**CDBG GRANTS MANAGEMENT**

**NATIONAL OBJECTIVE RULES and STANDARDS**

OVERVIEW

This chapter describes the federal requirement that all CDBG funded activities fulfill one of three National Objectives established by Congress. The following paragraphs discuss the process of selecting one of the three National Objectives. This includes the procedures for documenting that the UGLG’s activities fulfill the selected objective.

Federal regulations stipulate that before any activity can be funded in whole or in part with CDBG funds, it must be determined that the activity is eligible under Title I of the Housing and Community Development Act of 1974, as amended. In addition, CDBG requirements mandate that each funded activity (except for program administration and some planning initiatives) must meet at least one of the established three National Objectives:

* Benefiting low-to-moderate income (LMI) persons; or
* Aiding in the prevention or elimination of slums and blight; or
* Meeting other community development needs that pose a serious and immediate threat to the health and welfare of the community.

To complement these federally-mandated objectives, the State has established the following specific objectives for the CDBG Program:

* Strengthen community economic development through the creation of jobs, stimulation of private investment and strengthening the tax base;
* Improve public infrastructure and eliminate conditions which are detrimental to health, safety and public welfare; and
* Conserve and expand the State's housing stock in order to provide a decent home and a suitable living environment for persons of low-to-moderate income and the developmentally disabled.

There are a number of different criteria by which an activity can meet a National Objective. The following sections explain the three National Objectives in detail, including the criteria for meeting each one, and the documentation that must be provided to comply with the HUD requirements.

BENEFIT TO LOW/MODERATE INCOME (LMI) PERSONS

The LMI National Objective is often referred to as the primary National Objective as the regulations require that States expend at least 70 percent of their CDBG funds on activities that benefit low-and moderate-income people as defined below. In addition to ensuring that the required percentage of CDBG funds serve people in the overall LMI category, UGLGs must also ensure that the activities proposed, when taken as a whole, will not benefit moderate income people to the exclusion of low-income people (see definition below).

Activities that benefit LMI people are divided into three types:

* Area-benefit activities.
* Job creation/retention activities.
* Housing activities.

LMI DEFINITION

CDBG programs require that UGLGs target benefits to LMI people. However, LMI people are in turn defined as individuals that are members of a low-income family/household.The one instance when HUD looks at households rather than families is in the case of CDBG-funded housing programs, because the beneficiary of the assistance is actually the entire household living in the unit that was assisted, regardless of whether they are in the same family. Thus if a person with little or no income was sharing a residence with an unrelated wealthy person, neither of them would be considered low -income people. Rather, they would both be part of a two-person household that did not qualify as LMI.For purposes of determining CDBG eligibility and compliance with the LMI National Objective, family or household incomes are adjusted for family/household size.

A low-income family/household is one that has an income of less than or equal to 50 percent of the Area Median Income, as adjusted for family/household size. A moderate income family/household is one that has an income of greater than 50 percent of the Area Median Income but less than or equal to 80 percent of the Area Median income, as adjusted for family/household size. The two categories are referred to as Low and Moderate Income, or LMI. HUD provides specific income figures (e.g., median income, 80 percent of median income, 50 percent of median income) adjusted by household size for all counties of the state. These figures are adjusted annually.

LMI AREA BENEFIT CRITERIA (LMA)

A LMI Area Benefit Criteria (LMA) Activity is one whose benefits are available to all the residents in a particular service area where at least 51 percent of the residents are LMI persons. The most readily available information on income is kept by the U.S. Census and is generally described by census tracts or larger aggregations of tracts. However, a CDBG-funded activity’s service area does not need to be consistent with census tracts or other officially recognized

boundaries if statistics on income are available by some other geographic unit. However, in all cases the area used to determine LMI benefit must be the entire area served by the activity. Activities of the same type that serve different areas must be considered separately on the basis of their individual service area.

An activity that serves an area that is not primarily residential in character (e.g., a commercial area with a handful of residences, or an area LESS THAN 51% in residential structures) CANNOT qualify under the Area Benefit National Objective.

In determining whether an activity will actually benefit LMI residents, the net effect of the completed activity is considered. The mere location of an activity in an LMI area does not conclusively demonstrate that the activity benefits LMI persons. It is important to understand that not all activities that take place within a particular area will benefit that entire area. Similarly, in instances when a UGLG assists an affordable housing development, it is essential to consider the incomes of the residents of that development (i.e., those who are getting a direct benefit from the housing) rather than the incomes of the residents in the surrounding neighborhood, notwithstanding that it could be argued their lives are also improved due to the new project.

LMI DATA

Data establishing numbers and percentages of LMI persons in an area must be verifiable. Acceptable methods for establishing low- and moderate-income population in a particular area include:

* Census data provided by HUD.
* Methodologically-sound surveys conducted by the UGLG or a third party.

Both methods are described below.

CENSUS DATA

Appropriate census data must be used to establish the LMI population. HUD has historically provided detailed data arranged to show the percentage of LMI persons in each incorporated place, census tract and block group. Data is available directly from HUD online. For federal fiscal year 2012 and beyond, HUD will provide data for incorporated places and for census tracts based on the American Community Survey (ACS).

If the proposed activity’s service area is generally the same as a census tract or block group(s), then HUD data may be used to justify the income characteristics of the area served. If HUD data does not indicate that the service area contains at least 51 percent LMI persons, and if an UGLG has a compelling reason to believe the data is incorrect, then an UGLG may conduct household surveys based on a change in either population or income of the area since the census. If the service area is not generally the same as a census tract or block group, then an applicant should conduct household surveys to determine the LMI percentage for the area.

SURVEY DATA

An applicant may conduct a methodologically sound income survey to establish the LMI status of households or families in a CDBG project area. The standardized income survey form (Contained in the Application Guidebook) required by the Department includes all essential questions needed for the CDBG application. This standardized format is to be used when submitting an income survey unless prior approval is received. Surveys may be conducted door-to-door or by mail. The Department will not approve the use of a telephone survey.

LMI JOB CREATION/RETENTION

An LMI Job Creation/Retention (LMJ) activity is one that creates or retains permanent jobs, with 51 percent being held by persons from LMI families. Jobs indirectly created by an assisted activity (i.e., “trickle-down” jobs) may not be counted.

For job creation activities, the local government and the assisted business(s) must document that permanent jobs have been created, and that at least 51 percent of the jobs, computed on a full-time equivalent (FTE) basis, have been filled by LMI persons.

For job retention activities, the local government must document that the jobs would actually be lost without the CDBG assistance, and that either or both of the following conditions apply with respect to at least 51 percent of the jobs:

* The job is known to be held by an LMI person, or
* It can be reasonably expected that the job will turn over within the following two years and be filled by an LMI person upon turnover.

CALCULATING FTE JOBS

The Department of Labor allows jobs of 35 hours or more per week to be classified as full time positions. All such positions that were created through CDBG assisted initiatives should be broken out from the part time positions and counted fully. For instance, if a CDBG-assisted venture created 10 permanent jobs that involved 40-hour work weeks, and five more that involved 35-hour work weeks, the total number of full-time positions would be 15. If the same venture also created permanent part-time positions, these can also be counted once they have been converted to FTE positions.

Notwithstanding the fact that 35-hour positions can be counted as full-time employment, any part-time positions requiring less than 35 hours per week must be converted to FTE positions using a factor of 40 hours for each full-time job.

JOB CREATION REQUIREMENTS

As part of the application process, each business requiring assistance must include a written commitment to hire or retain LMI persons. The business must also provide a hiring plan that details the number of jobs to be created, the number of jobs held or to be filled by LMI persons, the type of job, average wage, any special skills or training required, the timetable for hiring, and whether or not health care will be provided for the positions. The plan must indicate who will be responsible for hiring, collecting required data, and for training to be provided. Generally, it is expected that initial hiring by the business will be completed within 24 months from the time of CDBG assistance. Projections for future expansions or growth (i.e., those that are not directly related to the assistance) are generally not considered for purposes of determining the number of jobs to be created. The job commitment should be realistic in determining the total number of jobs, the number of jobs to be filled by LMI persons, and the timeframe for hiring. Note that:

* The Department uses the Application and other documents to qualify the proposed project under HUD regulations and will monitor the hiring to verify that job commitments have been fulfilled.
* Failure to comply with the requirement to benefit at least 51 percent LMI persons could result in the State requiring repayment of all of CDBG funds spent on the project.
* The UGLG must meet with appropriate business representatives to discuss hiring commitments, LMI job requirements and documentation prior to CDBG funds being awarded.
* The business should track its employees by positions, such that when a position is created and an employee is hired, the LMI status of the employee in that position can be determined. Regardless of the number of jobs committed by the business, 51 percent of the total jobs actually created when hiring is complete must have been taken by LMI persons.
* The business should maintain applicant and employee income surveys, equal employment opportunity information, and payrolls or employee lists to document compliance with CDBG requirements. It is recommended that these records be maintained separately from a business’s individual personnel records.

The UGLG is required to monitor on-site the business’s progress in fulfilling the hiring and LMI job requirements and report to the Department on a quarterly basis. Every time a new job is filled, the employer must maintain documentation regarding the new job, demonstrating that it was not simply a re-hire for a position that had already been counted. The documentation for all first-time hires in new positions should include evidence that the new employee either met or didn’t meet the LMI standard.

For job creation projects, the important fact is the status of the first employee to fill a new position. For example, assume a firm had 100 employees before deciding to participate in a CDBG-funded job creation initiative through which they then brought on 10 new full-time employees to give the firm a total of 110 FTEs. Next, assume that seven of the 10 new positions were originally filled by low-income workers. However, one of the seven new LMI employees was subsequently replaced by another worker that happened NOT to be low income. In this case, it is still appropriate to say that seven of the 10 new positions were initially filled by low-income workers, even though only six of the positions were held by low-income workers once the one employee left and was replaced by another individual that did not qualify as LMI.

The business must continue to collect income verifications from all applicants and employees hired until hiring is complete and the jobs are monitored. When all of the intended jobs have been created, the Department will monitor the hiring and LMI job documentation at the business. Records should continue to be kept by the business until notified by the Department that the CDBG requirements have been fulfilled. These record and the UGLG based on the Records Retention Policy.

COUNTING JOBS

When counting jobs, the following policies apply:

* Part-time jobs must be converted to FTE.
* Only permanent jobs may be counted; temporary and contractual jobs are not allowed.
* Transferred jobs may not be counted.
* Seasonal jobs may be counted only if the season is long enough for the job to be considered the employee's principal occupation.
* Jobs indirectly created by an assisted activity (i.e., “trickle-down” jobs) may not be counted.
* Jobs must ultimately and within the term of work be located at the project site receiving the improvements

Jobs are only counted as newly created if they involve a new hire that joined the assisted firm after the effective date of the Grant Agreement. Firms are not able to claim any new positions that were created before the UGLG actually entered into an agreement with the State.

Any jobs that were eliminated prior to a firm entering into discussions to receive assistance are generally NOT considered for purposes of determining net job growth. Assume, for instance, that two months prior to engaging the UGLG to receive assistance, a firm terminates 20 positions. Then one month after the UGLG enters into a Grant Agreement to revitalize the firm’s local operations, the firm improves its outlook and hires 15 new positions. In this instance, it is appropriate to count all of these 15 positions as new, rather than offsetting them by the 20 terminations that occurred prior to the effective date of the agreement. If, however, the firm cut positions after it knew it was going to receive assistance (even before it signed an official agreement), then these terminations should be considered as if they happened after the Grant Agreement (i.e., they must be subtracted out of any subsequent job additions in order to calculate a net new jobs total).

JOB RETENTION REQUIREMENTS

For projects proposing the retention of jobs that would otherwise be lost without CDBG assistance, at least 51 percent of the jobs to be retained must be held by persons from LMI families. HUD requires that there be clear, objective evidence and documentation that jobs would be lost without the CDBG assistance; therefore, using job retention as a basis for meeting the LMI National Objective is difficult. Consequently, in the past few projects have qualified as benefiting LMI through job retention.

The business should track its employees by position, such that the LMI status of the employee in that position can be determined.

CERTIFYING LOW-INCOME STATUS OF EMPLOYEES FOR LMI JOBS

UGLGs must obtain individual income certifications from each employee claimed as filling a new low-income job. New employees should provide a sworn statement (using a standardized format) as to their actual family household income at the time the CDBG assistance is provided. This actual family household income figure will be used to project an annual income over a 12-month period.

LMI HOUSING REHABILITATION

An LMI Housing activity is one carried out for the purpose of providing or improving permanent, single-family, owner-occupied, residential structures that will be occupied by LMI households upon completion.

The following documentation of program benefit is required for all CDBG-funded activities that are carried out under the LMI Housing National Objective. Additional back-up documentation must be kept on file.

* For each assisted unit, the family size and income and ranges (30%, 50%, 80%) of occupant households and the amount of CDBG funds spent on rehabilitation.
* Data on the racial, ethnic and gender characteristics of persons who are applicants for, participants in, and/or beneficiaries of CDBG activities.

REQUIREMENTS FOR HOUSEHOLD ELIGIBILITY

Grantees must certify that CDBG program recipients meet the HUD eligibility requirements. The Grantee must follow the HUD guidance for income calculations, using the IRS Form 1040 Adjusted Gross Income Calculation method:

<https://www.hudexchange.info/incomecalculator>

When using the IRS Form 1040 definition to determine an applicant’s annual income, Grantees must use the most current version of the IRS Form 1040 – the version filed for current year tax reporting purposes.

Grantees are responsible for maintaining all documents used to determine and verify CDBG program recipient’s income used with the HUD income calculator.

REHABILITATION STANDARDS

All rehabilitation must be in accordance with all locally adopted building and housing codes, standards and ordinances. If locally adopted and enforced building and housing codes do not exist, refer to the Housing Quality Standards (HQS) as set forth in 24 CFR 982.401. HQS define "standard housing" and establish the minimum criteria for the health and safety of program participants. Current HQS regulations consist of 13 key aspects of housing quality, performance requirements, and acceptability criteria to meet each performance requirement.

ELIMINATION OR PREVENTION OF SLUMS AND BLIGHT – AREA BASIS

To qualify under this National Objective on an area basis, an activity must meet the following:

The area must be designated as a slum or blighted area by the applicant and must meet the definition of a slum, blighted, deteriorated, or deteriorating area under a State or local law; **AND**

The area must exhibit at least one of the following physical signs of blight or decay:

* Public improvements are in a general state of deterioration throughout the designated area, OR
* There are a substantial number of deteriorated or deteriorating buildings throughout the designated area. For example, at least 25 percent of properties (or such other percentage determined to be significant as stipulated in the State or local law) throughout the area must have one or more of the following conditions:
* Physical deterioration of buildings or improvements,
* Abandonment of properties, Chronic high-occupancy turnover rates or chronic high-vacancy rates in commercial or industrial buildings,
* Significant declines in property values or abnormally low property values relative to other areas in the community, OR
* Known or suspected environmental contamination, AND
* Documentation must be maintained by the grant recipient on the boundaries of the area and the conditions that qualified the area at the time of its designation.

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

ELIMINATION OR PREVENTION OF SLUMS AND BLIGHT – SPOT BASIS

To qualify under this National Objective on a spot basis, an activity must be specifically designed to eliminate specific conditions of blight or physical decay on a spot basis (not located in a slum or blighted area). It must be limited to the following activities:

* **Acquisition:** If acquisitionor relocation isundertaken, it must be a precursor to other activities (funded with CDBG or other resources) that directly eliminate the specific conditions of blight or physical decay.
* **Clearance:** Financial assistance offered to a business to demolish a decayed structure and construct a new building on the site.
* **Historic** **Preservation:** For Title I purposes, properties that qualify as historic properties are landmarks, districts, sites, buildings, structures or objectives which:
	+ Are listed in or eligible for listing in the National Register of Historic Places, or
	+ Are certified as historic properties by the Secretary of the Interior for purposes of the Economic Recovery Tax Act or related Federal tax laws, or
	+ Are listed in a State or local inventory of historic places, or are designated by State law or local ordinances as a State or local landmark or historic district.

Pursuant to 24 CFR 570.208(b)(2), CDBG funds may be used for acquisition, clearance, relocation, historic preservation and building rehabilitation activities which eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area. While rehabilitation done under this criterion is limited to the extent necessary to eliminate specific conditions detrimental to the public health and safety, this restriction does not extend to historic preservation carried out under the Spot Blight National Objective. Historic preservation activities are limited instead to activities that are determined to contribute to the conservation, and preservation of historic buildings, places, and areas.

* **Rehabilitation** **of** **Buildings:** Only allowable to the extent necessary to eliminate specific conditions detrimental to public health and safety.

The State can approve no more than 30 percent of its funds for activities that address the Slum or Blight National Objective, according to requirements of Title I of the Housing and Community Development Act. UGLGs should classify an activity as addressing the Slums or Blight National Objective on a spot basis only after receiving direct approval to do so by the Department.

URGENT NEED

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

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

In recognition of the extraordinary circumstances that must be present in order to justify the use of this National Objective, UGLGs are generally not allowed to utilize Urgent Need as a National Objective unless directed to do so by the Department.

DOCUMENTATION OF NATIONAL OBJECTIVES

National Objective eligibility will be initially reviewed and determined during the Application process as outlined in the Program Guidebook. All applications awarded funding will undergo further review including but not limited to verification of Census data, examination and approval of Income Surveys, individual 1040 forms, and any other means deemed necessary and allowed by law. Once determined, the National Objective will be documented by the Department on the Determination of Project Eligibility form prepared by the Department’s Grant Manager and signed by the Deputy Director or their assignee. The Determination of Project Eligibility form will be retained in the permanent grant file.

LMI AREA BENEFIT DOCUMENTATION

The following documentation of program benefit is required at project completion for all CDBG-funded activities that are carried out under the LMI Area Benefit National Objective:

* As-built drawings of public improvements (if applicable) or other evidence showing the area actually served.
* Data showing the income characteristics of all families and unrelated individuals actually served.
* Data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the CDBG activities.
* Documentation of occupancy and income characteristics of all families and unrelated individuals receiving CDBG assistance for special assessments.

LMI JOB CREATION/RETENTION DOCUMENTATION

The following documentation of program benefit is required with the application for all CDBG-funded activities that are carried out under the LMI Job Creation/Retention National Objective. Recipients are required to verify job creation/retention on-site on a quarterly basis.

* JOB CREATION**:** For an activity that creates jobs, the UGLG must document that at least 51 percent of the jobs will be for LMI persons.

Documentation for each assisted business must include a copy of a written commitment by each business that at least 51 percent of the jobs created (full-time or FTE) will be held by LMI persons. The business must also provide a hiring plan that details the number of jobs to be created, the number of jobs estimated to be filled by LMI persons, the types of jobs, any special skills or training required, the timetable for hiring, and whether or not healthcare will be provided for each type of position. The plan must indicate who will be responsible for hiring and collecting required data and for any training to be provided.

* JOB RETENTION: The following documentation of program benefit is required at project completion on the Job Summary Report form for all CDBG-funded activities that are carried out under the LMI Job Creation/Retention National Objective. Recipients are required to verify job creation/retention on-site on a quarterly basis.
* After job creation and hiring is complete, copies of company payrolls or an employment listing (including a list of current employees), preferably by job title, of all permanent jobs filled and which were filled by LMI persons.
* Information on the numbers of persons in the immediate family of all applicants and newly hired employees, and their annual (pre-employment) family income in ranges of 30 percent, 50 percent, 80 percent of median income.
* For each retained job filled due to a turnover commitment, information on the size and annual income of the immediate family of all applicants (prior to being hired) for the job.
* After completion of job retention commitments, copies of company payrolls or an employment listing, preferably by job title, of all permanent jobs filled through turnover, if applicable, and which were held by LMI persons.
* Data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of CDBG activities.

SLUM OR BLIGHT

The following documentation of program benefit is required with the application for all CDBG-funded activities that are carried out under the Slum or Blight National Objective:

* AREA BASIS: A resolution and ordinance from the applicant governing body designating the area as slum or blighted, providing a description of the conditions that qualified the area at the time of designation, and providing a description of how the conditions contributed to the area's deterioration.
* A map and description of the boundaries of the designated area showing the location of all buildings and public improvements that are deteriorated.
* Inventory and detailed description documenting those public improvements in a general state of deterioration. Deterioration of a single element of infrastructure, such as a road or a sidewalk, does not meet this criterion.
* Inventory and detailed description of all buildings in the target area and their condition. Include the total number of buildings, the type of buildings, and the percentage of buildings that are deteriorated in the area as well as vacancy rates.
* Evidence that the activity being proposed for CDBG assistance addresses one or more of the conditions that contributed to the deterioration of the area.

To document program benefit at project completion, the activities undertaken must address the identifying slum or blight conditions.

* SPOT BASIS: A building inspection report or other evidence that describes the specific condition of slum or blight and how the activity to be assisted with CDBG funds will eliminate the blighted condition.
* A description of how the assistance will be limited to the items necessary to eliminate specific conditions detrimental to the public health and safety.
* Identify all activities completed, and
* Provide evidence that the activity addressed one or more of the conditions that contributed to the deterioration of the area.

To document program benefit at project completion for those activities under the Slum or Blight Spot Basis National Objective, the unit of local government must provide evidence that the activities completed addressed the conditions that threatened the health or welfare of the community.

URGENT NEED

Please note that the Urgent Need objective may only be used in exceptional instances, where the Department issues the UGLG authority to use this National Objective. In these instances, the Department will provide the UGLG further instructions on requirements.