

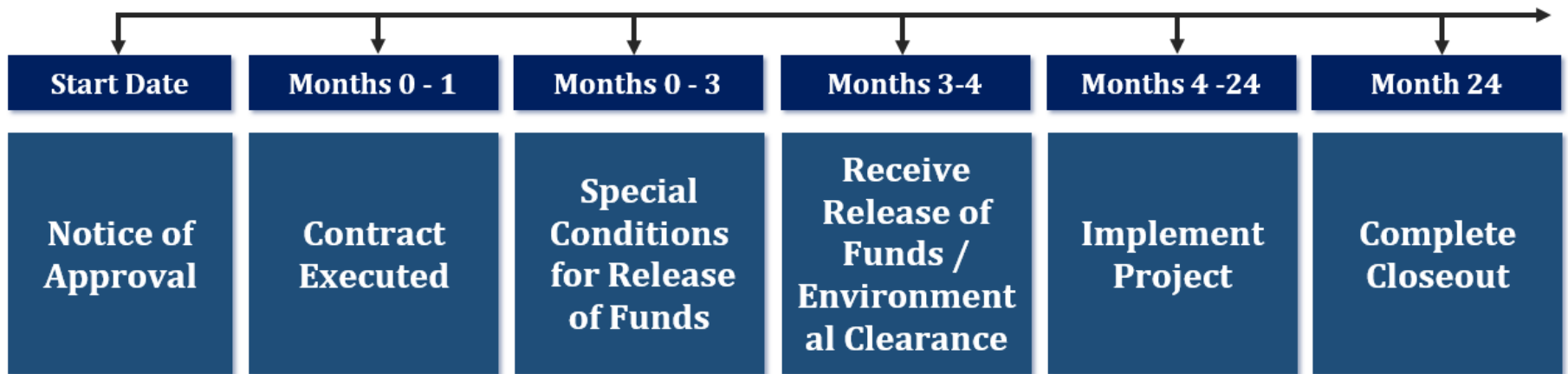
Community Development Block Grant  
**2020 Full Certification – Webinar 3**

# We'll Explain

- Program Design
- Program Guidelines
- Affirmatively Furthering Fair Housing
- Limited English Proficiency

# Nebraska CDBG Process

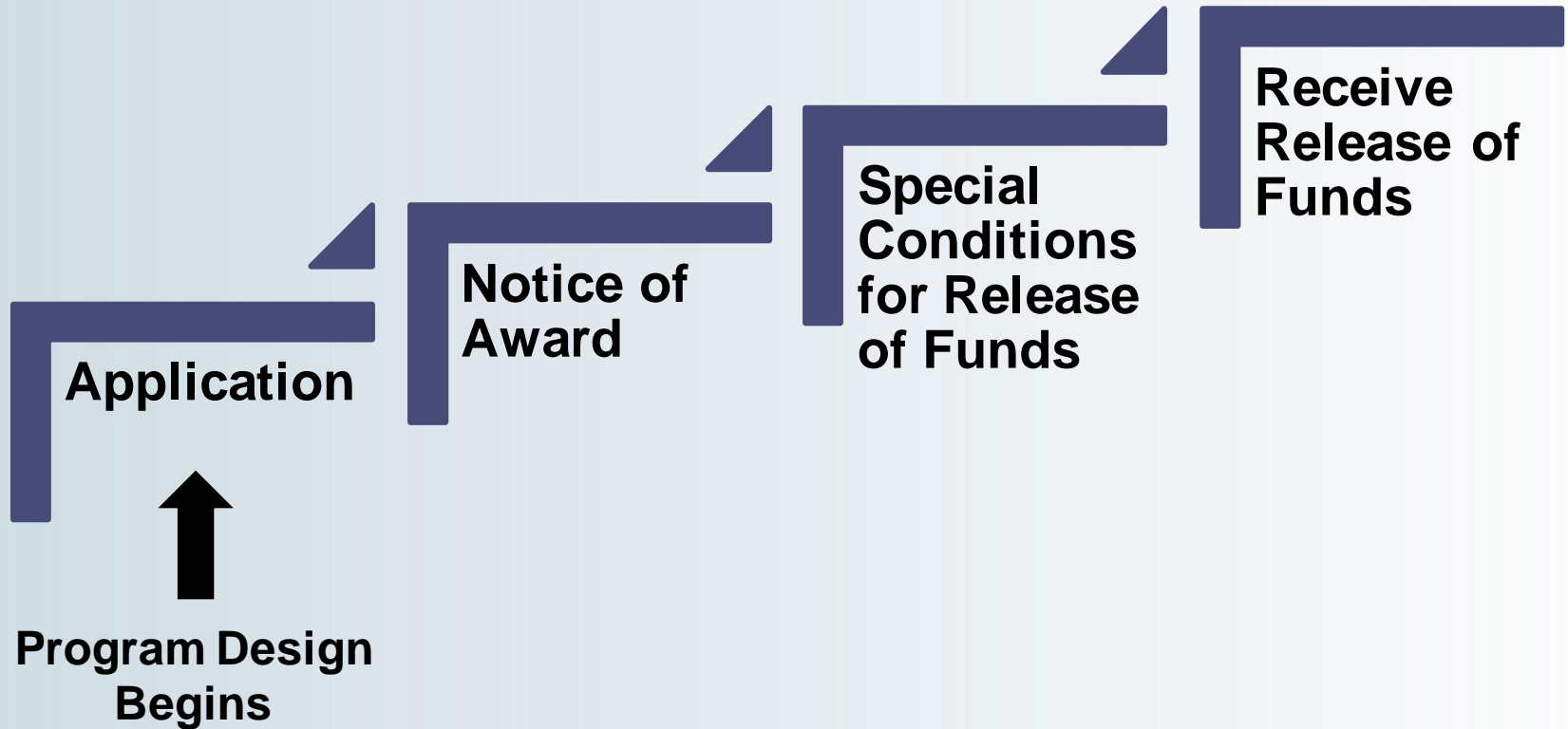
## CDBG Timeline Overview



**NEBRASKA**

Good Life. Great Opportunity.

# Program Design



# Program Design Plan

- Required for each CDBG Application
- A plan created in order to successfully complete the CDBG activity within 24 months.
- Within each application, review the Project Readiness narrative.

# CDBG Activities & Program Guidelines

- **Owner Occupied Rehabilitation:** Rehabilitation of privately owned, single-unit homes.
- **Commercial Rehabilitation:** Rehabilitation of privately owned commercial property. This activity is limited to exterior improvements (façade improvements) and correction of code violations.

# What are Program Guidelines?

- A flow chart for all applicants that provides the process and procedures on how to participate in either a CDBG owner occupied rehabilitation program or a CDBG commercial rehabilitation program.
- Should outline all rules and regulations that should be followed.

# Developing Program Guidelines

- Establish a clear statement of purpose.
- Reflect the vision for the community as developed through formal and informal planning processes.
- Functions as “rule book”
  - Describes how the program is implemented at the local-level and
  - Includes provisions to ensure compliance with state and federal requirements.



# Developing Program Guidelines

- Create your guidelines based upon the local unit of government's comprehensive plan, local housing study, findings of an informal study or based on the results of the implementation of a nuisance abatement program.
- You can hire an expert to work with your community or reach out to other communities for best practices.

# Checklists

- Create Implementation Inventory Checklists to ensure that the local unit of government is reviewing each application consistently.
  - Identify Who completed the action
  - Identify When the action was completed.
- Ensure there is no discrimination.

# Application Spreadsheet

- Track the results of each applicant.
- Identify the results of each application, example:
  - Over Income
  - Withdrew
  - Economic unfeasible
  - Environmental Review Concerns
  - Letter of Selection to receive CDBG funds for rehabilitation.

# Resources

- CDBG Administration Manual, Chapter 4
- DED Minimum Rehabilitation Standards  
[https://opportunity.nebraska.gov/wp-content/uploads/2017/06/Minimum\\_Standards\\_For\\_Rehabilitation-1.pdf](https://opportunity.nebraska.gov/wp-content/uploads/2017/06/Minimum_Standards_For_Rehabilitation-1.pdf)
- Lead Based Paint,  
[https://www.hud.gov/program\\_offices/healthy\\_homes/healthyhomes/lead](https://www.hud.gov/program_offices/healthy_homes/healthyhomes/lead)
- Uniform Relocation Act
- Income Limits | 24 CFR 5.609,  
<https://opportunity.Nebraska.gov/data>

# Owner Occupied Rehabilitation Program Guidelines

- Be familiar with commonly accepted rehab practices and procedures and the applicable laws, regulations and administrative requirements governing CDBG assisted housing rehabilitation.
- OOR Program Guidelines and Reuse Plan Checklist

# Eligibility Criteria

- Income Eligibility
- Property Eligibility
- Priority Ranking System

# Applicant Income Eligibility

- Persons assisted with CDBG funds must have incomes at or below 80% of the Area Median Income (AMI) for the county they reside in.
- Anticipated Gross Annual Income for the following year.
- Income Limits:  
<https://www.hudexchange.info/programs/home/home-income-limits/>
- CPD Income Eligibility Calculator  
<https://www.hudexchange.info/news/cpd-income-eligibility-calculator-updated-with-income-limits/>
- Technical Guide for Determining Income,  
[https://www.hud.gov/sites/documents/19754\\_1780.PDF](https://www.hud.gov/sites/documents/19754_1780.PDF)

# Property Eligibility

- The property has to be within the city limits of the local unit of government.
  - This could be further restricted to a target area.
- The property has to be occupied by the owner and be the principal residence.
- Property has to be economically feasible to be rehabbed.
  - **If the cost of the rehab exceeds the maximum amount identified within the program guidelines than this is considered economically infeasible.**



# Priority Ranking System

- This is not required, but could be part of the local design
- Can focus on assisting individuals within the protected classes:
  - Elderly
  - Disabled
- Can focus on serving individual at lower incomes first.
- The Priority Ranking System can't be discriminatory
  - Example: Can't prioritize large families

# Application Process

- Cycle of Applications
- Application Review Procedures
- Inspection and Work Write Up of Property
- Formal Notification of Eligibility (Income and Property)

# Cycle of Applications

- Determine if your program is an Open Cycle or if applications are taken in Rounds.
  - For an Application Round: there can be additional costs and time delay to open and close the rounds.
- If no, priority ranking is used, provide a statement within your guidelines that the first complete application is the first served.

# Application Review Procedures

- Procedure to Income qualify the applicant
  - **Example, Ineligible Applicant:** If an applicant has assets over the stated limit allowed.
- Procedure to verify ownership/liens.
  - Verification from the courthouse, County Assessor/Register of Deeds.
  - **Example, Ineligible Property:** If an applicant is behind in paying their taxes, has nuisance violations, involved in litigation in their home.

# Inspection & Work Write Up of Property

- Rehab Specialist schedules time to inspect the property and complete the Work Write Up/Bid Proposal
- If property was built prior to 1978, lead based paint hazard mitigation procedures are triggered and required.
- Property has to be economically feasible to be rehabbed.
  - **If the cost of the rehab exceeds the maximum amount identified within the program guidelines than this is considered economically infeasible.**
- Property cannot be located within a floodplain or recently impacted by flooding events.

# Inspection & Work Write Up of Property

- Environmental Review Record (Tier II)
  - Floodplain
  - Section 106
    - Consult with History Nebraska, the State Historic Preservation Office (SHPO) and the Tribal Historic Preservation Office
  - Radon
  - Explosive Hazards
  - Toxic Substances
  - Airport
  - Noise
  - Any other applicable Tier II items.

# Formal Notification of Eligibility

- Standardized Forms/Letters should be used throughout the program.
- If an owner/property is ineligible, the letter must state the reason why the owner/property is ineligible.
- Letters must be dated, signed, and on letterhead. Grantees must maintain a copy of the notification of either selection or non-selection.

# Types and Terms of Assistance

- Program guidelines need to identify the type of program and the maximum amount of Assistance Allowed:
  - **Loan and including loan terms:** A homeowner needs to pay back the rehab assistance within the designated time period.
  - **Deferred Conditional Grant:** If a homeowner lives in the home as their principal residence for the full affordability period, as outlined in the program guidelines, the rehab assistance is forgiven.



# Types and Terms of Assistance

- Affordability Period Defined:
  - This is the period of time that the property owner is required to remain at their principal residence prior to selling.
  - A lien reflecting the amount of the rehab cost is placed against the property for the length of the affordability period.
  - CDBG program has minimum of 5 years from the date the rehab was completed, however the program guidelines can identify a longer period.

# Types and Terms of Assistance

- Recapture of Funds Policy
  - Example: Total funds invested in the rehab of home must be repaid if the period of affordability is not achieved.
    - Owner moved, no longer principal residence
    - Deceased
  - The owner/heirs would need to pay the amount of rehab cost back. The program guidelines could be set up that the amount to be paid back would be prorated based upon the time period that the owner resided there.

# Required Items

- Conflict of Interest Clause
- Grievance Procedures
- Amendment Process
- Compliance with Fair Housing Act
- Lead Based Paint Policy
  - References to homes built prior to 1978 and after.
- Relocation – Temporary/Permanent
  - 49.CFR 24.101: In cases of where involuntary or voluntary acquisition is anticipated,

**NEBRASKA**

Good Life. Great Opportunity.

# Marketing Plan

- Identification of how the Owner Occupied Rehabilitation will be affirmatively marketed.
- Collecting photographs throughout the rehab.
  - Example: Before/During Rehab/After Rehab
  - Owner Voluntary Release and Authorization for publication form provided to all applicants.

# Commercial Rehabilitation Program Guidelines

- Be familiar with commonly accepted rehab practices and procedures and the applicable laws, regulations, city codes, and administrative requirements governing CDBG assisted commercial rehabilitation.
- Commercial Rehabilitation Program Guideline Checklist

# Property Eligibility

- The property has to be within the boundaries of the area designated as slum and blight.
- Property has to be economically feasible to be rehabbed.
  - **If the cost of the rehab exceeds the maximum amount identified within the program guidelines than this is considered economically infeasible.**

# Cycle of Applications

- Determine if your program is an Open Cycle or if applications are taken in Rounds.
  - For an Application Round: there can be additional costs and time delay to open and close the rounds.
- Priority Ranking
  - If no, priority ranking is used, provide a statement within your guidelines that the first complete application is the first served.
- Scoring Process

# Application Review Process

- Committee Lead
- Guidelines should identify the entire application process from beginning to end.
  - Eligibility
  - Implementation
    - Davis Bacon and Related Act apply
    - Procurement
  - Financial
  - Completion



# Identify Eligible Rehabilitation

- Identify eligible improvements.
- Include Definitions of:
  - Façade
  - Restoration
  - Renovation
  - Replacement
  - Reconstruction
  - Code Deficiencies

# Identify Ineligible Activities

- Purchase of furnishings, equipment, or other personal property, which does not become a part of the real estate.
- Improvements completed or expenses incurred prior to the applicant receiving notification.

# Types and Terms of Assistance

- Program guidelines need to identify the type of program and the maximum amount of Assistance Allowed:
  - **Loan and including loan terms:** A business owner needs to pay back the rehab assistance within the designated time period.
  - **Deferred Conditional Grant:** If improvements remain for the full affordability period, as outlined in the program guidelines, the rehab assistance is forgiven.

# Types and Terms of Assistance

- Affordability Period Defined:
  - This is the period of time that the improvements must remain intact.
  - Start date of the affordability period begins on the date of completion.
  - A lien reflecting the amount of the rehab cost is placed against the property for the length of the affordability period.
  - CDBG program has minimum of 5 years from the date the rehab was completed, however the program guidelines can identify a longer period.

# Types and Terms of Assistance

- Repayment of Funds
  - Example: The business decides to change the improvements that were made.
  - The owner would need to pay the amount of rehab cost back. The program guidelines could be set up that the amount to be paid back would be prorated based upon the time period that the improvements were present.

# Environmental Review Record (Tier II)

- Floodplain
- Section 106
  - Consult with History Nebraska, the State Historic Preservation Office (SHPO) and the Tribal Historic Preservation Office
- Radon
- Explosive Hazards
- Toxic Substances
- Airport
- Noise

# Application Materials

- Application Forms include:
  - Photographs of the current structure
  - Proposed changes
  - Estimates for the work
- System for Awards Management (SAM)

# Formal Notification of Eligibility

- Standardized Forms/Letters should be used throughout the program.
- If an owner/property is ineligible, the letter must state the reason why the owner/property is ineligible.
- Letters must be dated, signed, and on letterhead. Grantees must maintain a copy of the notification of either selection or non-selection.



# Required Items

- Conflict of Interest Clause
- Grievance Procedures
- Amendment Process
- Relocation – Temporary/Permanent
  - 49.CFR 24.101: In cases of where involuntary or voluntary acquisition is anticipated,

# Marketing Plan

- Identify how the commercial rehab program will be advertised in a non-discriminatory manner.
- Collecting photographs throughout the rehab.
  - Example: Before/During Rehab/After Rehab
  - Owner Voluntary Release and Authorization for publication form provided to all applicants.

# Overview: Process for Approval

1. Municipality provides copy of Program Guidelines for review at time of Application and Special Conditions.
2. DED staff reviews materials, returning to Municipality or its agent for corrections if needed.
3. Municipality adopts/approves of said program guidelines locally.
4. DED program rep notifies municipality of approved program guidelines.
5. Municipality submits relevant materials to DED for the record.

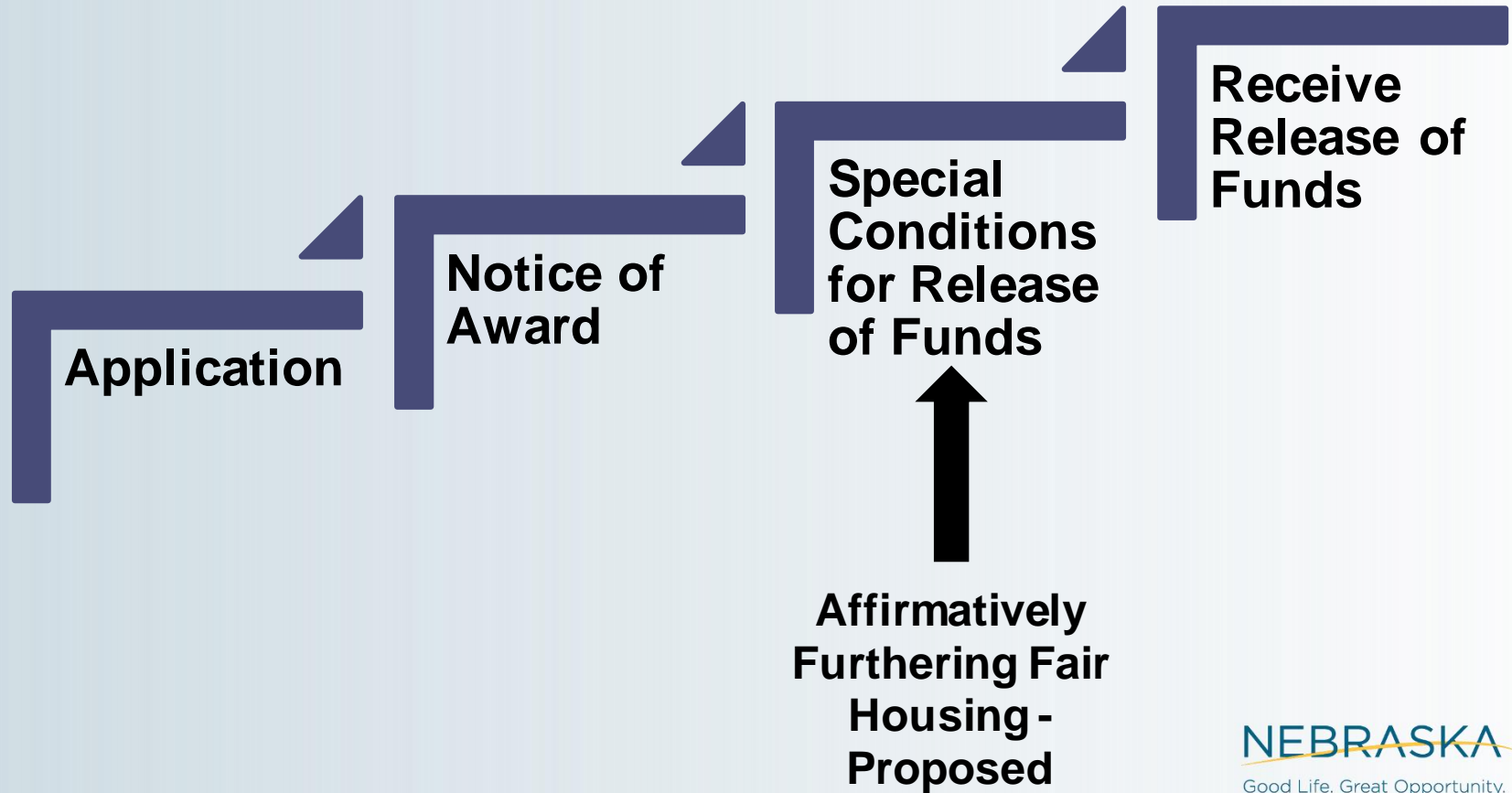
NEBRASKA

Good Life. Great Opportunity.

# Overview: Implementation

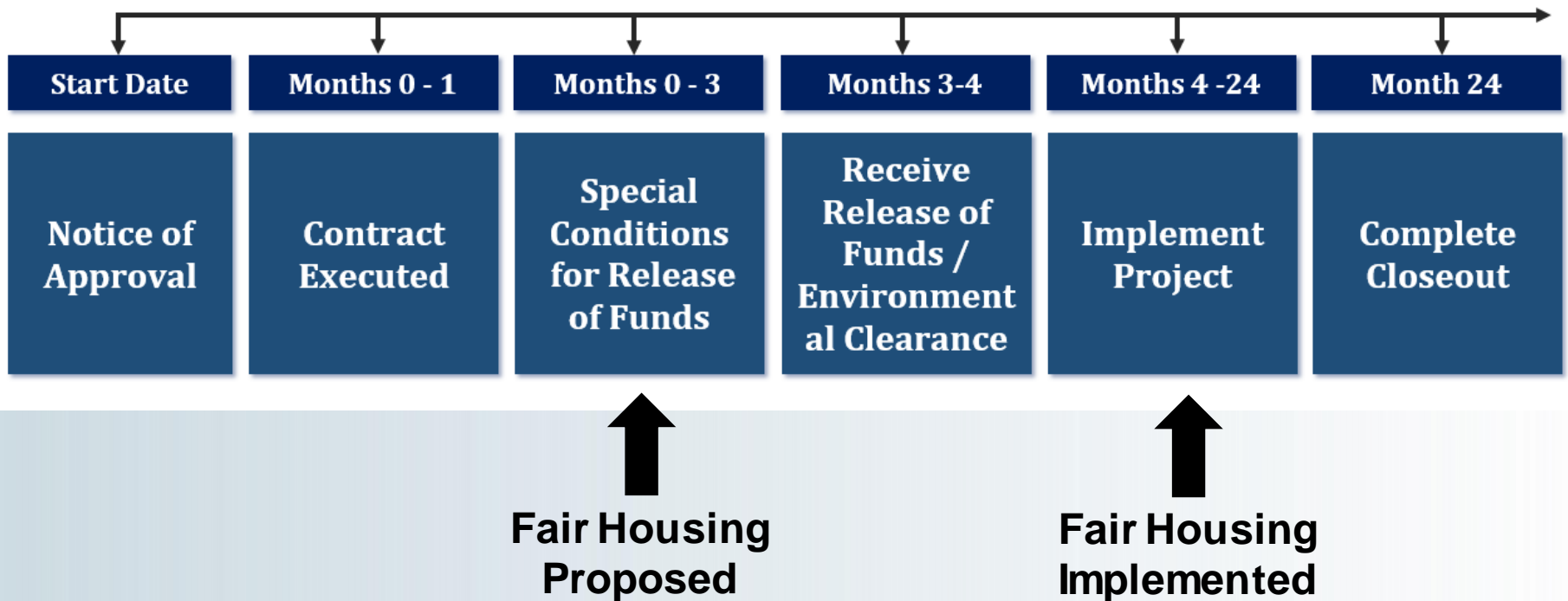
- Grantees must follow the program set forth in their Program Guidelines.
  - Accountability
  - Transparency
- Changes or deviations in the program require grantee to follow the amendment process.
- Monitoring implications
  - Review of the Program Guidelines and any “client files” resulting from the program (including non-select).
  - Deviation of the approved program guidelines may result in a finding.

# Affirmatively Furthering Fair Housing



# Nebraska CDBG Process

## CDBG Timeline Overview



# Title VIII of the Civil Rights Act of 1968, As Amended by the Fair Housing Amendments Act of 1988

- This law, seeking fair housing practices throughout the United States, prohibits any person from discriminating in activities associated with housing, because of:
  1. Race
  2. Color
  3. National Origin
  4. Religion
  5. Sex
  6. Handicap
  7. Familial Status.

# Fair Housing

- CDBG grantees make a commitment to Affirmatively Further Fair Housing in the community as a recipient of CDBG funds.
- This is a commitment to understand every individual's fair housing rights and ensure all local policies and practices do not hinder fair housing and when appropriate actively further fair housing.



# Furthering Fair Housing

- Identify local contact, preferably an employee or elected official of the local government, as the community Fair Housing representative. Actively promote fair housing and ensure potential fair housing violations are reported to the appropriate agencies.
- Inform the Department of a specific action they will undertake to further fair housing and clearly document the action that was taken in the project file. Can include:
  - Newspaper Articles,
  - Meeting and Board Minutes,
  - Contracts and Agreements With Workshop Presenters, Sign-in Sheets,
  - Websites and Video Files

# Furthering Fair Housing

- Some form of action, not just passive compliance with existing laws and ordinances
- Not limited to those grantees with a housing activity. Must be undertaken by all DED CDBG grantees each time a grant is awarded
- Fair Housing Choice: Ability of persons of similar income levels to have available to them a like range of housing choices regardless of race, color, national origin, religion, sex, familial status, or disability
- Local governments are in the most effective position to promote fair housing.

**NEBRASKA**

Good Life. Great Opportunity.

# Furthering Fair Housing

- Standard, minimal actions—only by a grantee village that is a first-time recipient of CDBG funds with permission from DED program representative:
  - Add Equal Opportunity Fair Housing logo to official letterhead, display posters, logo, and informational material on fair housing, and pass a Fair Housing Resolution.
  - And include other action that will reflect some type of action other than just the posting of info (workshop, website info, brochure, etc.)

# Limited English Proficiency

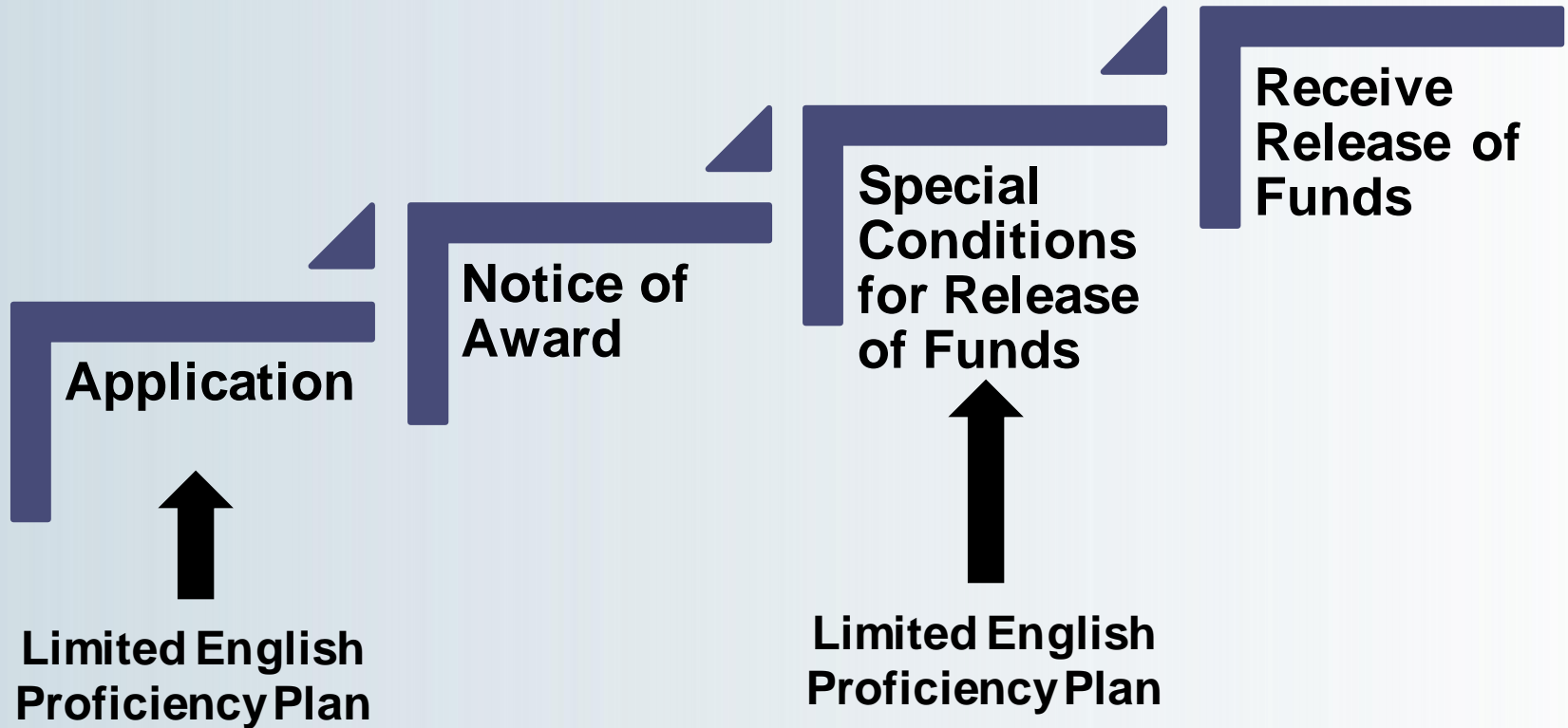
---

## **COMMUNITY DEVELOPMENT BLOCK GRANT**

NEBRASKA

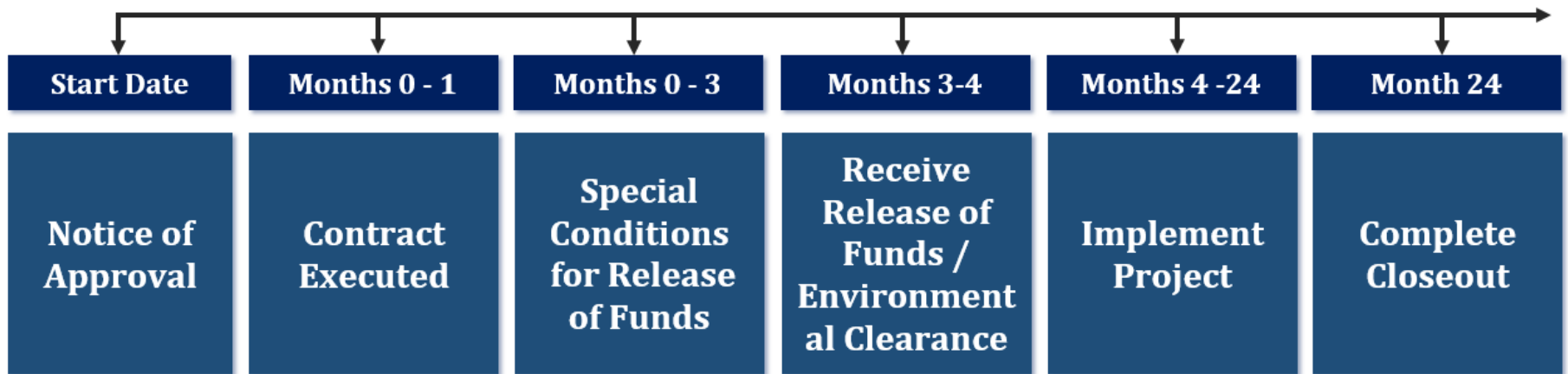
Good Life. Great Opportunity.

# Limited English Proficiency



# Nebraska CDBG Process

## CDBG Timeline Overview



# Definitions

- **Beneficiary:** The ultimate consumer of HUD programs and receives benefits from a HUD Recipient or Sub-recipient.
- **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.
- **Language Assistance Plan (LAP):** A written implementation plan that addresses identified needs of the LEP persons served.

# Definitions

- **Recipient:** Any political subdivision of the State of Nebraska, or an eligible nonprofit organization, to whom Federal financial assistance is extended (as well as to any recipients of the Nebraska Affordable Housing Trust Fund) for any program or activity, or who otherwise participates in carrying out such program or activity, including any successor, assign or transferee thereof, but such term does not include any Beneficiary under any such program.



# Definitions

- **Sub-Recipient:** Any public or private agency, institution, organization, or other entity to whom Federal financial assistance is extended, through another Recipient, for any program or activity, or who otherwise participates in carrying out such program or activity but such term does not include any Beneficiary under any such program.
- **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.

# Introduction

- The purpose of this training is to provide guidance regarding the responsibility to provide Limited English Proficient (LEP) Persons access to federally conducted programs and activities.
- Title VI of the Civil Rights Act of 1964 is a federal law which protects individuals from discrimination on the basis of their race, color, or national origin in programs that receive federal financial assistance.
- Failure to ensure that persons who have Limited English Proficiency can effectively participate in, or benefit from, federally assisted programs may violate Title VI.

NEBRASKA

Good Life. Great Opportunity.

# Policy-Applicable Laws

## **Section 601 of Title VI of the Civil Rights Act of 1964 states:**

- No person shall be subject to discrimination on the basis of race, color or national origin under any program or activity that receives Federal financial assistance.

## **Prohibited Actions per HUD Regs. 24 CFR 1.4:**

- Denials
- Differences in treatment
- Limits on services and facilities
- Subjected to discrimination

# Policy-Applicable Laws

## **Law vs. Nichols (1974):**

- The U.S. Supreme Court stated that one type of national origin discrimination is discrimination based on a person's inability to speak, read, write, or understand English.

## **Executive Order 13166 (Issued in the Federal Register 65 FR 50121 on August 16, 2000):**

- Mandated improved access to federally assisted programs and activities for individuals who, as a result of national origin, are limited in their English proficiency.

**NEBRASKA**

Good Life. Great Opportunity.

# Policy-Applicable Laws

## **U.S. Department of Justice:**


- Supported implementation of Executive Order 13166 and issued guidance regarding “Enforcement of Title VI of the Civil Rights Act of 1964, National Origin Discrimination Against Persons with Limited English Proficiency.” (August 16, 2000).
- USDODJ adopts final guidance, Federal Register at 65 FR 41455, June 18, 2002.

# LEP Policy Implementation

- As a result of the above-mentioned federal laws, the Nebraska Department of Economic Development is taking steps to provide meaningful access to its programs and activities for persons with Limited English Proficiency (LEP).
- NDED's policy is to ensure that staff and grantees will communicate effectively with LEP individuals, and LEP individuals will have access to important programs and information.
- NDED is committed to complying with federal requirements in providing free meaningful access to its programs and activities for LEP persons.

# Recipients' Responsibility

**WHO:** Entities that are recipients of any Federal Financial Assistance and any recipients of the Community Development Block Grant



**WHAT:** Must develop a plan for persons of different national origins that cannot speak or read English



**WHY:** To ensure that they provide meaningful access to all portions of their program or activity, not just those portions that receive the funds.

# Recipients' Responsibility

- Federally Assisted Recipients and recipients of the Community Development Block Grant:
  - Are required to make reasonable efforts to provide language assistance to ensure meaningful access for LEP persons to the recipient's programs and activities.



# Recipient's Responsibility

- **Recipients Should:**
  - Conduct a four-factor analysis specific to the project receiving Federal Funds;
  - Develop a written Language Assistance Plan (LAP) ensuring that they provide meaningful access to all portions of each of their programs or activities, not just those portions that receive the funds;
  - Provide appropriate language assistance; and
  - Keep records of all interactions with non-English speaking individuals and the type of assistance provided.

# What is the Four Factor Analysis?

The number or proportion of LEP individuals served or encountered in the eligible service population.

The frequency with which LEP individuals come in contact with your program, activity or service.

The nature and importance of the program, activity or service.

Available resources and cost.

# Language Assistance Plan

- After completing the four-factor analysis and deciding what language assistance services are appropriate, recipients will develop an implementation plan to address the identified needs of the LEP populations they serve.
- This plan is referred to as a Language Assistance Plan (LAP) and is a plan and a policy combined into one. It represents that a Sub-recipient has a policy of providing LEP persons meaningful access to programs and activities, and also lays out the plan for providing such access.

# Language Assistance Plan

- A LAP will likely be the most appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance.
  - **NOTE:** Sub-recipients are strongly encouraged to develop a LAP. However, some Sub-recipients, such as those serving very few LEP persons and those with very limited resources, may choose not to develop a written LAP.

# Language Assistance Plan

- A Sub-recipient that **does NOT develop a LAP** must be able to provide information to the Department that demonstrates sufficient reasoning for not doing so, and must document alternative ways to articulate, in some other reasonable manner, a plan for providing LEP persons meaningful access to programs and activities.

# What a LAP Should Include

- An explanation of the procedures the Sub-recipient will use to identify LEP persons with whom they have contact, the size of the LEP populations, and the languages of LEP populations;
- Points and types of contact the Sub-recipient may have with LEP persons;
- Ways in which language assistance will be provided;
- The Sub-recipient's plan for outreach to LEP persons; The Sub-recipient's plan for training staff members on the LEP Guidance and the LAP, including specific provisions for training of staff who are responsible for completion and oversight of projects;
- A list of Vital Documents to be translated, the languages into which they will be translated and the timetable for
- The plan for translating informational materials that detail services and activities to be provided to Beneficiaries,

# What a LAP Should Include

- The plan for providing appropriately translated notices to LEP persons;
- The plan for providing interpreters for large, medium, small, and one-on-one meetings, and ensuring the competency of interpreters;
- The plan for developing community resources, partnerships, and other relationships to help with the provision of language services;
- The provisions for updating the Four Factor Analysis and LAP;
- Identification of the Sub-recipient's LEP contact person; and
- References to applicable LEP resources.

# Oral Language Requirements

- All Sub-recipients **MUST** use the four-factor analysis to determine whether they should provide reasonable, timely, **oral language** assistance free of charge to any beneficiary that is LEP (depending on the circumstances, reasonable oral language assistance might be an in-person interpreter or telephone interpreter line).
- There is **no safe harbor** for **oral interpretation**. Reasonable availability is expected based on the four factor analysis.



# Written Material Safe Harbor

- HUD has adopted a “safe harbor” for the translation of **written materials**.
- A safe harbor means that if a recipient provides written translations under these circumstances, such action will be considered strong evidence of compliance.

# Safe Harbor

The table below sets forth safe harbors for **written**

Size of Language Group	Recommended Provision of Written Language Assistance
1,000 or more in the eligible population in the service area or among current Beneficiaries	Translated Vital Documents
More than 5% of the eligible population or Beneficiaries and more than 50 in number	Translated Vital Documents
More than 5% of the eligible population or Beneficiaries and 50 or less in number	Translated written notice of right to receive free oral interpretation of documents.
5% or less of the eligible population or Beneficiaries and less than 1,000 in number	No written translation is required.

# Expectations For Compliance

- **Grantees should have a process for:**
  - Determining whether new documents, changes in programs, services and activities need to be made accessible to LEP persons;
  - Determining whether changes in demographics, services or needs require reevaluation of LAP; and
  - Seeking feedback from the community the plan serves.

# Expectations For Compliance

- Template information should be utilized. For example, use the following paragraphs in public notices and other publications.
  - **English:** *“This information is available in Spanish or any other language upon request. Please contact (Insert Name) at (Insert Phone Number) or at (Insert physical location) for accommodations for this request.”*
  - **Spanish:** *“Esta información está disponible en español o en cualquier otro idioma bajo petición. Por favor, póngase en contacto con (Insert Name) al (Insert Phone Number) o en (Insert physical location) de alojamiento para esta solicitud.”*
- Please note the address and name itself should not be translated.
- This is the requirement for anything that requires for you to publish.

# Expectations For Compliance

- The Department will include as part of **regular project monitoring**, an evaluation of compliance with LEP requirements, including:

Has the Sub-recipient identified a LEP contact person?

Has the Sub-recipient completed a Four Factor Analysis?

Does the Sub-recipient have a LAP?

Are LEP persons being provided meaningful access to programs and activities?

Is the Sub-recipient maintaining records regarding their efforts to comply with Title VI LEP obligations?

# Penalties For Noncompliance

- Repayment of federal funding received
- Loss of federal funds
- Loss of future federal and state funding
- HUD EEO Investigations
- Subject to legal actions from legal services organizations and private individuals
- The US Dept. of Justice or the Office for Civil Rights still have the authority to investigate claims of discrimination.

# Best Practices

Grantees submit Language Assistance Plan using the recommended template from the Department;

Plan addresses LAP policy, translation of vital documents, and requirements for citizen participation;

Reach out to the community: communicate that those types of services are being offered by the Local Government;

Hang up LAP signs and be prepared to provide assistance to persons with Limited English Proficiency;

Document and keep records for monitoring/ reporting. Be prepared to report annually;

# Best Practices

Ensuring competence of interpreter or translation services (certifications, age, relation to LEP person, conflicts);

Training of staff/Bilingual staff;

Posting signs in common areas;

Advertising language services in outreach documents;

Partnering with LEP grassroots, faith based organizations, and schools;

Using telephone voicemail menu;

Providing notice on Non-English radio and TV stations.



# Resources

- The videos listed below explain the Title VI obligations of recipients of federal financial assistance and federal agencies pursuant to Executive Order 13166.
  - [United States Department of Justice Language Access Planning and Technical Assistance Tool for Courts Public Event on February 28, 2014, Online Video \(captions\)](#)
  - [Understanding and Abiding by Title VI of the Civil Rights Act of 1964, Department of Justice, Online Video](#)