

**REVISED City of Providence**  
**Community Development – CDBG Housing Abbreviated Guide**  
***Based on Latest CDBG Guidance 12/13/12***

This guide is to assist Providence housing organizations in preparing applications for CDBG funding and in providing information to the City about their proposed activities. It is not meant to be full guidance on the CDBG program and other Federal rules, and only the official HUD rules and rulings will be used to determine the eligibility of costs and activities. Organizations are strongly encouraged to pursue training and study of the relevant regulations and training materials. A list of resources is provided at the end of this document.

To make use of this document it is essential to read the entire document, as funding and compliance for any particular activity depends on a matrix of factors that include the activity itself, the way in which funds are used to support the activity, the contractual designation and nature of the organization receiving funds, and the circumstances of the individual projects involved. Note that failure to attain compliance will result in the City being required to repay Federal funds to the U.S. Treasury and the City requiring repayment of funds by the local grantees.

### **Your Funding Application**

As you move forward in applying for CDBG funding, it is essential that you are specific in how you intend to use CDBG funds and what type of project the funds are supporting. Note that the CDBG rules are complex and, as they relate to housing, have been evolving as a result of NSP. We encourage you to apply for funds even if you are in doubt about how they will be classified and compliance documented under the rules. We will make every effort to work with you to make sure there is no future confusion about documentation and compliance, adjusting how you use funds, if necessary.

### **CDBG National Objectives and Eligible Activities**

All funding in CDBG must be directly related to achieving and properly documenting a National Objective through an Eligible Activity, as defined by the rules.

**The National Objectives** for CDBG-funded housing activities in Providence require that the use of funds results in properties that are occupied by households with income at or below 80% of area median family income as determined by HUD. The components and calculation of income are defined by the CDBG program and must be documented and certified. For two unit properties, one unit must be occupied by a qualifying household. For three or more unit properties, at least 51% of units must be so occupied. Failure to satisfactorily meet a National Objective within a time limit set by the program will require repayment of funds.

**Eligible activities** listed below come in part directly from the CDBG regulations. Others are combinations of activities listed in the regulations or are more specific sub-components of listed activities.

**Eligible Activities** are divided into “Subrecipient Activities” and “Developer Activities.” The significance of these differences was discussed in our meeting on September 27<sup>th</sup> and is further explained below and in the attached Guidance on Developers, Subrecipients and Contractors. Please note that since our September meeting, ICF has determined, through conversations with

HUD Headquarters, that the current classification of activities as “Developer Activities” is restricted to activities associated with the development of property **owned** by the developer, but the previous distinction between rental development and development of houses for sale to homebuyers has been removed. Our guidance has also further significantly restricted the use of CDBG funds to support new construction. See below for details.

Further: In the event that an entity carries out a subrecipient activity, such as housing counseling or owner-occupied rehabilitation, and is also a project developer, those two activities would be considered completely distinct from one another and the funding completely separate. See the new “Guidance on Subrecipients, Developers, and Contractors”.

#### Subrecipient Activities

- Homeownership assistance (such as downpayment assistance and interest subsidies) (§570.201(n) or §570.201(e));
- Rehabilitation of buildings that are owner-occupied housing (§ 570.202) and rehabilitation of buildings for sale to homebuyers. This also includes conversion of non-residential structures for residential use. The following types of rehabilitation activities may be undertaken:
  - Acquisition for rehabilitation and rehabilitation for residential purposes;
  - Labor, materials, etc. for rehabilitation of properties;
  - Loans for refinancing existing secured indebtedness;
  - Energy improvements;
  - Water efficiency improvements;
  - Connection to water and sewer lines;
  - Some homeowner warranty, hazard and flood insurance premiums;
  - Testing for and abatement of lead-based paint;
  - Costs of acquiring tools to be lent for rehabilitation;
  - Rehabilitation services;
  - Assistance for the rehabilitation of housing under Section 17 of the United States Housing Act of 1937; and
  - Removal of material and architectural barriers that restrict accessibility to eligible buildings
- Lead-based paint testing and abatement as a stand alone program or included as rehabilitation as noted above (§ 570.202(f));
- Activities that support new housing construction for rental or for sale to homebuyers are specifically limited to acquisition carried out in conjunction with the City (§570.201(a) and (b)). Where appropriate, the City could also support new construction with certain activities on publicly-owned property. See HUD CPD Notice 07-08. Use of Community Development Block Grant (CDBG) Program Funds in Support of Housing.

- ✓ Note on new construction: For Providence housing organizations in their current status, CDBG may not pay for new construction except as noted above. The City will explore the potential of identifying Neighborhood Redevelopment Areas and a CBDO certification process, necessary preconditions for supporting new construction with CDBG funds, as part of developing a new Consolidated Plan.
- Disposition (§ 570.201(b));
- Clearance and demolition (§ 570.201(d));
- Historic preservation (§ 570.202(d));
- “Public facilities” includes, but is not limited to, neighborhood/community facilities and facilities for persons with special needs (e.g. homeless shelters, group homes, and halfway houses).
- Housing services in connection with Home Investment Partnerships (HOME) Program activities (§ 570.201(k)). Additional detail on projects will be required for those seeking funding for this type of activity.

In addition to the items specifically noted in the rules, HUD allows a number of directly related costs under certain conditions. To fully understand how to consider and account for the items here it is important to understand the following section differentiating subrecipients operating programs from developers building projects. Eligible items for subrecipients include the actual, documented costs (except for new construction – see limitation above) of:

- Staff or contracted costs directly tied to program delivery or project activities (must be documented by time sheets or invoices and would typically be for one of the following)
- Qualification of homeowners and homebuyers
- Appraisals
- Specifications
- Feasibility analysis of a projects
- Environmental assessment activities
- Legal costs for a projects
- Construction oversight
- Direct construction costs
- Marketing specific to a program or to a project

#### Developer Activities

Note that qualification as a developer activity requires that the property be owned by the developer during the course of the development.

- Rehabilitation of buildings owned by the developer for use as residential rental property or for sale to eligible homebuyers. This also includes conversion of non-residential structures for residential use. This includes:
  - Acquisition for rehabilitation and rehabilitation for residential purposes;
  - Labor, materials, etc. for rehabilitation of properties;
  - Loans for refinancing existing secured indebtedness;
  - Energy improvements;

- Water efficiency improvements;
- Connection to water and sewer lines;
- Some homeowner warranty, hazard and flood insurance premiums;
- Testing for and abatement of lead-based paint;
- Removal of material and architectural barriers that restrict accessibility to eligible buildings
- Related components, in addition to the items under “Rehabilitation” above, include:
  - Staff or contracted costs directly tied to project development (must be documented by time sheets or invoices and would typically be for one of the following)
  - Initial rent-up costs
  - Appraisals
  - Specifications
  - Feasibility analysis of a project
  - Environmental assessment activities
  - Legal costs for a project
  - Construction oversight
  - Direct construction costs
  - Marketing specific to a program or to a project address
  - Developer fee properly negotiated in advance with the City (developers only; prohibited for subrecipients)

Activities that support new housing construction for rental or for sale to homebuyers are specifically limited to acquisition carried out in conjunction with the City (§570.201(a) and (b)). Where appropriate, the City can also support new construction with certain activities on publicly-owned property. See HUD CPD Notice 07-08. Use of Community Development Block Grant (CDBG) Program Funds in Support of Housing.

- ✓ Note on new construction: For Providence housing organizations in their current status, CDBG may not pay for new construction except as noted above. The City will explore the potential of identifying Neighborhood Redevelopment Areas and a CBDO certification process, necessary preconditions for supporting new construction with CDBG funds, as part of developing a new Consolidated Plan.

In general, costs directly associated with development or repair of housing can be paid by CDBG, but specific costs, and how they are treated, depend on how your organization is classified under the rules.

Please note that all activities funded by CDBG trigger **other Federal Requirements**. See below for more detail and some exceptions.

## **Subrecipients versus Developers**

Housing organizations will enter into Sub-Recipient Agreements OR Developer agreements with the City to perform one of two different categories of service/activity. The housing organizations can receive reimbursement for **“Housing Delivery Services Costs” as subrecipients and for “Direct Housing Project Costs” as developers.** The two categories would be:

**Category One: “Housing Delivery Services Costs”** to support CDBG-eligible homeowner rehabilitation activities, homebuyer projects, rehabilitation and substantial rehabilitation for sale, and other eligible activities where the grantee is considered under the rules to be a subrecipient (all programs and projects other than those where the developer is the owner of the property being developed). These funds may only be used in relation to projects that meet the CDBG eligibility criteria as though they were directly funded with CDBG.

The services to be performed will have to be specifically delineated in the Sub-Recipient Agreement, the staff dedicated to performing these tasks will have to be identified, the proposed line item budget for these services will have to be reviewed and approved by the City, meeting all HUD standards. The number of eligible units to be assisted will have to be defined in the Sub Recipient Agreement – in other words, defined at the start not the end. In general, staff time will not have to be tied on an hour-by-hour basis to specific units, given the more general nature of these activities. But a set number of eligible units will have to be defined and signed time sheets connecting staff time/costs allocated to those units will need to be provided.

**Category Two: “Direct Housing Project Costs”** would be the category of funding for those entities which are acting as *developers as allowed in the CDBG rules*, therefore limited to residential projects owned by the developing entity. Organizations will enter a Developer Agreement with the City delineating the specific tasks/activities they will perform. Only staff time or contracted costs tied to specific affordable housing project addresses will be eligible. Under these agreements, cost-to-project reporting must be address-specific. Staff time may only be reimbursed based on timesheets with an accounting cost code tied to the address. The project must meet the regulatory requirements for CDBG LMMH national objective. The one and only cost in this category that is fungible (and might be used for general costs) will be a developer fee that is negotiated based on the size and complexity of the project and is paid out only in stages commensurate with completion of project tasks.

**Which funding to choose; or both?** Being a subrecipient offers the option to use funds in broad way for operating a program without tying every dollar to a specific address and beneficiary. But, this option brings with it much greater rigor in how funds are used and documented and places restrictions on the organization as a whole. In contrast, being a developer requires that every dollar be tied to a specific eligible project and ultimate beneficiary, but offers greater leeway for the organization as a whole. Organizations carrying out multiple types of activities might qualify as both, but in no instance will an entity be a developer and a subrecipient for the same activity. In the event that an entity carries out a subrecipient activity, such as housing counseling, and is also a project developer, those two activities would be considered completely distinct from one another and the funding completely separate. See the new “Guidance on Subrecipients, Developers, and Contractors”.

## **Other Federal Requirements**

Please note that all activities funded by CDBG trigger certain other Federal Requirements. Rules may apply to the organization, the program being operated and/or the specific project being carried out. The applicability of some rules will depend on the contractual designation of the entity receiving the funds as discussed above. As noted this designation is tied to the type of activity being carried out. Note that if CDBG funds are paying for overall program costs, then the program and all properties addressed by the program are subject to the requirements. If funds are applied only to specific addresses, then those addresses/projects must meet the requirements.

Cost Reasonableness Requirement applies to all uses of federal funds in any situation

Environmental Review, Lead Hazard, Uniform Relocation Act, Minority and Women Owned Business Enterprises, Fair Housing, Section 3, and Equal Opportunity Requirements all apply to all projects touched by Federal funds regardless of the entity using the funds. Where funds are used for overall program delivery then all projects are affected. Where funds are limited to a specific address, then only that project is affected.

Section 504 Requirements for accessibility apply to all programs being managed or assisted with Federal funds and all individual projects meeting certain size and use characteristics.

General Administrative Requirements include, but are not limited to the federal procurement requirements, real property requirements, conflict of interest, cost allocation and cost eligibility as found in 24CFR Parts 84 and 85 and OMB circulars A-87 and A-122. All of these requirements apply to the programs being operated under a subrecipient agreement, but would not apply to a developer agreement. Note that the City may apply these restrictions to any entity regardless of the applicability of the federal rules.

Program Income Requirements as found in 24CFR570 will apply to all subrecipient agreements but would not apply to a developer agreement.

A-133 Audit Requirements apply to nonprofit organizations receiving in total more than \$500,000 federal funds in any year regardless of whether they are developers or subrecipients.

Davis-Bacon Requirements apply to all construction contracts funded by CDBG where there are eight or more units on contiguous lots that are managed as rental, cooperative or condominium units.

## **Note on General Administrative and Planning Costs**

The City is aware that some organizations may wish to use CDBG money for general administrative and planning costs without being required to tie the use of funds to the production of eligible housing units. This is not allowable.

## **CDBG Resources**

The following resources are helpful to grantees and subrecipients administering CDBG activities:

- ✓ Community Development Block Grant Program: Guide to National Objectives and Eligible Activities for Entitlement Communities (available through HUD).
- ✓ “A Guidebook for Grantees on Subrecipient Oversight: Managing CDBG.” (Revised March 2005) Available on HUD web site.
- ✓ Some of the resources listed above as well as other documents and information may be found at the following locations:
  - HUD website <http://www.hud.gov>
  - CPD home page <http://www.hud.gov/cpd/cpdcomde.html>
  - CDBG home page <http://www.hud.gov/offices/cpd/communitydevelopment/programs/index.cfm>
  - CDBG Search Engine <http://www.hud.gov/offices/cpd/communitydevelopment/rulesandregs/search.cfm>
  - Labor Relations (labor standards <http://www.hud.gov/offices/olr/>)
  - Income Limits <http://www.huduser.org/portal/datasets/il.html>
  - Office of Management and Budget (OMB) website <http://www.whitehouse.gov/omb/>
  - OMB Circulars on-line <http://www.whitehouse.gov/omb/circulars/index.html>
  - U.S. Bureau of the Census website <http://www.census.gov>
  - HUDclips (Regulations and Handbooks) <http://www.hudclips.org>
  - BOSMAC <http://www.hud.gov/offices/cpd/systems/idis/reporting/bosmac/index.cfm>
  - General Con Plan <http://www.hud.gov/offices/cpd/about/conplan/index.cfm>
  - CPMP tool: (consolidated plan mgmt process) <http://www.hud.gov/offices/cpd/about/conplan/toolsandguidance/cpmp/index.cfm>
  - Relocation and Acquisition <http://www.hud.gov/offices/cpd/library/relocation/index.cfm>
  - Fair Housing <http://www.hud.gov/proqdesc/fheoindx.cfm>
  - Healthy Homes and Lead Hazard Control <http://www.hud.gov/offices/lead/>