the CDBG Program.

Information provided in this section evaluates the accuracy and reasonableness of activity costs estimate show on *Part II Funding Summary* of the application. Indicate the date and source of cost estimates. Provide name, address, phone, and e-mail of person(s) who prepared the estimates. The applicant must attach separate sheet(s) of paper behind Part II of the application information detailing their project budget.

The proposed budget includes project delivery costs and administration costs as stated in the project budget text. All items listed as match and CDBG costs must be allowable and eligible under the CDBG Program.

The Department reserves the right to clarify budgets items for specifics and clarity during the application review prior to award.

Project Delivery Costs

Providing a breakdown of the costs of the project, list the activity description and activity code number for each activity (other than general administration). Under each activity, provide a breakdown of the major costs that comprise that activity. Information provided in this section is used to evaluate the accuracy and reasonableness of activity cost estimates shown on *Part II* of the application. Indicate the date and source of cost estimates.

Common line item costs are real property acquisition, legal expenses, architectural and engineering fees, project inspection fees, site work, demolition and removal, construction, equipment, miscellaneous (detailed information) and contingencies (detailed information).

If the project includes work to be performed by volunteers or in-kind contributions by the local government or other organizations, include the value of the volunteer or in-kind donations under the appropriate budget line item. This will be referenced in your CDBG contract, if awarded.

Please note that project costs not eligible for CDBG reimbursement or match and not claimed on the Part II Funding Summary may be identified here as a separate subtotal to clarify total project costs. Such “other” costs may include architectural or engineering fees incurred or obligated prior to Release of Funds, fees for services not procured, equipment, or furnishings not affixed to building, etc.

General Administration Costs

The general administration (activity number 0181) budget includes those costs that are administrative in nature with exception of pre-program costs, such as payment or reimbursement of application preparation fees, costs of conducting local surveys, etc.

Common line items costs are environmental review, fair housing activities, financial audit (if necessary), labor standards enforcement, preparation of required grant progress reports and drawdowns.

If many of the general administration duties are to be performed by local government personnel, it is acceptable to use salaries and benefits as a line item cost. However, it should be noted what specific duties are to be performed under the salaries and benefits line item.

Part IV – Project Description & Scoring Criteria

Applicants should use this portion of the application to describe the challenges and opportunities within the project area and how the project can address identified community development needs. Provide specific information about the issues and/or problems the project will address, line item budget, preliminary schedule, and how the project fulfills the selected National Objective information in this section.

One-page Project Summary Instructions

Applicants are required to submit a one-page summary describing the nature and scope of the project. This summary is utilized to determine eligibility of project activities and provides overall context to the selection criteria for scoring of applications, as such, it is of vital importance to the ability of DED to review and score an application. This summary should include a how the project proposes to address one primary objective and outcome as described in *Section 2.03* of the Application Guidelines. *For example, the proposed library improvements will provide the opportunity for improved availability/accessibility of community services in Anytown.*

Selection Criteria Matrix

The Matrix below describes each selection criteria as a numerical score within the PW Program. The maximum number of points available within any application is 1,000 points. A minimum score of 300 points is required and some criteria require a minimum score as noted below. All selection criteria will be scored in five point increments and shall be scored on a scale.

Selection Criteria	Maximum	Threshold Minimum
1. Project Need	200	75
2. Project Impact	150	75
3. Project Readiness	250	100
4. Community Support	150	50
5. Match	50	-
6. LMI Benefit	50	
7. Municipal Equalization Fund (MEF) Score	100	-
8. Achievements	50	
Total	1,000 points	300 points

1. Project Need

Up to 200 points possible. A minimum of 75 points in this section is required in order to meet threshold. Describe the existing or imminent problem and/or an assessment of the identified local need for the project. The significance of the project need will be scored as compared to other applicants. The narrative should reflect the current need for the proposed project based on existing, identifiable problems and conditions; identify any past formal or informal planning efforts to resolve the problem; and demonstrate the capacity and commitment to successful completion of the project.

Community involvement and participation is a fundamental part any community needs-assessment process and is required as part of the CDBG application process (see *Section 5.02* and *Exhibits A, B, & C*).

2. Project Impact

Up to 150 points possible. A minimum of 100 points in this section in order to meet threshold. Describe the importance of project activities to the community and provide clarity on how the project will benefit those identified by a CDBG National Objective. **For this criterion, it is necessary to create a nexus between the project need and the project outcomes as proposed.** The significance of the project impact will be scored as compared to other applicants.

3. Project Readiness

Up to 250 points possible. A minimum of 100 points in this section in order to meet threshold. A description of prior and concurrent efforts related to the overall: planning strategy; work plan for solutions to the problems/needs and impact as defined above; project readiness; and financial and operational capacity of the community. Project Readiness will be scored as compared to other applicants.

Identify if all land for the project is in the possession of the community or an option to purchase is in place at the time of application. Also, within this section, identify measurable benchmarks and outline a schedule for project implementation. Typical benchmarks include:

- Securing administrative and engineering services,
- Completing environmental review,
- Land acquisition,
- Completion of plans/specifications,
- Obtain permits and approvals,
- Solicit construction bids (NOTE: do not enter into contracts until receiving environmental clearance and release of funds),
- Estimated construction start and completion dates, etc

4. Community Support

Up to 150 points possible. A minimum of 50 points must be earned in this section in order to meet threshold. A description of public participation and the process used to identify community needs and allocate resources to address the community's needs. Overall, the level of capacity, commitment, and support from the public will be compared to other applicants.

5. Matching Funds

Up to 50 points is possible. No minimum points in this section are required in order to meet threshold. Applicants that commit local funds (including "other" funds and/or in-kind contributions) to the project's non-administrative activities that exceed the required match will be eligible for additional points. The table below further describes these criteria.

Matching Funds Exceeding	Points Available
10% or greater	50
5-9.99%	25
3-4.99%	10
Less than 3%	0

6. LMI Benefit

Up to 50 points possible. No minimum points in this section are required in order to meet threshold. This scoring category is designed to give points to communities with higher concentrations of LMI persons. Communities with a LMI population of 55% or more will receive 50 points. Communities with a LMI population between 51% - 54.99% will receive no points in this section. Narrative is not required under this section, the submitted documentation within Exhibit E will be reviewed by the Department.

7. Municipal Equalization Fund (MEF)

A Municipal Equalization Fund (MEF) score will be generated for each community that has applied for this program category. This aid formula provides a way of looking at needs and resources while at the same time ensuring that local governments provide a level of local resources. DED will incorporate the MEF calculation into the scoring criteria for this program category. Narrative is not required under this section.

8. Achievements: Up to 50 points possible. No minimum points in this section are required in order to meet threshold. Applicant must demonstrate any of the following items at the time of application submittal, including:

- Certifications:
 1. Applicant is designated as an Economic Development Certified Community, **50 points**.
For a complete list of communities and additional information, visit the DED website at: <http://opportunity.nebraska.gov/business/why-nebraska/communities/certified-communities>
 2. Applicant is designated as a DED Leadership Community, **50 points**.
For a complete list of communities and additional information, visit the DED website at: <http://opportunity.nebraska.gov/community/community-info/community-improvement/leadership-community>

Part V. Exhibits and Attachments

This Chapter contains specific information on the Exhibits that are required for the project as well as any necessary Attachments that must also be provided in order for the applicant to submit a complete application.

The list of required exhibits and attachments are identified below as well as provided within the Table of Contents Checklist. **All exhibit information and templates will be found in Chapter 10 of the 2017 CDBG Application Guidelines.**

The following exhibits include the certification and documentation requirements for the PW application. These exhibits must be submitted with the application.

- **Exhibit A:** Notice of Public Hearing, *including Proof of Publication or Certificate of Posting and summary of citizen's comments*
- **Exhibit B:** Authorizing Resolution (Original or Certified copy)
- **Exhibit C1:** Statement of a Assurances and Certifications
- **Exhibit C2:** Citizen Participation Plan
- **Exhibit D:** Residential Anti-displacement and Relocation Assistance Plan
- **Exhibit E1:** LMI Census Worksheet (only of LMI area benefit)
- **Exhibit E2:** LMI Random Sample Worksheet (only for LMI area benefit)
- **Exhibit E3:** LMC Worksheet (*Limited Clientele benefit only*)
- **Exhibit K1:** Waiver of Procurement Process and Narrative
- **Exhibit K2:** Procurement Process Completed Prior to Application and Narrative
- **Exhibit L:** FFATA Federal Funding Accountability and Transparency Act
- **Exhibit M:** Map of Proposed Project Area
- **Exhibit N:** System for Award Management (SAM) Record & Clearance Documentation
- **Exhibit O1:** Four Factor Analysis Assessing Limited English Proficiency
- **Exhibit O2:** Language Assistance Plan (*optional at the time of application*)

NOTE: *Exhibit K1 is only required where Applicant will act in its official capacity or has retained the services of a professional and provides documentation to the appointed person(s) or firm(s) for three consecutive years, including the program year for which they are seeking funds. Exhibit K2 is applicable only when the procurement process has been completed prior to the application, all procurement procedures must follow state and federal requirements when CDBG funds are used regardless of time of completion. A narrative and supplemental documentation is required. For additional information about procurement and the use of consultants, see Section 5.02 and 5.05 of the Application Guidelines.*

The following attachments are required (where applicable) for the PW application.

- **Attachment 1:** Facility Floor Plan (for all building projects)
- **Attachment 2:** Commitment letters for all sources identified in Part II

Any additional attachments that are provided within the application should be appropriately labeled and noted as the information provided within the PW Table of Contents Checklist.

Section C. Application Guidelines

The primary objective of Nebraska’s nonentitlement Community Development Block Grant (CDBG) Program is to develop viable communities and counties by providing decent housing, suitable living environments, and expanding economic opportunities principally for low- and moderate-income (LMI) persons. As the designated state administering agency, the Nebraska Department of Economic Development (DED) accomplishes this objective by funding activities authorized under the federal Housing and Community Development Act of 1974, as amended, and designed to meet the objectives for the CDBG Community Development category. These particular guidelines concern the Public Works (PW) program category. Guidelines for other CDBG programs can be obtained from DED. **If additional guidance from HUD is received, DED will notify all applicants of any new requirement by Policy Memo.**

Section 1.01 Eligible Applicants

Except as provided in *Section 1.03*, eligible applicants include every Nebraska county or incorporated municipality with a population of less than 50,000 and are not classified as a CDBG Entitlement Community (Omaha, Lincoln, Bellevue, and Grand Island).

Section 1.02 Types of Applicants

Eligible applicants may submit one of two types of applications:

1. **Individual:** Except as provided in *Section 1.03*, an eligible municipality may apply only for projects within its corporate limits, and an eligible county may apply only for such projects or activities in unincorporated areas.
2. **Joint:** Eligible applicants may apply together for projects when it can be clearly documented that mutual action by the applicants is required. The applicant local government in multi-jurisdictional application must also be a direct participant in the study/project. The applicant local government cannot serve only as a pass through for CDBG funds or only as the general administrator of the study/project.

Section 1.03 Special Policies for Applicants

Special policies affecting *Section 1.01* and *Section 1.02* are:

1. A municipality may not submit an application for projects undertaken outside its corporate limits unless the projects either:
 - a. Occur within its zoning jurisdiction; or
 - b. Involve property acquired by the municipality prior to project implementation through purchase, donation, or a permanent easement.
2. A county may not submit an application for projects undertaken within the corporate limits or zoning jurisdiction of a municipality unless the projects involves either:
 - a. Public facilities within an eligible incorporated municipality that are owned or operated by the county; or
 - b. Activities provided county-wide, either directly by the county or through contract with another local or area agency.

3. A joint application must include a written agreement made in accordance with state law (Interlocal Cooperation Act) that
 - a. Stipulates that the parties will cooperate in undertaking the project;
 - b. Delineates responsibilities and authorities of each party with respect to grant administration; and
 - c. Authorizes one of the parties to act as primary agent for administrative and monitoring purposes. The applicant local government in a multi-jurisdictional application must also be a direct participant in the study/project. The applicant local government cannot serve only as a pass-through for CDBG funds or only as the general administrator of the study/project.
4. If the application requires participation of entities that are not eligible applicants, each such entity must provide written assurance that it concurs with the project and is committing its resources, if any, as stated in the application. A grantee/sub-grantee agreement that stipulates the decision making authority, administration, contract compliance, reporting, etc. shall be executed and submitted as an attachment to the application. In all instances, the grantee has the final responsibility for implementation of the project and must retain environmental and financial responsibility.
5. Eligible applicants may provide CDBG funds to a sub grantee neighborhood-based nonprofit organization. Note: *proof of nonprofit status, such as Secretary of State designation, must be included with the application.*

Section 2.01 Compliance with the National CDBG Objective

The primary national CDBG objective is the development of viable urban communities by providing decent housing, suitable living environments, and expanding economic opportunities, principally for low- and moderate-income persons. Under these guidelines, this is accomplished by funding projects that meet at least one of three national objectives. Based on the amended 1974 HCD Act and HUD guidance, the national objectives for the PW category are defined and clarified by DED as follows:

1. **Benefit to Low- and Moderate-Income Persons** (referred to throughout this document as LMI persons): LMI persons are defined as a member of a family having an income equal to or less than the income limits established by HUD for their resident county. The income limits as published at HUD at www.huduser.org/datasets/il.html are determined for each Nebraska County on the higher of either: 80% of the median income of the county, or 80% of the median income of the entire non-metropolitan area of the state.

Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to meet this national objective.

- a. **Area benefit activities:** An area benefit activity is available to all residents of an area that is **primarily residential**. In order to qualify on an area basis, the activity must meet the identified needs of LMI persons residing in an area where at least 51% of the residents are LMI persons. The benefits of this type of activity are available to all residents in the area regardless of income. If the assisted activity *serves* an area having a LMI concentration below 51%, the activity may not qualify even if there is reason to believe that it will actually be used primarily by LMI persons.

Such an area need not be coterminous with census tract or other officially recognized boundaries, but must be the ENTIRE area served by the activity (i.e. an arterial street or sewer interceptor line running through a neighborhood would serve more residents than those in the immediate neighborhood).

To determine the percentage of LMI persons in the target area, grantees may review data from the most current US Census and should consider conducting an income survey in the designated project target area. Grantees would conduct an income survey of the residents within the project target area if data from the most current Census does not reflect current relative income levels in an area or census boundaries do not coincide with the service area of an activity.

Applicants must use survey methodology as set forth in Guidance for Survey Methodology to Determine Low/Mod Status of CDBG Service Areas located at: <http://opportunity.nebraska.gov/community/grants/applications/cdbg-forms>. Where an income survey has been conducted, the applicant must complete and submit Exhibit E1 or E2, LMI worksheet, and include a description of the methodology and income guidelines used.

The Department will accept income surveys conducted within the last four years of the current Program Year, provided the survey was conducted in accordance with HUD regulations and is determined to be methodologically sound.

- b. **Limited Clientele activities.** These are activities that provide a benefit to a specific group of persons rather than everyone in an area generally. It may benefit particular persons without regard to the area in which they reside, or be an activity that provides benefit on an area basis but only to a specific group of persons who reside in the area. In either case, at least 51% of the beneficiaries of the activity must be LMI persons. Applicants will complete and submit Exhibit E3. To qualify under this subcategory, the activity must meet one of the following tests:
- (1) Exclusively benefit a clientele who are generally presumed by HUD to be principally LMI persons. The following groups are currently presumed by HUD to be made up principally of LMI persons: abused children, battered spouses, elderly persons, adults meeting Bureau of Census' definition of severely disabled adults, homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or,
 - (2) Require information on family size and income so that it is evident that at least 51% of the clientele are persons whose family income does not exceed the LMI limit, this includes the case where the activity is restricted exclusively to LMI persons; or,
 - (3) Be of such nature and in such location that it may reasonably be concluded that the activity's clientele will primarily be LMI persons (e.g. a daycare center that is designed to serve residents of a public housing complex); or,
 - (4) Be an activity that removes material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting Bureau of Census' Current Population Reports definition of "severely disabled," provided it is restricted, to the extent practicable, to the

removal of such barriers by assisting the reconstruction of a public facility or improvement or rehabilitation or a privately-owned nonresidential building that does not qualify under LMI area benefit criteria.

Activities that serve an area generally cannot qualify under the Limited Clientele criterion. For example, while a clinic serving only persons with AIDS living in a particular area would clearly qualify as a Limited Clientele activity, a clinic providing CDBG-subsidized health services which are available to *all* persons in the area would not. It must instead meet the criteria for an Area Benefit activity.

Section 2.02 Compliance with State Community Development Objective

Several activities are eligible for assistance under Section 105(a) of the amended 1974 HCD Act. Although the state may not refuse to distribute CDBG funds for any eligible activity, the state can use criteria that have the effect of increasing the likelihood of certain activities being funded. Under the state program, CDBG funds will be distributed for the eligible activities listed in *Section 3.04* that comply with the state priorities. In addition, all improvements must be either publicly owned or owned by a nonprofit and operated so as to be open to the general public during all normal hours of operation.

Section 2.03 Compliance with State Priorities

The State of Nebraska identified five priorities, which summarize the goals of the five-year Consolidated Plan. The main priorities and objectives within the current Program Year Annual Action Plan (AAP) include:

- Housing Priority Need
- Community Development Priority Need
- Economic Development Priority Need
- Homeless Services Priority Need
- HOPWA Services Priority Need

Through the development of the Consolidated Plan it was determined that there were **three objectives** guiding the proposed activities that include:

- Provide Decent Housing
- Provide a Suitable Living Environment
- Expand Economic Opportunity

Three outcomes were developed to show how programs and activities would benefit a community or the persons within a community served. The three outcomes that will illustrate the benefits of each activity funded by the CDBG, HOME, HTF, ESG, or HOPWA Programs are:

- Improved availability/accessibility
- Improved affordability
- Improved sustainability

PUBLIC WORKS (PW): Single or multiple activities that contribute to the revitalization of neighborhoods or specific target areas as defined in *Section 3.02(4)* which have concentrations of LMI. The target area boundaries must allow for maximum treatment of substandard conditions.

The cost per resident beneficiary for infrastructure (PW eligible activities) cannot exceed \$3,000, except for day care centers where it cannot exceed \$5,000.

Section 3.01 Compliance with State Public Works Priority

The purpose of the Public Works (PW) Program Category is to provide for a broad range of investments to communities investing in effective and affordable infrastructure and/or facilities that address strategic long-term developments. This category recognizes the importance of the availability and condition of infrastructure and community facilities. Funded projects shall develop the state's communities and counties by providing residents with basic infrastructure and/or facilities with the opportunity to maximize energy efficiency and provide a suitable living environment.

Section 3.02 Special Policies for Activities

Special policies affecting activities listed in *Section 3.04* are:

1. Facilities containing both Eligible and Ineligible Uses:

A public facility otherwise eligible for assistance under the CDBG program may be provided with CDBG funds even if it is part of a multiple use building containing ineligible uses, if:

- a) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and
- b) The grantee can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility. Allowable costs are limited to those attributable to the eligible portion of the building or facility.

2. Fees for Use of Facilities:

Reasonable fees may be charged for the use of the facilities assisted with CDBG funds, but charges, such as excessive membership fees, which will have the effect of precluding LMI persons from using the facilities, are not permitted.

3. Special Assessments:

The term special assessment means the recovery of the capital costs of a public improvement, such as streets, water, or sewer lines, curbs, and gutters, through a fee or charge levied or filed as a lien against a parcel of real estate as direct result of benefit derived from the installation of a public improvement, or a one-time charge made as a condition of access to a public improvement. This term does not relate to taxes on property or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes, and does not include periodic charges based on the use of a public improvement, such as water or sewer user charges, even if such charges include the recovery of all or some portion of the capital costs of the public improvement.

Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be used to recover capital costs as follows:

- a) Special assessments to recover the CDBG funds may be made only against properties not owned and occupied by LMI persons (such assessments are program income), or
- b) Special assessments to recover the non-CDBG portion may be made provided that CDBG funds are used to pay the special assessment on behalf of all properties owned and occupied by LMI persons; except that CDBG funds need not be used to pay the special assessments on behalf of properties owned and occupied by moderate income persons if the grantee certifies that it does not have

sufficient CDBG funds to pay the assessments on behalf of all of the LMI owner-occupant persons (funds collected through such special assessments are not program income).

4. **Target Area Definition:**

A target area is contiguous and substantial. Generally, substantial means a concentration of 100 or more families and primarily residential in character. A contiguous target area is generally delineated along block lines and by natural/man-made boundaries, such as streets, highways, railroads, and streams. Alleys and lot lines do not delineate target area boundaries exclusively. The entire community is considered the target area if there are less than 100 families. All target areas will be reviewed for direct effects of the assisted activity to LMI persons and other persons inside or outside the target area as well.

The target area for a county is contiguous and substantial area of concentrated families or the entire unincorporated area. County applications exclude the incorporated areas, unless the county is a lead applicant in a joint application submitted in conformance with *Section 1.03(3)*.

Target area must be appropriately designed to coincide with the project service area. Separate activities may suggest different target areas or a combined target area to be most effective.

Section 3.03 Ineligible Activities

The following activities are ineligible within the PW category. If any activity is not noted within the list below, and is not listed as an eligible activity, please consult a CDBG Program Representative in order to determine if any other proposed activities are eligible for the program category.

1. General administrative and audit costs that exceed the allowable 10% of non-administrative CDBG funds awarded.
2. Construction management costs, where applicable, that exceed the allowable \$8,000 maximum.
3. Housing management costs, where applicable, that exceed the allowable 10% of CDBG funds awarded.
4. Buildings, or portions thereof, used predominantly for the general conduct of government cannot be assisted with CDBG funds. Such buildings are defined as city and village halls, county administrative buildings, state capitols, or office buildings or other facilities in which the legislative or general administrative affairs of the government are conducted. This definition does not include such facilities as neighborhood service centers or special purpose buildings located in LMI areas that house various non-legislative functions or services provided by government at decentralized locations. This does not exclude, however, the removal of architectural barriers in order to make public buildings accessible to elderly and handicapped persons.
5. General government expenses cannot be paid with CDBG funds, except for those costs that are directly attributable to administration of a local CDBG program and are documented as such. (Eligible cost expenses are detailed in 2 CFR Part 200).
6. CDBG funds cannot be used to pay for facilities or equipment used for political purposes or to engage in other political activities such as candidate forums, voter transportation, or voter registration.

However, a facility originally financed in whole or in part with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.

7. The purchase of equipment with CDBG funds is generally ineligible, except (a) the purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to 2 CFR Part 200 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible; and (c) that purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with 2 CFR Part 200, as applicable) for such items when necessary for use by a municipality or county in the administration of activities assisted with CDBG funds, or when eligible as firefighting equipment, or when such items constitute all or part of a public service.
8. ***The general rule is that any expense associated with repairing, operating, or maintaining public facilities, improvements, and services is ineligible.*** Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of operating and maintaining a facility used in providing a public service would be eligible, even if no other costs of providing such a service are assisted with such funds.

Examples of ineligible operating and maintenance expenses are: (a) maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar public facilities. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs; and (b) payment of salaries for staff, utility costs, and similar expenses necessary for the operation of public works and facilities.

9. The general rule is that CDBG funds cannot be used for income payments for housing or any other purpose. Example of ineligible income payments include: payments for income maintenance, housing allowances, down payments, and mortgage subsidies. One time payments made on behalf of persons or families to meet emergency needs such as housing or essential utilities is not an income payment and is eligible.
10. CDBG funds may be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction when required to provide last resort housing under the Uniform Relocation Act. Activities in support of the development of LMI housing including clearance, site assemblage, provision of site improvements and public improvements and certain housing preconstruction costs are considered activities to subsidize or assist new residential construction.

Section 3.04 Eligible Activities

Activities eligible for assistance under the state's CDBG program are only those authorized in Section 105(a) of the amended 1974 HCD Act. The general rule is that any activity listed in Section 105(a) may be funded in whole or in part with CDBG funds. Below is a partial list of activities from Section 105(a). Communities should be aware that although an activity may be legally eligible under Federal statute and HUD regulations, it may not be competitive under the guidelines and ranking system in the Nebraska CDBG Program. The State has adopted priorities, listed in *Section 3.01*, which increase the likelihood of funding of certain activities. Restrictions are identified in *Sections 3.02* and *3.03* above.

1. The acquisition of real property (including air rights, water rights, and other interests therein) which is
 - a. Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;
 - b. Appropriate for rehabilitation or conservation activities
 - c. Appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;
 - d. To be used for the provision of public works, facilities, and improvements eligible for assistance under this program; or
 - e. To be used for other public purposes.
2. The acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements.
3. Code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area.
4. Clearance, demolition, removal, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and finance public or private acquisition for rehabilitation, and rehabilitation, or privately owned properties and including the renovation of closed school buildings).
5. Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons.
6. Payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for relocation of individuals and families displaced by CDBG activities.
7. Disposition (through sale, lease, donation, or otherwise) of any real property acquired with CDBG funds or its retention for public purposes.
8. Payment of the nonfederal share required in connection with a federal grant in-aid program undertaken as part of activities assisted under this program.

9. Relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate activities.
10. Payment of reasonable administrative costs and carrying charges related to the planning and execution of the community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in Section 701(e) of the Housing Act of 1954 on the date prior to the enactment of the Housing and Community Development Amendments of 1981.
11. Activities which are carried out by public or private nonprofit entities, including
 - a. Acquisition of real property;
 - b. Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government),
 - c. Site improvements, and
 - d. Utilities.

Section 4.01 Maximum Grant Amount

The maximum grant amount for PW is \$250,000. The cost per beneficiary cannot exceed \$3,000, except for day care where it cannot exceed \$5,000.

General Administration funds cannot exceed no more than 10% of the amount of the grant

Construction Management costs related to compliance with Davis-Bacon and Related Acts (DBRA) may be budgeted separate from general administration costs under Activity 0380 Construction Management. Matching funds are not required. Maximum of \$8,000 in CDBG funds can be used under Activity 0380.

Section 4.02 Matching Funds Requirements

Proposed match must be from CDBG eligible activities directly related to the proposed project(s). Consideration for match will be given for such sources as public and/or private funds, or in-kind services such as materials, labor, or other items that are directly related to the project.

Under the PW program category, activities require a 25% match. No more than half of the total project match may be in-kind source contributions. The amount of match must be calculated in dollars.

	Match
PW activities	25%

The applicant would be allowed 10% of the CDBG award for General Administration and up to \$8,000 can be used for Construction Management.

General Administration and Construction Management do not require any matching funds.

PW Program Category Match Example

All activities funded with PW resources, except costs associated with administration, require a minimum cost-share where the local match must be at least 25% of total CDBG project activity costs. Proposed match should be from CDBG eligible activities directly related to the proposed project. Costs associated with administration are those of general administration and construction management. All other costs are considered CDBG project activity costs OR non-administrative costs.

Because 25% match is required for PW projects, this would mean that for every dollar spent, \$0.75 of the project costs are allowable from CDBG and \$0.25 from local matching funds. For example, a project receiving \$250,000 in CDBG and maximum allowable costs for general administration and construction management would allow for \$217,000 in CDBG funds for PW activities and \$54,250 would be required as match (see table below).

PW Match Example*					
(A)	(B)	(C)	(D)	(E)	(F)
Total CDBG Award	0380 Construction Management (\$8k MAX)	0181 General Administration (10% MAX)	0180 Total Non-Admin Costs [A-(B+C)]	Local Match [D*25%]	1000 Total Program Costs [A+E]
\$250,000	\$8,000	\$25,000	\$217,000	\$54,250	\$304,250

Section 4.03 Program Income

Program income for the State's CDBG program is regulated by the provisions of 24 C.F.R. §570.489(e). The text of this regulation should be consulted for definitions and for other guidance concerning program income. Grantees that receive a CDBG award will be governed by the policies written in the Department's *Annual Action Plan* and the (5-year) *Consolidated Plan* section "Program Income". Related policy guidance can be found in the *Nebraska CDBG Program Administration Manual* in Chapter 8 "Program Income". Lastly, Program Income (and Re-Use Plans) are addressed within your CDBG Contract (per project).

The State CDBG objective for program income is to provide adequate financing for local development to ensure Nebraska's economic prosperity and to use all resources in a timely manner. The State is seeking to provide a policy for use of program income that coordinates local and State resources to the fullest extent possible. The State is responsible for ensuring that program income at the State and local levels is used in accordance with applicable federal laws and regulations.

Program Income – Definition:

Program Income is defined as gross income received by a State, a unit of general local government, or a subgrantee of the unit of general local government (or "UGLG") that was generated from the use of CDBG funds, regardless of when the CDBG funds were appropriated and whether the activity has been closed out, except in limited circumstances [See also 24 CFR 570.489(e)(2)]. When Program Income is generated by an activity that is only partially assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used.

All Program Income is and remains subject to all requirements of the HCDA and CDBG regulations. Program Income which may become a part of a Department approved community CDBG revolving loan fund remains subject to all requirements of the HCDA and CDBG regulations. This means all loans made from such a fund, including second and subsequent generation loans, are, and continue to be, subject to all CDBG requirements.

All Program Income earned during the grant period must be expended on the project activities prior to drawing down additional CDBG funds under the grant. Program Income earned after the completion of the grant activities is subject to the same CDBG requirements.

Program income includes, but is not limited to, the following:

1. Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds except in instances where the proceeds are received more than 5 years after expiration of the grant agreement between the state and the unit of general local government.” [See also 24 CFR 570.489(e)(2)(v)];
2. Proceeds from the disposition of equipment purchased with CDBG funds;
3. Gross income from the use or rental of real or personal property acquired by the unit of general local government or subgrantee of the unit of general local government with CDBG funds, less the costs incidental to the generation of the income;
4. Gross income from the use or rental of real property, owned by the unit of general local government or other entity carrying out a CDBG activity that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income;
5. Payments of principal and interest on loans made using CDBG funds;
6. Proceeds from the sale of loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that are not otherwise eligible costs;
7. Proceeds from the sale of obligations secured by loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that are not otherwise eligible costs;
8. Interest earned on funds held in a revolving loan fund's cash balance interest-bearing account;
9. Income earned on program income pending disposition of the income;
10. Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households not of low and moderate income, if the special assessments are used to recover all or part of the CDBG portion of a public improvement; and
11. Gross income paid to a unit of general local government or subgrantee of the unit of general local government from the ownership interest in a for-profit entity acquired in return for the provision of CDBG assistance.

Section 5.01 Submission of Applications and Selection of Grantees

Eligible local governments may individually or jointly apply and receive one grant per year in the Public Works category.

Applications are prepared at the applicants’ expense and costs are not reimbursable. Applications must be submitted according to the provisions stated in Section 1.01 through Section 1.03. Applications for PW program category will be accepted as shown in the table below based on US Postal Service postmark date or date of delivery by other means.

Applications will be reviewed by DED on a competitive basis according to the selection criteria established in *Section 5.03* of the Application Guidelines. The highest scoring applicants, who also meet all required thresholds, may be recommended for award.

Applications recommended for award through these processes will be presented to DED's Director for a grant award (i.e. Notice of Approval). DED will send a formal Notice of Approval Letter to the applicant community upon approval of the recommendation. A letter of non-selection will be issued to those applicants not recommended for award.

If applicable, a second cycle may be identified during the program year.

Below is a summary of the milestones:

Milestone Summary	Date
Public Works Application Due (Cycle 1)	July 30
Anticipated Award	September
Public Works Application Due (Cycle 2)	TBD (if needed)

Applications will be returned and not considered if they fail to meet any of the following threshold requirements prior to review:

- a. Activities proposed are eligible and comply with CDBG National Objectives and State CDBG priorities.
- b. Applicant has no significant, unresolved audit finding.
- c. Applicant has no legal actions under way that may significantly impact its capacity.
- d. Applicant is following a detailed Citizen Participation Plan (CPP) and Anti-Displacement Plan.
- e. Applicant has adopted an authorizing participation resolution.
- f. Applicant must have addressed and cleared all compliance (i.e. Davis Bacon, acquisition, fair housing, etc.) Found during monitoring, if any, from past awarded projects, and have had a response accepted by DED.
- g. Applicant is current with all reporting requirements (semiannual status reports, closeout reports, audit reports, notification of annual audits, etc.); and
- h. Applicant has shown progress (including expenditures) on prior CDBG grants.
- i. All land for the project **MUST** be in the possession of the community or an option to purchase in place at the time of application.
- j. PW applicant meets minimum selection criteria scores as noted with the Selection Criteria Matrix.
- k. Applicant does not have an open Comprehensive Revitalization, Comprehensive Investment & Stabilization, or Comprehensive Development grant;
- l. Applicant activities are not included or located within the designated area for an applicant's open Downtown Revitalization grant,
- m. Applicant's proposed project and activities within the application are not a Water/Wastewater priority, as determined by DED, and therefore eligible, and more appropriately suited, within the WW Program.
- n. All PW projects require a minimum 25% match which must be 4 to 1 (4 CDBG and 1 other resource) match of CDBG funds with funds from other (non-CDBG source. At a maximum, no more than one-half of that total project match must be non-CDBG cash contributions. General administration activities require no matching funds.

CDBG National Objective

All PW projects funded, and CDBG-funded project activities, must meet a National Objective of the CDBG Program. This includes:

- LMI: Benefitting low- to moderate-income persons (including on an area basis or serving a limited clientele)

For more information, see *Section 2.01* of the Application Guidelines. **A project or project activity that fails to meet a national objective is ineligible for CDBG resources.**

Section 5.02 Special Policies for Thresholds for Selection

Special policies affecting thresholds for selection in *Section 5.01* are:

1. The citizen participation plan must contain provisions for the involvement of citizens, particularly LMI residents, in all phases of the project. Each local government submitting a single application or participation in a joint application must have and follow a citizen participation plan. The plan must provide for:
 - a. Proper notice and access to all meetings and project records;
 - b. Technical assistance on request to group's representative of LMI persons;
 - c. A **minimum of two public hearings**, each at a different stage of the program, for the purpose of obtaining citizen's views, responding to proposals and questions (specifically during the application phase, the hearing(s) must cover community and housing needs, development of proposed activities to be undertaken, the amount of funds requested, the estimated amount proposed to benefit LMI persons, the amount and source of matching funds, if any, and the applicant's plans for minimizing displacement of persons as a result of CDBG assisted activities and for assisting persons actually displaced; and specifically during the implementation phase, the hearing(s) must review program performance). The minutes of the public hearing and the public hearing notice are to include each listed statement. Public hearings for joint applicants must be held in each participant's jurisdiction and the application must be available for public inspection at each locality.
 - d. A process for responding to complaints and grievances within 15 working days; and
 - e. The needs of non-English speaking residents where a significant number of them can be expected to participate in public hearings.
2. The **Residential Anti-Displacement and Relocation Assistance Plan** must be adopted and certified by the local government and be available to the public. A certification and plan is required even if the applicant is not proposing activities which will result in demolition or in the conversion of an LMI unit to a use other than LMI housing. The plan must contain two components:
 - a. **One-For-One Replacement Unit Requirement** applies to all occupied and vacant occupiable LMI dwelling units that will be demolished or converted to another use as a direct result of a CDBG assisted activity. Occupiable dwelling unit is a residential unit that is in standard condition or in a substandard condition, but suitable for rehabilitation.
 - (1) An LMI dwelling unit is defined as a unit with a market rental, including utility costs, that does not exceed the Section 8 fair market rent (FMR) as established by HUD. Whenever assisted rehabilitation raises the rent above the FMR that unit must be replaced.

- (2) A “vacant occupiable dwelling unit” is a unit in standard condition or a unit in substandard, but is suitable for rehabilitation; or a dwelling unit that has been occupied (except for a squatter) at any time one year prior to the Notice of Approval date for an approved application.
- (3) A unit is “standard condition” is ready to be lived-in with only a minimal amount of deferred maintenance or repair required at a reasonable cost.
- (4) A unit “suitable for rehabilitation” is defined for purposes of this certification as a unit whose estimated repair, rehabilitation, weatherization, and/or general improvement cost do not exceed one-half of its replacement value after rehabilitation. The local government may use their own definition for “suitable for rehabilitation” provided such definition is made public and DED determines the definition to be acceptable.
- (5) Replacement LMI units must be provided within three years from the start of demolition or conversion and must be:
 - i. Located within the same jurisdiction;
 - ii. Sufficient in number and size to house at least the number of occupants that were or could have been housed; according to local occupancy codes;
 - iii. Provided in standard condition or brought up to a standard condition; and
 - iv. Designed to remain LMI units for ten (10) years.
 - v. Replacement units may include public housing and housing with section 8 project-based assistance.
- (6) Assistance cannot be obligated to the demolition or conversion activity until the local government makes public and submits to DED information that identifies:
 - i. The activity – the location and number of units by bedroom size;
 - ii. The proposed demolition or conversion schedule;
 - iii. The number and placement of replacement units and their size;
 - iv. The source of funding and time schedules for replacement units; and
 - v. The basis for concluding that each replacement unit will remain a LMI unit for 10 years.

b. **Relocation Assistance** must be provided to each LMI family displaced by the demolition or conversion to another use of any housing unit because of an assisted activity. Persons must be provided assistance as prescribed in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) or 24 CFR 570.496a(c).

3. The **procurement process** for consultant selection must be outlined in accordance with *Section 5.05 (3) Competitive Proposals*. A grantee must use procurement procedures that are in conformance with State and local laws and regulations, Federal law and the standards identified for grantees within 2 CFR200.300–345.

Grantees must establish and maintain effective internal control over the CDBG award, providing reasonable assurance that all parties involved are in compliance with federal, state, and local statutes, regulations, and the terms and conditions of the CDBG award.

*Overall, recipients of CDBG funds are responsible for ensuring **competitive procurement** for goods and services, in accordance with established rules and regulations using **full and open competition**. Complete documentation of this process is required.*

In specific instances, Exhibit K may be required at the time of application along with related supplemental documentation. There may be instances where the applicant submits more than one such exhibit, for example when separately procured consulting firms provide general administrative and planning activities.

Applicants shall complete **Exhibit K1** if this process as described in *Section 5.05* will not be used. The applicant must state why and identify and describe the process used for selecting a consultant. This also includes the process used for selecting of the consultant that implements the project. **Exhibit K2** shall be completed if the procurement process is completed prior to submission of application. Procurement process must follow state and federal requirements with the exception of the Applicant/Grantee acting in their own capacity.

Supplemental materials must be provided that clearly demonstrate the applicant community carried out the procurement process, this includes documentation that a reasonable number of appropriate firms were contacted directly and in a meaningful manner. Documentation must also include a narrative indicating the method of procurement, reasoning for selecting that method, how and by whom the procurement process was carried out, and any other pertinent information about the procurement process, including a description of how the applicant made meaningful contact to a reasonable number of appropriate firms (e.g. five). As an example, meaningful contact may involve an applicant sending the request for proposal directly to firms known to complete the scope of work and follow up with a phone call or email that confirms receipt of the request.

WARNING: With the exception of contracts for general administration services, DO NOT execute any contract for goods or services prior to the Department issuing a written Notice of Release of Funds and Environmental Clearance.

Section 5.03 PW Priority Point System for Selection

Applicants should use this portion of the application to describe the challenges and opportunities within the project area and how the project can address identified community development needs. Provide specific information about the issues and/or problems the project will address, line item budget, preliminary schedule, and how the project fulfills the selected National Objective information in this section.

Applicants are required to submit a one-page summary describing the nature and scope of the project. This summary is utilized to determine eligibility of project activities and provides overall context to the selection criteria for scoring of applications, as such, it is of vital importance to the ability of DED to review and score an application. This summary should include a how the project proposes to address one primary objective and outcome as described in *Section 2.03* of the Application Guidelines. *For example, the proposed library improvements will provide the opportunity for improved availability/accessibility of community services in Anytown.*

The Matrix below describes each selection criteria as a numerical score within the PW Program. The maximum number of points available within any application is 1,000 points. A minimum score of 300 points is required and some criteria require a minimum score as noted below. All selection criteria will be scored in five point increments and shall be scored on a scale.

Selection Criteria	Maximum	Threshold Minimum
1. Project Need	200	75
2. Project Impact	150	75
3. Project Readiness	250	100
4. Community Support	150	50
5. Match	50	-
6. LMI Benefit	50	-
7. Municipal Equalization Fund (MEF) Score	100	-
8. Achievements	50	-
Total	1,000 points	300 points

1. Project Need

Up to 200 points possible. A minimum of 75 points in this section is required in order to meet threshold. The level of project need will be compared to other applicant. Describe the existing or imminent problem and/or an assessment of the identified local need for the project. The significance of the project need will be scored as compared to other applicants. The narrative should reflect the current need for the proposed project based on existing, identifiable problems and conditions; identify any past efforts to resolve the problem; and demonstrate the capacity and commitment to successful completion of the project.

The application narrative shall be scored for clear and concise explanations of:

- a) The overall purpose of the project and factual information that illustrates the severity of identified problems in community;
- b) Demonstration of the capacity and commitment to successfully implement change and to complete the project; and
- c) Past efforts to resolve the problem and meet community needs.

Community involvement and participation is a fundamental part of any successful project and is required as part of the CDBG application process (see *Section 5.02(c)* and *Exhibits A, B, & C*). Community surveys, town hall meetings, and/or interviews with community organizations, businesspersons, government officials and other community representatives are encouraged to determine perceived community needs. Public involvement should also be used to let residents know what needs were identified, how they were identified and to give residents an opportunity to respond to the proposed project. Existing capital improvement, comprehensive, economic development, housing, or other community development plans should be reviewed to determine if they reflect current conditions and goals or if there is a need to develop new goals and action plans. Special short-term committees can be asked to validate and/or update existing information.

The proposed project in a CDBG application does not need to be the highest community priority. Often top-ranked needs can be addressed with other more appropriate local, State, or Federal financial resources. Sometimes one of the community’s lower-ranked needs may address an issue that is a high priority for CDBG funds such as a project that will affect low- and moderate-income persons. Other times government and/or

elected officials may be more aware of a need for that CDBG may be an appropriate resource than the general public. In this case, efforts should also be made to educate and inform the community about the need in order to build consensus and support to address the problem.

Points in this section include:

- 0 – 45 points: Inadequately defined, below average
- 50 – 145 points: Reasonably defined, average compared to other applicants
- 151 – 200 points: well-defined, above average

2. Project Impact

Up to 150 points possible. A minimum of 100 points in this section in order to meet threshold. Describe the importance of project activities to the community and provide clarity on how the project will benefit those identified by a CDBG National Objective. ***For this criterion, it is necessary to create a nexus between the project need and the project outcomes as proposed.*** The significance of the project impact will be scored as compared to other applicants.

The application narrative shall be scored for clear and concise description of:

- a) Clearly defined goals and objectives to address the identified community problems;
- b) How the completed public works activities will benefit the community, especially low and moderate-income;
- c) The proposed project outcome in measurable units, the degree to which these accomplishments within project implementation will reduce or eliminate the need(s), and any plans to eliminate what needs remain;
- d) The alternatives considered to address the need(s) and the rationale for selecting the proposed solution; and
- e) Indication of whether there has been a formal study/report completed that recommends the proposed solution, and if so, who completed it and when.

Points in this section include:

- 0 – 45 points: Inadequately defined, below average
- 50 – 95 points: Reasonably defined, average compared to other applicants
- 100 – 150 points: Well defined, above average

3. Project Readiness

Up to 250 points possible. A minimum of 100 points in this section in order to meet threshold. A description of prior and concurrent efforts related to the overall: planning strategy; work plan for solutions to the problems/needs and impact as defined above; project readiness; and financial and operational capacity of the community. Project Readiness will be scored as compared to other applicants.

Identify if all land for the project is in the possession of the community or an option to purchase is in place at the time of application. Also, within this section, identify measurable benchmarks and outline a schedule for project implementation. Typical benchmarks include:

- Securing administrative and engineering services,
- Completing environmental review,
- Land acquisition,

- Completion of plans/specifications,
- Obtain permits and approvals,
- Solicit construction bids (NOTE: do not enter into contracts until receiving environmental clearance and release of funds),
- Estimated construction start and completion dates, etc

The application narrative shall be scored for detailed:

- a) Description of the planning activities and methodology for achieving the goals and objectives as outlined under the Project Impact section; and
- b) Work plan and narrative that lists and describes the activities and tasks, time frames, products, or outcomes, and key parties responsible for completing each activity.

Points in this section include:

- 0 – 75 points: Inadequately defined, below average
- 80 – 170 points: Reasonably defined, average compared to other applicants.
- 175 – 250 points: Well defined, above average

4. Community Support

Up to 150 points possible. A minimum of 50 points must be earned in this section or the application will not meet threshold and will not be funded. A description of public participation and the process used to identify community needs and allocate resources to address the community’s needs. Overall, the level of capacity, commitment, and support from the public will be compared to other applicants.

The following criteria will be taken into consideration when determining the community’s score:

- Completed a comprehensive needs assessment;
- The needs assessment process includes documented citizen participation;
- Developed, distributed, and analyzed a community needs surveys;
- Held public meetings to discuss the outcomes on the community needs analysis;
- Documentation showing the community needs assessment took place within the past 3 years;
- Developed a priority list using the community needs assessment process;
- Developed a strategy to address items in order of the community’s priority list;
- A record of conducting other community and economic development efforts with significant citizen involvement within the last three years that address items ranked on the community’s priority list;
- The community has adopted or updated a comprehensive plan, housing study, and/or a capital improvement plan within the last five years;
- The community can show evidence of economic initiatives such as: LB840, completing business retention and expansion survey, or other viable fundraising efforts.

Points in this section include:

- 0 – 30 points: inadequately defined, below average
- 35 – 95 points: reasonably defined, average compared to other applicants
- 100 – 150 points: well defined, above average

5. Matching Funds

Up to 50 points is possible. No minimum points in this section are required in order to meet threshold. Applicants that commit local funds (including “other” funds and/or in-kind contributions) to the project’s non-administrative activities that exceed the required match will be eligible for additional points. The table below further describes these criteria.

Matching Funds Exceeding	Points Available
10% or greater	50
5-9.99%	25
3-4.99%	10
Less than 3%	0

6. LMI Benefit

Up to 50 points possible. No minimum points in this section are required in order to meet threshold. This scoring category is designed to give points to communities with higher concentrations of LMI persons. Communities with a LMI population of 55% or more will receive 50 points. Communities with a LMI population between 51% - 54.99% will receive no points in this section. Narrative is not required under this section, the submitted documentation within Exhibit E will be reviewed by the Department.

7. Municipal Equalization Fund (MEF)

A Municipal Equalization Fund (MEF) score will be generated for each community that has applied for this program category. This aid formula provides a way of looking at needs and resources while at the same time ensuring that local governments provide a level of local resources. DED will incorporate the MEF calculation into the scoring criteria for this program category. Narrative is not required under this section.

8. Achievements: Up to 50 points possible. No minimum points in this section are required in order to meet threshold. Applicant must demonstrate any of the following items at the time of application submittal, including:

- Certifications:
 1. Applicant is designated as an Economic Development Certified Community, **50 points**. For a complete list of communities and additional information, visit the DED website at: <http://opportunity.nebraska.gov/business/why-nebraska/communities/certified-communities>
 2. Applicant is designated as a DED Leadership Community, **50 points**. For a complete list of communities and additional information, visit the DED website at: <http://opportunity.nebraska.gov/community/community-info/community-improvement/leadership-community>

Supplemental materials

Depending on the nature and scope of project activities proposed, the following information may be required for the application:

- Attachment 1: For proposed facility activities, submit a Facility Floor Plan (for all building projects)
- Attachment 2: Commitment letters for all sources identified in *Part II – Funding Summary*

Section 5.04 Use of Consultants

CDBG funds cannot be used to fund application preparation and Release of Funds must be received before engineering/architectural services or other project activities are eligible for reimbursement.

There are a number of reasons why a community may want to use consultants to assist with preparing a Community Development Block Grant application or administering a grant, such as when:

1. Work requires special professional services, such as accounting, architectural, engineering, legal, or planning services;
2. Local staff is inexperienced in the area of grant writing or project administration, or is already committed to other ongoing activities; or,
3. Work involves a short-term, but somewhat specialized project activity that does not justify hiring experienced, full-time staff.

Communities selected for CDBG funding will receive written guidelines regarding the federal and state requirements for selection of consultants to assist with project implementation, such as engineers, architects, planners, housing management administrators, or project administrator. The federal requirements do not apply to communities selecting consultants to assist with the preparation of an application; however, these costs are not eligible for reimbursement.

The **procurement process** for consultant selection must outlined in detail in accordance with *Section 5.04 (3)* Competitive Proposals. In specific instances, Exhibit K Procurement Process may be required at the time of application along with related supplemental documentation. Applicants shall complete Exhibit K1 if this process as described in *Section 5.04 (3)* will not be used. The applicant must state why and identify the process that will be used for selecting a consultant. This also includes the process used or electing the application preparer if that firm or individual is a part of or included in the process intended for selection of the consultant that implements the project. Exhibit K2 shall be completed if the procurement process is completed prior to submission of application. Procurement process must follow state and federal requirements with the exception of the Applicant/Grantee acting in their own capacity. Additional information is available within *Section 5.02*.

Several points should be considered before selecting any consultant, engineer, architect, planner, housing management administrator, or other professional to help assure that the community will receive satisfactory service. Cost-plus contracts are prohibited.

1) “Loss-Leader” Arrangements

“Loss-leader” arrangements, where a consultant offers to prepare a grant application or preliminary engineering estimates at cut rates or at no cost in return for a future contract if the application is funded, are prohibited by federal regulations. Some firms may suggest this approach because costs incurred by a city or county prior to the award of CDBG funds, such as preparation of the application or preliminary engineering studies, not eligible for reimbursement. However, loss-leader arrangements violate federal regulations which require “maximum open and free competition.” Professional organizations also consider this practice unethical because it deprives the client of the benefits that can results from competition among competent, professional firms.

2) Selection of Engineers, Planners, or Administrative Consultants Prior to Grant Award

Generally, the use of **multi-services procurement** and contracting is prohibited, except for:

- a) When local officials decide to procure the services of an engineer to assist them with both preparation of preliminary engineering plans (**that is not grant application preparation**) and project engineering, in the event their community is selected for grant award;
- b) When a community wants to conduct one procurement process to cover both grant preparation and grant administration; and
- c) When a community wants to conduct one procurement process to cover both planning grant application preparation and planning grant implementation (contingent upon CDBG award).

On occasion local officials decide to procure the services of an engineer to assist them with both preparation of preliminary engineering plans and project engineering, in the event their community is selected for grant award. Likewise, some communities want to conduct one procurement process to cover both grant preparation and grant administration. This approach is permitted under federal procurement regulations. Obviously, in both cases, the selection process would occur prior to grant application. Any agreement between the community and the engineer or consultant that includes preliminary and project engineering or grant writing and administration services would have to be contingent upon award of CDBG funds. Any such contract also would have to have the prior approval of the Department of Economic Development to assure that federal procurement procedures complied with, and that all required federal clauses are included in the contract. Local officials would have to follow the procedures briefly outlined below under Competitive Proposals.

3) **Competitive Proposals**

Procurement by “competitive proposals” is a method used to meet federal and state requirements for soliciting architectural, engineering, legal, management, or accounting services. If your CDBG application is selected for funding, this is the procedure that is most appropriate to solicit and select professional services for your project. You may also want to use this procedure to select a consultant to assist you with the preparation of a CDBG application.

Competitive proposals are advertised and requested from several qualified sources.

HUD regulations for competitive proposals require the following:

- (1) Requests for proposals (RFP’s) or qualifications (RFQ’s) must be publicized and identify all evaluation factors and their relative importance.

For example: RFP evaluation criteria may include technical expertise of the firm and its personnel (25 points); past record of performance on projects of similar nature, including quality of work and cost control (25 points); familiarity with CDBG program (20 points); capacity of firm to perform the work within time schedule (20 points); and the nature and extent of services proposed versus estimated fees (10 points); etc.

In general, grantees should use RFP process for professional planning services.

- (2) Proposals must be solicited from an adequate number of qualified sources (at least three);
- (3) Grantees and sub-grantees must have a method for conducting technical evaluations of the proposals received according to the criteria specified in the RFP and for selecting awardees;

- (4) Awards must be made to the responsible firm whose proposal is most advantageous to the program, with price and other specified factors considered; and
- (5) Grantees may use competitive proposal procedures for qualification-based procurement of architectural/engineering (A/E) professional services, whereby competitor's qualifications are evaluated and the most qualified competitor is selected subject to negotiation of fair and reasonable compensation.

The method where price is not used as a selection factor can only be used in procurement of Architectural or Engineering services.

DED recommends sending RFP's to firms serving your region of the State. In addition to advertising in your local newspaper, you should also advertise in at least one other newspaper that is widely distributed in your region of the state. The community would evaluate the firms responding and could then conduct interviews with one or more of the firms responding and select a consultant. The community then negotiates a contract with terms and conditions to its satisfaction.

A response to an RFP should not be confused with competitive bid. A bid is an estimate of cost in response to detailed specifications. A response to a RFP in the competitive proposal process is a description of how a consultant proposes to approach solving your problem. Competitive proposals refer to the comparison of qualifications and may include fees where required or deemed appropriate. However, the main focus in selecting the consultant is to evaluate the content of the proposal and the consultant's qualifications and demonstrated competence.

4) **References**

Any time a consultant solicits your business you should always check references prior to contracting with them. Request a list of prior clients, showing the organization's name, address, phone number and contact person, as well as a brief description of the work performed. A list of the most recent clients is preferable (especially previous CDBG projects). Contact each reference. Some useful questions might be:

- Were you satisfied with the work?
- Was it performed on time?
- Was the consultant knowledgeable about the program?
- Were the tasks or work products prepared by the consultant useful?
- Did the consultant work with local staff to develop local capacity?
- Were the costs or charges reasonable? Did they stay within their original budget?
- Would you hire them again?

In addition, check to see if the work done for these clients is similar to what you want the consultant to do. The ability to write a grant application does not mean the same consultant has the capability to assist you with managing a grant.

Sometimes the firm you are interested in will be a new firm with few if any client references. New, small firms can be just as good as well established, large firms, so instead of asking for client references, you would ask for past employer references.

Checking references prior to contracting is the most important action you can take to avoid becoming involved with a less than satisfactory firm.

5) **Involve Local Staff**

Whenever you retain a consultant to assist you with preparing a grant application or managing a CDBG project, make sure that someone from the city or county works with the consultant and understands the community's application or the management issues involved. You should have a local staff person become familiar with the regulations for the CDBG program and work closely with the consultant in developing the application or managing the project. A consultant is a technical resource.

Section 5.06 Post Award Requirements

Consideration should be given to a variety of Federal and State regulations that can have scheduling or cost implications. Among these are:

Records

All information on grant-assisted activities must be retained for ten years following completion and closeout of the grant. During the grant period, performance reports are required semi-annually.

2 CFR Part 200 Subpart F

Local governments and nonprofits that expend \$750,000 or more must conduct a single audit of federal and local funds.

Davis-Bacon Act

This and related acts require that prevailing wage rates be paid to all employees working on a construction contract of \$2,000 or more.

Acquisition/Relocation

Regulations for acquisition and relocation emphasize anti-displacement and should be discussed with the Department URA representative at the beginning of the project. The Uniform Relocation and Real Properties Acquisition Act (URA) apply to all federally assisted activities that involve the acquisition of real property or the displacement of persons. If CDBG funds are used in any part of the project, the URA would govern the acquisition of real property, including easements, and any resulting displacement, even if local funds are used to pay the acquisition costs. The URA requirements may include: formal notification of the affected property owner(s), preparation of an appraisal to determine fair market value, and a written purchase offer based on an amount determined to be fair market value. The only exception is a voluntary transaction that meets certain criteria.

Regulations emphasize anti-displacement. However, if displacement is necessary, relocation assistance must be provided to persons displaced by rehabilitation, acquisition, demolition, or the conversion of units for use other than low- to moderate-income dwelling units. Grantees will be required to replace every occupied unit that is demolished or converted with CDBG funds on a one-for-one basis within a three-year period.

Procurement

Open and free competition on solicitation of professional services or construction bidding is also required. If the applicant intends to use CDBG funds to pay all or a portion of fees, or intends to claim fees as match, then

CDBG procurement guidelines must be followed. For more information see *Section 5.05* of the Application Guidelines.

Environmental Review

Grant recipients are required to obtain appropriate environmental clearance for their projects and to maintain an Environmental Review Record for each project. The review process involves consultation with various agencies, groups and individuals regarding: historic properties, floodplain management, wetland protection, noise control, air quality, explosive and flammable operations, airport hazards, water quality, threatened and endangered species, wild and scenic rivers, farmland protection, environmental justice, contamination, and toxic substances. The environmental review and Request for Release of Funds/Certification, if required, must be completed before the grantee, or any participant in the development process, incur costs against the project.

Special Assessments

Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments to recover the non-CDBG portion may be made provided that CDBG funds are used to “to pay” the special assessment on behalf of all properties owned and occupied by low- and moderate-income persons. For more information see *Section 3.02(3)*.

Equal Opportunity, Fair Housing, and Handicap Accessibility

Laws require that CDBG grantees administer their projects in a manner that affirmatively furthers fair housing and equal opportunity. All grantees will be required to undertake specific activities to further fair housing. Grantees must also assure that all activities and services are accessible to those with disabilities.

International Energy Conservation Code

Most new construction or substantial rehabilitation of buildings must meet the 2009 International Energy Conservation Code or the most recent version of the International Conservation Code in effect, as required by 72-804-806 NRRS, and provide for Nebraska Energy Office (NEO) review of plans and specifications (at no cost) that meet said standards. This applies to lighting, heating, cooling, ventilating, or water heating equipment or controls, as well as building envelopes.

As an alternate compliance method when a licensed architect and/or engineer have designed a subject building, a Designer Certification may be submitted to NEO instead of building plans and specifications. The certification form, which will be provided by the NEO, will attest that the building design complies and provide summary information about the design.

When the Energy Office has determined that a subject building complies, or has received documentation of alternate compliance, it will provide a Verification of Construction form on which it must be certified that the building is constructed substantially according to the plans. At key points during construction, the building should be inspected to verify that insulation and other envelope components, and all specified lighting, heating, cooling, ventilating and water heating equipment and controls are installed as indicated on the plans. The Verification of Construction form must be signed and returned to the Energy Office within twenty (20) days following substantial completion. Contact NEO at (402) 471-2867 for a copy of the code.

Continued Use

All community facilities assisted with CDBG funds must remain in the same use for five years after grant closeout. For more information see 24 CFR 570.489.

Section 6.01 Glossary of Terms

Age of seniors

For purposes of this program and qualifying a project as meeting the low- and moderate-income national objective by principally benefitting seniors, a senior citizen is a person aged 62 or older.

Annual Action Plan

The Annual Action Plan updates the Nebraska Housing and Community Development Consolidated Plan, a five-year plan addressing the state's housing and community development needs.

Assessment Abatement

To pay fees levied against private property for the costs of public facilities activities (see special assessment). In order to maximize benefit to low- and moderate-income households, funds may be used to abate the assessments for these owner-occupied households.

Beneficiary

The ultimate consumer of HUD programs who receives benefits from a HUD Recipient or Sub-recipient.

Community Development Need

A demonstrated deficiency in housing stock, public facilities, economic opportunities, or other services that is necessary for developing or maintaining viable communities.

Comprehensive Strategic Approach

A comprehensive strategic approach is one that effectively utilizes community needs assessments, stakeholder participation, and planning processes. A comprehensive approach should include: significant needs identification, adopted or updated Comprehensive Plan, housing study, and capital improvement plan.

Consolidated Plan

The Nebraska Five-Year Consolidated Plan is a comprehensive planning document identifying the state's needs in housing, homelessness, community and economic development. The State is required by the U.S. Department of Housing and Urban Development (HUD) to complete a Consolidated Plan every five years to receive federal funds for the Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), National Housing Trust Fund (HTF), Housing Opportunities for Persons with AIDS (HOPWA), and Emergency Solutions Grant (ESG) programs. Two other State funded programs are included in the plan, Homeless Shelter Assistance Trust Fund (HSATF) and Nebraska Affordable Housing Trust Fund (NAHTF).

Department or DED

Nebraska Department of Economic Development. The state agency that administers the federal Community Development Block Grant State Program for communities under 50,000 population with funds allocated to the US Department of Housing and Urban Development.

Disability

Any condition or characteristic that renders a person an "individual with disabilities" as defined in 24 CFR Part 8.3 (Code of Federal Regulations). An "individual with disabilities" means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment.

Eligible Activities

Those activities authorized in Section 105(a) of the amended 1974 Housing and Community Development Act. However, the State and local participants have developed priorities, listed in *Section 3.01*, that best serve their interests and increase the likelihood of being funded.

Family

A family is defined as all persons living in the same household who are related by birth, marriage, or adoption. An individual living in a housing unit that contains no other person(s) related to him/her is considered to be a one-person for this purpose. A dependent child who is living outside of the home (e.g. students living in a dormitory or other student housing), is considered for these purposes to be part of the family upon which he/she is dependent, even though he/she is living in another housing unit.

Firm Public or Private Commitment

An agreement by a private or public party to take part in a local community development project. The party must demonstrate the capacity to carry out the activity specified in the grant application. The agreement may take the form of a city council or county board resolution, letter from a governmental agency, or a letter of credit from a private lending institution.

Flood and Drainage

Facilities designed to influence or affect the flow in a natural water course (such as a river, stream, lake, or intermittent stream) and excludes storm sewers.

Grant Closeout

The process by that the department determines that the grant recipient and the department have completed all applicable administrative actions and all required work.

Grant Contract

The legally binding contract between the state and a grant recipient. It consists of the notice of grant award, special conditions to the contract, certifications to comply with applicable state and federal regulations, the project budget, and the grant application.

Household

All the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

Housing and Community Development Needs Assessment

A statement by the applicant that lists the community's development needs, including housing needs and needs of low- and moderate-income persons and strategies to address the needs. Required of all applicants to be eligible for CDBG funding under Title I of the Housing and Community Development Act.

Income

The total gross income (before taxes) of all members of a family who are age 15 or older. Income includes all monies received by all members of the family such as gross wages and salaries, bonuses, tips, interest, dividends, social security, other retirement, supplemental security income, welfare, disability, VA payments, unemployment, alimony, other. A family that is involved in a business where the finances are interrelated with the family budget (such as a farmer) should consider their income as net after expenses, as reported to the Internal Revenue Service.

Language Assistance Plan (LAP)

A written implementation plan that addresses identified needs of the LEP persons served.

Leverage

Funds that are committed to the project activities exceeding the required match. Leverage may include public and private funds, or in-kind services, such as materials, labor, or other items that are directly related to the project. Leveraged funds may be considered only if they are spent during the project period. (Date of Release of funds through the project completion date). The amount of leverage must be given in dollars.

Limited English Proficient Person (LEP)

Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English because of national origin.

Low- and Moderate-Income

For CDBG, a person is considered to be of low income only if he or she is a member of a household whose income would qualify as "very low income" under the Section 8 Housing Assistance Payments program. Generally, these Section 8 limits are based on 50% of area median. Similarly, CDBG moderate income relies on Section 8 "lower income" limits, which are generally tied to 80% of area median.

Low- and Moderate-Income Person

A member of a family having an income as described under the Low- and Moderate-Income definition.

Lower-Income Person

A member of a family having an income equal or less than the Section 8 "lower income" limit established by HUD (80% or less of the area median). Unrelated individuals shall be considered as one-person families for this purpose.

Municipal Equalization Fund (MEF) score

The Municipal Equalization Fund (MEF) was created in 1996 as a needs-based method of providing state aid to cities. The program is administered by the Nebraska Department of Revenue, with data provided by the Department of Revenue's Property Assessment and Research Divisions, and the Nebraska Auditor of Public Accounts. Final aid calculations for Nebraska communities are posted in June of each year.

This aid formula provides a way of looking at needs and resources while at the same time ensuring that local governments provide a level of local resources. DED will incorporate the MEF calculation into the scoring criteria for this program.

Each city's population is multiplied by the average per capita property tax levy for the relevant population group. Then each city's property tax valuation is multiplied by the state average property tax levy. These numbers are used to make the preliminary determination for state aid under the MEF formula. If a city's population multiplied by the average per capita property tax levy is greater than the state-wide average levy multiplied by its valuation, the community will earn points. If the difference is negative, no points will be awarded under the MEF scoring criteria for this program.

All of the incorporated cities in a state are divided into three population groups:

1. Municipalities with a population of 5,000 inhabitants or more;
2. Municipalities with a population between 800 and 5,000 inhabitants; and
3. Municipalities with a population of 800 inhabitants or less.

Populations are based on the last decennial census including those modified by annexations that have taken place since the last census and any special censuses completed by the US Census Bureau.

Neighborhood

A geographic location with the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation; or the entire jurisdiction of a unit of general local government that is under 25,000 population.

Neighborhood-based nonprofit organization

An association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood. To be considered neighborhood-based, the majority of the organization's membership, clientele, or governing body are residents of the neighborhood where activities assisted with CDBG funds are to be carried out.

One-page Project Summary

Applicants are required to submit a one-page project summary describing the nature and scope of the project. This summary is utilized to determine eligibility of project activities and provides overall context to the selection criteria for scoring of applications. This summary should include a how the project proposes to address at least one objective and one outcome as described in *Section 2.03*.

Single Purpose Project

One or more activities designed to meet a specific community development need.

Special Assessment

A fee or charge levied or field as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement; or a one-time charge made as a condition of access to the improvement. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefitting properties.

Target Area

A defined geographic area within that an applicant has determined that, based on community plans or other studies, there exists a need for community development activities. A target area may be a neighborhood in a community or an entire community. The target area must encompass the entire area served by the project.

Units of Accomplishment

Awarded projects must report on accomplishments specific to project outcomes. There are seven accomplishment types, the number of accomplishments will depend on the project activities to be undertaken. These types include People, Households, Businesses, Organizations, Housing Units, Public Facilities, and Jobs. For reporting purposes, at the time of application, the number of accomplishments is considered "proposed" and upon completion of project activities, the accomplishments are considered "actual".

Vital Document

Any document that is critical for ensuring meaningful access to the Recipient's major activities and programs by Beneficiaries generally and LEP persons specifically.