



State of Rhode Island

Community Development
Block Grant Program

CARES ACT (CDBG-CV)
Application Handbook

(for distribution w/ Affordable Housing RFP)

Revised December 2020

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I. Introduction and Program Outline

A. COVID-19 and the CARES Act

Congress provided \$5 billion in the CARES Act for the Community Development Block Grant (CDBG) program to states, metropolitan cities, urban counties, and insular areas. The CDBG funding from the CARES Act is known as CDBG-CV funding. Grants under this program are given to activities with a direct connection to the COVID-19 pandemic and require a unique application for each activity.

B. State Administration

The Rhode Island Executive Office of Commerce, Office of Housing and Community Development ("OHCD") administers the State's Community Development Block Grant ("CDBG") Program for those communities that do not receive allocations directly from the U.S. Department of Housing and Urban Development.

To serve as a support element for the program, Review Committee(s) will be formed with representation from individuals with expertise or interest in housing and/or community development issues. In addition to staff of the Office of Housing and Community Development, representatives from the following agencies will be invited to participate on the committee(s).

Public Facilities/Improvements

Department of Environmental Management
Department of Transportation
Executive Office of Commerce
Public Members, including a municipal (CDBG-Entitlement) and/or
Foundation representative.

Public Services

Executive Office of Health & Human Services, or component agency(ies)
Executive Office of Commerce and/or Department of Labor & Training
Public Members, including a municipal (CDBG-Entitlement) and/or
Foundation representative.

Housing

Rhode Island Housing
Housing Resources Commission/OHCD

Other State entities may be consulted on proposals which specifically impact their area of expertise.

C. Governing Regulation(s)

The CDBG program is governed by U.S. Department of Housing and Urban Development regulations at 24 CFR Part 570.480 (CFDA# 14.218 & 14.228).

Maximum Feasible Deference - States are granted maximum feasible deference in interpretation of the statutory and regulatory requirements for the CDBG program, provided these interpretations are not plainly inconsistent with the Housing and Community Development Act ("HCDA") and the Secretary's obligation to enforce compliance with the intent of Congress as declared in the HCDA.

D. Available Funding

A total of \$11,507,132 is available. From this total, the amount of \$805,499 (7%) is set aside for State use in program administration and technical assistance. The remainder, up to approximately \$10,701,633 (\$3,000,000 for the category of affordable housing), will be available to distribute to eligible subrecipients, as follows:

Applications for COVID-related Affordable Housing are due by 3pm on Wednesday, March 3, 2021.

Applicants are reminded that the CDBG application is highly competitive. The State intends to fund the best activities in the neediest communities. No applicant is guaranteed an award.

E. Eligible Applicants

The State may only directly fund applications from eligible municipalities or non-profit organizations (including CDCs, CBDOs, Housing Authorities, etc.).

Recipients are required to factor CDBG, or more stringent requirements, to activities .

II. Eligible Activities (24 CFR Part 570.482)

A. General

The State CDBG program regulations (24 CFR Part 570.482) are minimal relative to eligibility. Generally, activities listed under 105(a) of the Housing and Community Development Act of 1974 (“HCDA”) are eligible for funding under this program. Applicants are cautioned that each proposed activity must meet a “National Objective” as detailed in Section III of this handbook. Appendix A details eligible activity/national objective requirements.

Communities are urged to consult HUD’s “Guide to National Objectives and Eligible Activities for State CDBG Programs” for a more detailed discussion of eligibility/national objectives, to determine an activity’s fundability. Although the State is given latitude in defining program requirements, this Guide can serve as general interpretive guidance. This Guide has been provided to all eligible CDBG municipalities, is available online, and is hereby incorporated to be part of this application handbook. Chapter 2 of the Guide details categories of eligible activities, including:

| | |
|-----------|---------------------------------------------------------------------------------------------|
| 105(a)(1) | Acquisition of Real Property |
| 105(a)(2) | Public Facilities and Improvements and Privately-owned Utilities |
| 105(a)(4) | Clearance, Rehabilitation, Reconstruction and Construction of Buildings (including Housing) |
| 105(a)(8) | Public Services |

The above specified activity types are hereby solicited through this RFP. All activities must be designed to prevent, prepare for or respond to the coronavirus health crisis.

<https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>

To be eligible for CDBG-CV funding, all proposals must demonstrate a direct connection with planning for or responding to COVID-19 related needs.

Acquisition of Real Property Applications

According to HUD’s [Summary of Primary CDBG Activity Categories to Support Coronavirus](#), grantees receiving funds for an activity under the category of acquisition of real property (105)(a)(1) may expend funds on:

- Acquisition of Property
- Disposition
- Clearance and Demolition
- Clean-up of contaminated site/brownfields
- Relocation of occupants

The typical national objectives supported are: Low- and moderate- income (LMI) persons, families, or area; prevent or eliminate blight; meet unfunded, urgent local need.

Housing Construction and Rehabilitation

Grantees receiving funds for an activity under the category of public improvements and facilities 105(a)(4) may expend funds on:

- Rehabilitation: Single and Multi-Unit Residential
- Construction of Housing

The typical national objectives supported are: Low- and moderate- income (LMI) households; prevent or eliminate blight; meet unfunded, urgent local need.

Public facilities or Public Service Applications

Grantees receiving funds for an activity under the category of public improvements and facilities 105(a)(2) may expend funds on improvements to the following or similar types of public facilities:

- Senior centers
- Facilities for persons with disabilities
- Homeless Facilities (not operating costs)
- Youth Centers/Facilities
- Neighborhood Facilities
- Parks, Recreational Facilities
- Parking Facilities
- Solid Waste Disposal Facilities
- Flood and Drainage Facilities
- Water/Sewer Improvements
- Sidewalks
- Child Care Centers
- Fire Stations/Equipment
- Health Facilities
- Removal of Architectural Barriers

The typical national objectives supported are: LMI households; prevent or eliminate blight; meet unfunded, urgent local need

Grantees receiving funds for an activity under the category of public services 105(a)(8) may expend funds on the following or similar services:

- Operating Costs of Homeless/Aids Patients Programs
- Senior Services
- Services for Persons with Disabilities

- Legal Services
- Youth Services
- Substance Abuse Services
- Services for victims of domestic violence, dating violence, sexual assault or stalking
- Employment Training
- Crime Awareness/Prevention
- Fair Housing Activities
- Tenant/Landlord Counseling
- Child Care Services
- Health Services

The typical national objectives supported are: Low- and moderate- income (LMI) persons, families, clientele, or area; prevent or eliminate blight; meet unfunded, urgent local need.

B. Ineligible Activities

General Rule: The general rule is that any activity not listed in the HCDA as eligible should be considered ineligible. However, by regulation, HUD has interpreted some activities not specifically stated in the HCDA as eligible. Such activities are spelled out in the Guide.

Activities which are Categorically Ineligible include:

- General government expenses
- Political activities
- Buildings or portions thereof used for the general conduct of government as defined in HCDA Section 102(a)(21). This does not include removal of architectural barriers involving such buildings.

Generally Ineligible (some exceptions apply):

- Purchase of equipment
- Operating and maintenance expenses
- New housing construction
- Income payments

In addition, for the purposes of the CDBG-CV application, any activity that does not directly plan for or respond to impacts of the COVID-19 pandemic is ineligible.

III. National Objective (24 CFR Part 570.483)

A. General

The primary objective of the Housing and Community Development Act of 1974 is the development of viable communities by the provision of decent housing, a suitable living environment, and expanding economic opportunities, principally for persons of low- and moderate- income (LMI), at or below 80% of Area Median Income, as defined by HUD.

Each activity must meet one of the three national objectives:

- Benefiting low- and moderate-income persons,
- Preventing or eliminating blight, or
- Meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available to meet such needs.

In addition, for the purposes of the CDBG-CV application, any proposed activity must directly prevent, prepare for or respond to impacts of the COVID-19 pandemic.

Over 70% of the State's CDBG-CV funding must be used for activities that benefit L/M income persons. To assure compliance with this requirement, the State therefore prioritizes those activities designed to meet the L/M income national objective. Such activities will likely compete more favorably for funding.

Please note: Recipients must maintain adequate documentation that each of its activities assisted with CDBG funds meets one of the three national objectives. Failure to provide sufficient documentation that a National Objective has been met on any activity will result in **de-obligation and/or recapture** of funds by OHCD.

In determining whether a proposed activity complies with one or more of the national objectives, OHCD staff will utilize HUD's "Guide to National Objectives and Eligible Activities for State CDBG Program" as well as its own interpretations of the regulations. Appendix A in the Guide details eligible activity/national objective requirements.

Applicants are urged to consult the Guide for a more detailed discussion of eligibility/national objectives, to determine an activity's fundability. Although the State is given latitude in defining program requirements, the Guide can serve as general interpretive guidance. The Guide has been provided to all eligible CDBG municipalities, is available online, and is hereby incorporated to be part of this application handbook. Chapter 3 of the Guide details National Objective requirements (Charts in Chapter 2 show examples of how Eligible Activities can meet these requirements), including:

- Activities Benefiting L/M Income Persons
 - L/M Income Area Benefit
 - L/M Income Limited Clientele
 - L/M Income Housing
 - L/M Income Jobs
- Prevention/Elimination of Slums or Blight
 - Addressing Slums or Blight on an Area Basis

- Addressing Slums or Blight on a Spot Basis
- Urgent Needs

<https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>

Job training activities must predominately serve low/moderate income persons or be designed as a scholarship program, assuring that all recipients of CDBG funds are low/moderate income.

B. Area Benefit

Applicants may utilize one of two sources in documenting compliance with the L/M Income Area Benefit National Objective.

- Census (HUD Low/Moderate Income Summary Data): Applicants must use the HUD LMI Summary Data tables and Mapper which detail income characteristics of Census Tract and Block Group areas. If these areas coincide with, or are entirely containing within, the service area boundaries for the activity proposed, the applicant may utilize this data to document National Objective compliance.

FY 2019 LMISD – All Block Groups, based on 2011-2015 ACS

<https://www.hudexchange.info/programs/acs-low-mod-summary-data/acs-low-mod-summary-data-block-groups-places/>

HUD LMISD Mapper, based on 2011-2015 ACS

<https://hud.maps.arcgis.com/home/item.html?id=ffd0597e8af24f88b501b7e7f326bedd>

- Survey: If census information is inadequate to document the income characteristics for an area, an applicant may conduct a survey to document the percent of this area which is low/moderate income. CDBG administrative funding may be utilized for this purpose. A statistically valid survey methodology must be utilized. Consult HUD Notice CPD-14-13 for Guidance for Conducting Income Surveys to Determine the Percentage of Low- and Moderate- Income (LMI) Persons in a Service Area of a Community Development Block Grant-Funded Activity. This publication should be used in evaluating and conducting surveys to document LMI benefit. This publication can be found online at:

Income Survey Notice CP-14-013

<https://www.hudexchange.info/resources/documents/Notice-CPD-14-013-Guidelines-for-Conducting-Income-Surveys-LMI-CDBG-Activity.pdf>

Generally, these guidelines should be followed in completing income surveys. However, there are several State clarifications/variations from this notice as detailed below:

- 1) In conducting surveys, applicants should utilize "household" income rather than "family" income as detailed in the Notice. An applicant that wishes to use "family" income in their survey, must provide OHCD a written request for exemption to this requirement. The request must detail the reason(s) as to why "family" is a superior indicator than "household" for the subject area.

- 2) Prior to initiating a survey, applicants must consult with OHCD for any special survey requirements to be imposed. OHCD may request the collection of supplemental information, such as age/minority status, depending on the area targeted and activity(ies) planned.
- 3) Lifespan - Surveys will be valid for up to 5 years, after such time they will be reexamined annually to assure they are still representative of the area. If any significant demographic, economic and non-economic changes have occurred in the area, the survey must be redone. After 5 years, the community must annually submit a written request to OHCD to extend such survey's results (no later than the next decennial census) for new activities.
- 4) Contiguous Areas - The area surveyed must be the entire service area for the project. This area should be consistent with the true known neighborhood or infrastructure boundaries. These boundaries must be clearly mapped and included with the CDBG application. All areas surveyed must be contiguous/abutting; Checker-board survey areas will not be accepted.
- 5) Margins of Error – Refer to HUD Notice CPD-19-02 for information on allowable margins of error in local income surveys.
<https://www.hudexchange.info/resources/documents/Notice-CPD-1902-Low-and-Moderate-Income-Summary-Data-Updates.pdf>

C. Urgent Need

To address the COVID-19 disaster, applicants may identify CDBG-eligible activities that do not meet the national objective of predominate benefit to low/moderate income persons. In order to meet the urgent need national objective, communities must attach the following documentation for any proposed “urgent need” activity:

1. A description of the nature and degree of seriousness of the conditions requiring assistance;
2. Information on the timing of the development of the serious condition (such as relevant state executive orders, data on disaster/emergency impacts, and/or local orders); and
3. Evidence confirming that other financial resources to alleviate the need were not available (such as city/town council minutes, finance dept. records, etc.) and copies of funding/financial commitment letters from other funders.

National objective requirements are generally mutually exclusive. This documentation requirement is not applicable to activities that are able to meet the low/moderate income national objective, even if those activities also address coronavirus impacts and are considered urgent by the community.

HUD has issued guidance relative to documentation requirement for Urgent Need activities related to COVID. This documentation is available on the OHCD website and

should be consulted for activities proposing to meeting this national objective to assure necessary documentation is provided.

IV. Application Requirements

A. Duration

All grant awards will be made for an 18-24 month period. **All communities are required to spend all monies awarded within two years of award date.** Any funds remaining after two years **WILL BE** de-obligated and recaptured by the State.

Awards shall be rescinded, with funds deobligated, for any activities lacking completed environmental reviews (where required) six months after the date of the award letter.

B. Scope of Review

Communities are reminded that the CDBG application is highly competitive. The State intends to fund the best activities in the neediest communities. No community is guaranteed an award. In reviewing an application and awarding a grant, the State may eliminate or modify a proposed activity or modify proposed funding where it is determined that such changes are necessary to comply with program requirements, national objectives, and threshold requirements, or where certain activities are not competitive in relation to other applications under review.

C. Threshold Requirements

In recognition of State Development Policy, the following are established as basic requirements for the funding of an application.

1(a). Local Plan Compliance

All proposed activities must be in compliance with:

- the goals, objectives, and policies set forth in the locally-adopted Comprehensive Plan (including local affordable housing plan element);
- the goals, objectives, and policies set forth in the State Guide Plan; and
- Municipal ordinances and regulations.

Compliance with the Comprehensive Plan must be demonstrated by identifying how each proposed activity directly implements specific objectives, policies, or strategies contained in the Plan. Compliance with the State Guide Plan must be demonstrated by identifying how each proposed activity directly implements specific objectives, policies, or strategies contained in relevant elements of the State Guide Plan.

The Administrative Officer/Planner for the local Planning Board or Commission (or authorized official if no Administrative Officer/Planner exists) shall be responsible for providing citations demonstrating conformance with the Comprehensive Plan and if required, the State Guide Plan. The same official shall also be responsible for certifying that all proposed activities comply with municipal ordinances and regulations.

OHCD will accept as being compliant with the local Zoning Ordinance, a proposal requiring the granting of a special use permit, variance or conditional zoning which is to be approved by the Zoning Board of Review, provided that the proposal satisfies all requirements for such approval. The community must provide, in its application, written documentation of compliance with this requirement. Any award will be conditioned upon the granting of the special use permit, variance or conditional zoning approval within 60 days of the date of award. Where a proposal requires amendment to an ordinance or regulations, it will be considered to be in conflict with that ordinance or regulation.

Proposed projects must be consistent with the State Land Use Plan (Land Use 2025), Municipal Comprehensive/Affordable Housing Plan, the State Strategic Affordable Housing Plan, and the State Hazard Mitigation Plan, or meet the general standards and principles set forth in the aforementioned plans applicable to the activity.

Communities are required to map each project to demonstrate consistency with the State Land Use Plan. A narrative explanation of impact and consistency with the plan should be submitted for any activity proposed outside of locally-identified growth centers or State urban service boundaries.

1(b). State Plan Compliance

The Division of Planning is the central planning agency for State government and supports the implementation of State Land Use policies outlined under "Land Use 2025". Land Use 2025 is the major element in Rhode Island's State Guide Plan. The plan outlines the State's overarching goals, objectives and strategies to guide and coordinate the land use plans of municipalities and actions of State agencies.

Adopted by the State Planning Council as an element of the State Guide Plan, the Rhode Island Five Year Strategic Housing Plan quantifies housing needs, identifies implementation strategies to address those needs and provides guidelines for higher density residential development. (Housing) projects submitted for review for certain federal and State programs, including the Community Development Block Grant (CDBG) program, are reviewed for compliance with Land Use 2025 and the State's Strategic Housing Plan. Program application forms/packages request specific information regarding Land Use consistency with the State Guide Plan and local affordable housing plans. Those activities determined inconsistent with State land use policy may not be funded with these resources.

The Division of Planning is available to assist communities in their preliminary evaluation of project consistency with the goals, policies and objectives of the State Guide Plan. Parties interested in receiving such an advisory opinion related to State Land Use policies should submit the details of their proposed project(s) to the Division as outlined below.

Be advised, the following types of projects are generally deemed consistent with State Land Use policy and require no advance consultation with the Division.

- 1) Projects located within the Urban Services Boundary (USB);

- 2) Projects within reasonable proximity of an existing "Growth Center" established in the community's comprehensive plan. If there is any question as to whether the project is located in a "Growth Center", an advisory opinion may be requested of the Division.
- 3) Projects which consist solely of rehabilitation/conversion of existing structures, whether inside or outside USB/Growth Center boundaries.
- 4) Projects specifically listed in the current approved local Affordable Housing Plan.

In all other situations, consistency with Land Use policy will be determined on a case-by-case basis. In determining land use consistency, the following smart growth principles, as well as other factors, may be considered.

Does the project -

- Provide access to a variety of transportation choices;
- Mix land uses;
- Create/Serve a range of housing opportunities;
- Create walkable neighborhoods;
- Foster distinctive, attractive communities with a strong sense of place;
- Preserve open space, farmland, natural beauty and critical environmental areas;
- Strengthen and direct development towards existing communities;
- Adopt compact building patterns and efficient infrastructure design; and/or
- Maintain consistency with surrounding neighborhood?

Requests for a Land Use Consistency Advisory Opinion should be submitted to:

Rhode Island Division of Statewide Planning
235 Promenade Street, Suite #230
Providence, R.I. 02908
(401) 222-7901 - Phone

Detailed information on location and proposed use should accompany any request. While the particulars of a development may not be known at a very early stage, as much detail as possible should be made available to the Division so that a reasonable determination can be made. The Division may request additional information so that it may issue its quantified advisory opinion. Be advised the final determination of project consistency may be altered by details of the project not available at time of advisory opinion.

The Office of Housing and Community Development encourages interested parties to consult with the Division of Planning as early in the process as possible.

Copies of Land Use 2025 and the State's Strategic Housing Plan may be found at:

<http://www.planning.ri.gov/documents/121/landuse2025.pdf>
http://www.planning.ri.gov/documents/guide_plan/shp06.pdf

2. Floodplains

New development will not be approved within the 100-year flood plain as defined on mapping provided by the Federal Emergency Management Agency unless such development is designed to mitigate or to be compatible with the flood hazard. This shall not apply to the reuse or rehabilitation for use of existing structures or to the development of shore or waterfront facilities where appropriate flood-proofing and flood protection measures are implemented and where hazards to other properties are not increased. In addition, where required/deemed appropriate, any such investment shall be protected by flood insurance.

The local Building Official or other appropriate local official shall certify that the proposed project is consistent with National Flood Insurance Program requirements and with the above statement.

3. Planned Transportation Actions

No program will be approved which includes the construction development or rehabilitation of a facility or structure in a location which conflicts with a planned major transportation action or investment. Reference is made to transportation elements of the State Guide Plan and to the Environmental Action Plan of the Rhode Island Department of Transportation for the definition of a "major transportation action".

4. Stream Discharges

No activity which will result in discharges in Class A/SA or B/SB waters will be approved without the written consent of the Department of Environmental Management.

5. Historic Resources

The application must include documentation that the Rhode Island State Historical Preservation Officer/Commission (SHPO) and the Narragansett Indian Tribal Historic Preservation Office (THPO) have been notified of all proposed activities. No activity will be approved without documentation demonstrating compliance with all applicable procedures, rules and regulations.

Tribal Director Assessment Tool (TDAT) at: <https://egis.hud.gov/tdat/>

OHCD recommends that communications be sent registered/certified mail to document consultation.

6. Ground Water Aquifers and Recharge Areas

No activity which will result in waste water discharge into an identified major ground water aquifer or principal recharge area will be approved unless such activity is served by public sewers or is designed to ensure protection of the ground water resource and is approved by an agency of jurisdiction. Reference is made to the State of Rhode Island "208" Areawide Water Quality Management Plan-Map of Water-Related Sensitive Areas.

7. Farmland

No construction or development will be approved in a location where more than 50% of the site consists of soils that are rated as prime farmlands or important farmlands of statewide significance in the 1981 Soil Survey of Rhode Island unless one or more of the following can be demonstrated:

- a. No other location is feasible.
- b. The land cannot become part of a viable farm unit and has not been in farming use for a period of five or more years.
- c. Urban development has taken place within a 1/2 mile of the location and urban utilities such as public water and sewerage are available within 1/4 mile of the location.

D. Nexus with the COVID-19 Crisis

Applications for CDBG-CV funding should demonstrate a direct connection between the proposed activity and the impacts of the COVID-19 pandemic. Examples include:

- **Improving food security in response to the economic impacts of the crisis;**
- **Job training to reflect pandemic-caused changes in the employment market;**
- **Services for populations impacted by the pandemic;**
- **Housing assistance to households impacted by the health crisis;**
- **Improving broadband access for underserved populations allowing them to participate in activities that have become more digital as a response to the pandemic.**

All activities must demonstrate they prevent, prepare for and respond to the coronavirus.

Applicants must provide a detailed statement of the connection of the proposed activity to the COVID-19 pandemic, as specified in the application. Failure to meet this requirement will result in the elimination of the application from further consideration. Discussion of the need for a particular activity within the activity narrative portion of an application is not a sufficient substitute for this Section of the Application.

E. Areas Hardest Hit by COVID-19

CDBG-CV funds are intended to make demonstrable improvements to residents' wellbeing in areas with high concentrations of populations acutely impacted by the COVID-19 pandemic. These are populations already experiencing other risk factors including poverty, overcrowding, and employment in industries heavily impacted by the pandemic.

Activities targeted to benefit these populations are more highly ranked and prioritized.

F. Permitting Procedures

No expenditure for construction or development, excluding the costs generally associated with site design and predevelopment, will be authorized until all reviews, permits, clearances and/or statements of non-applicability have been received as required by any applicable Federal, State and local regulatory or permitting process such as the Fresh Water Wetlands Act, the Coastal Resources Management Act, the program of the U.S. Army Corps of Engineers or the U.S. Environmental Protection Agency. Applicants are required to identify all applicable permits, assents, processes of all entities with potential regulatory jurisdiction, in the Thresholds portion of the proposal.

G. Intentionally Omitted

H. Citizen Participation

A statewide public input process has already been held by the Office of Housing and Community Development and there are no additional citizen participation requirements to receive CDBG-CV funding. Any additional citizens participation requirements necessary will be coordinated by OHCD.

V. Program Requirements

The following general guidelines, related to a number of administrative items, are included to assist applicants in assembling work items description and budget data. If possible, a Post-Award Management Workshop and compliance training will be available to all successful applicants/recipients and will set forth detailed requirements for the management of local projects.

A. Administrative Costs

The cost of planning and administration of a project is limited to 15% of the total grant award. Lesser actual amounts may be determined through the awards process. Appropriate administrative costs are:

1. Program management personnel, accounting, bookkeeping, clerical and other functions of direct CDBG program administration.
2. Travel of administrative personnel in conducting CDBG business.
3. Supplies such as: paper, forms, postage and similar items required for program administration.
4. Purchase or rental of services such as: auditing, telephone, data processing, duplicating, printing, and similar administrative requirements.
5. Purchase or rental of required office and administrative equipment, including: computers, calculators, filing equipment, communication equipment, office furniture and similar items. The purchase of such equipment is authorized only for the initial CDBG grant and not for any subsequent grant. Authorized equipment does not include the purchase of automobile or other heavy equipment. Disposition of acquired equipment is governed by close-out procedures.
6. Costs associated with provision for public input into program implementation or for any citizen information component of the program.
7. Costs incurred in environmental or other reviews or in the satisfaction of any permitting procedures or other local, State or federal requirement necessary for program implementation.
8. Consultant costs, if used for overall program management or program design, subject to the restrictions discussed under Subpart B, following. Costs which are directly related to specific program activities are considered as activity delivery costs within those activities and are not included within the 15% limit. Such costs may include: housing inspectors, appraisers, estimators, loan officers, construction inspector and relocation officers.

B. Use of Consultant or Staff Services

Applicants may contract for services in the preparation of applications and in the management of an approved project. This decision should be based upon the nature of the program and the general capacity of the applicant. An applicant may elect to use contract services for the preparation of application materials as a matter of convenience, recognizing that many consultants have experience in community development programs. The selection of a consultant shall be conducted in a manner so as to provide maximum open and free competition. Documentation that costs are necessary and reasonable is required.

The following guidelines are for applicants deciding to use contracted services for the preparation of an application.

1. Appropriate administrative amounts will be calculated based upon the awarded program. Application/consultant fees may be taken from the applicant's administrative award.
2. Funds will not be available for such reimbursement (in full or in part) if the application is not approved for funding or if administrative funds are less than the amount desired for consultant services.
3. Applicants may contract in one of two ways:
 - (a) By payment from applicant funds with reimbursement up to the prescribed limit, if the application is funded. This represents a risk of applicant funds since the reimbursement is available only if the application is funded and administrative amounts provided are sufficient to cover the expense.
 - (b) By "speculative" arrangement for such services where payment up to the prescribed limits is made only if the application is funded. This represents a risk on the part of the contractor.

Applicants are reminded that a goal of the State program is the development of local capacity to sustain a program of community development. If the option of contract services is used, such services must also be used to build local management capacity.

Communities with active CDBG contracts/awards may contract for CDBG program management services and such services may include the preparation of application materials. Such agreements should be time-limited and reassessed at least every five years, or more frequently, as required by applicable procurement regulations.

In circumstances where non-profit developers also serve as contracted CDBG administrators, such entities may not charge both a developer fee and administrative fees on individual activities.

While OHCD recognizes that the same contractor may be engaged for management, the community must initiate an open selection process so that it may examine the qualifications of all candidates. Any such contract or consulting services must be selected in accordance with Federal procurement requirements.

C. *Program Income*

Any income resulting from the implementation of any approved program CDBG/CV activity shall be returned to the State program unless such income is applied by the grantee to continue the same approved program activity from which such income was derived. Upon request, the State may grant permission for the use of such income funds for another eligible program activity. All requirements placed on the expenditures of regular CDBG funds shall be applied to the expenditure of such income, including environmental review. Income from revolving fund activities (including housing rehabilitation and commercial façade) may be retained and used for the same approved program. Income generated from any other activity may not be retained and must be returned to the State. HUD CPD Notice 04-11 should be consulted for the identification and treatment of CDBG Program Income.

D. *Displacement and Relocation*

It is the policy of this program to minimize displacement due to the implementation of any program activity. Relocation shall be governed by the Uniform Relocation Act ("Act"). For any other involuntary or permanent displacement with respect to residential or non-residential property, not covered by this Act, grantees will be required to utilize the general standards of said Act by providing equivalent benefits. The State will require prior approval of any potential displacement and relocation resulting from any approved activity. Each grantee must certify that it will follow the State of Rhode Island Residential Anti-Displacement and Relocation Assistance Plan.

E. *One-for-One Replacement*

In accordance with the Section 104(d) of the Housing and Community Development Act of 1974, as amended, and implemented at 24 CFR Part 42.375, all Occupied and Vacant Occupiable lower-income dwelling units that are demolished or converted to a use other than as lower-income dwelling units in connection with an assisted activity must be replaced with comparable lower-income dwelling units.

Replacement units must be sufficient in number and size to house no fewer than the number of occupants who could have been housed in the units that are demolished or converted.

Financially feasible for rehabilitation is defined as follows: Residential structures that can be rehabilitated to code within the maximum subsidy per unit limits for HUD's 221(d)(3) program. Any unit which does not meet the requirements of condemnation under the State Building Code for reasons directly attributable to deteriorated major building systems is hereby determined to be Structurally Feasible for Rehabilitation.

Recipients must certify to the State that it has in effect and is following a Residential Antidisplacement and Relocation Assistance Plan and that it will minimize displacement. The municipality will certify to the requirements stated herein by signing the Residential Antidisplacement and Relocation Assistance Plan as part of its grant agreement.

Prior to the obligation/expenditure of funds, communities which plan demolition activities must submit to OHCD a "One for One Replacement of Lower-income Dwelling Units" plan which details how units which are planned to be demolished will be replaced. Said plan should include a list of structures to be demolished, those identified as financially and structurally feasible for rehabilitation and how such units will be replaced if demolition is to occur.

The one-for-one replacement requirements may not apply, based upon objective data, if it is determined there is an adequate supply of vacant low/moderate income dwelling units in standard condition available on a nondiscriminatory basis within the jurisdiction of the grantee. A community may request such exception from the State in accordance with the regulation, who will evaluate the request and required supporting documentation submitted, and submit such to HUD along with its recommendation.

F. Non-Performance or Non-Compliance by Grantees

OHCD shall monitor grantees for compliance with program requirements and the terms of the grantee's agreement. While the principal purpose of this monitoring is to provide for timely detection and correction of problems which may arise, this system will also serve to initiate action toward the rescission of grants and the recapture of funds where no corrective local effort is indicated. OHCD staff will make every effort to assist in resolving problems, including amendment of the grant agreement where extenuating local circumstances exists, and the rescission of a grant will be considered only as a last resort. Local program administrators are strongly urged to consult with CDBG staff whenever problems arise. Subsequent allocations may be impacted by issues of non-compliance and/or monitoring findings.

G. Independent Audit

Grantees will contract for an annual independent audit of their financial operations, including compliance with federal and State laws and regulations, if required. Any local government with federal expenditures in excess of \$750,000 in an audit period, must have an annual audit conducted in accordance with 2 CFR 200. Grantees with federal expenditures below this threshold amount, must document the total federal and CDBG expenditures in the audit period with OHCD so for that monitoring efforts can be adjusted appropriately.

H. Civil Rights Compliance

1. Equal Opportunity

Grantees are required to collect and maintain data on the racial, ethnic, handicapped status, and gender characteristics of heads of households, of persons who are applicants for, participants in, or beneficiaries of the program.

2. Fair Housing

Unit of General Local Government grantees must prepare and implement a plan of action to affirmatively further fair housing for each CDBG program year. The community must detail this action and provide supporting documentation in its first quarterly performance report.

3. Section 3

Grantees receiving over \$200,000 in HUD assistance in a given year are required; under Section 3 of the Housing and Community Development Act of 1968, as amended; for activities providing direct assistance, to the extent feasible, to assure that, opportunities for training and employment be given to lower income residents of the area, and that contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area. More information may be found at www.hud.gov/section3.

4. Excessive Force

No CDBG funds may be obligated or expended to any unit of general local government that fails to adopt and enforce a policy of prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; or fails to adopt and enforce a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within its jurisdiction.

5. Assessments

Grantees will not attempt to recover any capital costs of public improvements assisted in whole or in part with CDBG funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements; unless (a) CDBG funds are used to pay the proportion of such fee of assessment that relates to the capital cost of such public improvements that are financed from revenue sources other than CDBG funds; or (b) for purposes of assessing any amount against properties owned by persons of low or moderate income who are not persons of very

low income, the State certifies that it lacks sufficient CDBG funds to comply with the requirements of clause (a).

6. Technical Advisory Services

In compliance with its Community Development certification, the State of Rhode Island has taken steps to make technical advisory services available to both applicants and grantees uniformly upon request. The Community Development staff is available to assist local communities with technical submission requirements. The staff also works closely with grantees to provide assistance in the management of funded projects.

VI. Evaluation and Scoring

A. General Application Process

1. Where relevant, activities must be submitted to the applicant's planning board or commission to determine compliance of proposed activities with local planning and development policy as set forth in the local Comprehensive Plan.
2. Environmental reviews must be complete prior to contracting of any approved activity.

B. Evaluation

1. During the review period, OHCD staff may request additional information or documentation from applicants and may request minor modification to **proposals** in order to meet program requirements, national objectives and threshold criteria. Applicants will be allowed no more than two weeks to submit requested materials. **Applicants will NOT have the opportunity to resubmit incomplete or erroneous competitive proposals.**
2. OHCD Staff Review/Fundability: All applications will be reviewed by OHCD staff for compliance with Federal and State program rules and regulations. Any activity deemed not in compliance with such requirements will be eliminated from consideration. Areas under consideration in this part include:
 - a. Completeness of application. Applications (in whole or in part) which are not complete or lack information necessary for the effective review of the proposal may be eliminated from consideration.
 - b. Fundability. Any activity proposed which does not meet Eligibility and National Objective requirements will be eliminated from consideration.
 - c. Process Issues. An application/activity which has not progressed through necessary regulatory public comment processes may be eliminated from consideration.
 - d. Consistency with program design. Any activity not submitted in accordance with program requirements (such as on the forms provided and on the timeline dictated) shall be eliminated from consideration.
 - e. COVID Connection. Any proposal intended to prevent, prepare for, and/or respond to coronavirus impacts which does not adequately document a connection to coronavirus impacts may be eliminated from consideration.

During this process, OHCD shall complete a quantifiable analysis (See "Scoring" below) of proposals, the results of which will be provided to the Review Committee for their deliberations.

3. Thresholds Review: All activities which pass the "Fundability" test previously described, shall be reviewed under the "Thresholds" criteria detailed elsewhere in this handbook.

Division of Planning or other parties shall conduct this review and may comment on and/or eliminate activities under consideration if it is determined they are inconsistent with State/federal policies and requirements. Areas to be reviewed include:

- a. State and Local Plans: Proposed projects must be consistent with the local Comprehensive Plan, State Land Use Plan, Municipal Affordable Housing Plan, and the State Strategic Affordable Housing Plan, or meet the general standards and principles set forth in the aforementioned plans applicable to the activity.
 - b. Floodplains
 - c. Planning Transportation Actions
 - d. Stream Discharge
 - e. Historic Resources
 - f. Ground Water Aquifers and Recharge Areas
 - g. Farmland
4. Activities will be eliminated from consideration if they do not meet any of the following tests:
- a. Timeliness - if an activity is not likely to complete in a timely fashion (within the next 24 months).
 - b. Other Sources/Reviews - if an alternative source of funds is available in support of the proposal. It should be noted this committee often has no control over such alternative resources. The Committee may also eliminate activities from consideration if they feel the proposal has not progressed through necessary/appropriate review steps by other State/local authorities.
 - c. Capacity/Performance - if the administrative agency for the activity lacks the experience and/or capacity to implement the proposed activity. Demonstrated past performance and resolution of prior monitoring/audit findings will be taken into consideration. Outstanding issues and outstanding reports will be considered.
 - d. Feasibility/Accuracy - if a proposal is not feasible as described in the application, the committee may eliminate it from consideration. Cost effectiveness of the proposals will be reviewed under this criterion. If the information provided in the application is inaccurate, it may also be eliminated.

Remaining activities which meet the above specified requirements will be considered for funding. Activities will be funded, in whole or in part, based upon State Priorities, taking into account limited funding available, geographic distribution of resources and staff/threshold comments. Priority populations and activity types as detailed in the State's Non-Housing Community Development needs assessment may receive extra consideration.

10. Governor's Role: Recommended award adjustments, if any, by the Governor shall be based on the recommendation of the Review Committee. Modification to the recommendations may be made based on the following criteria:
 - a. An activity conflicts with other State projects or priorities.
 - b. An activity duplicates other State projects.
 - c. The recommendation(s) are not consistent with State objectives/policies.

11. Scoring: During the OHCD review, fundable activities will be scored competitively against each other using the following criteria.
 - a. Community Development Needs will generally be assessed by a comparison of the number and concentrations (percentage) of low/moderate income persons. While all communities are eligible to apply, those activities which propose to serve the highest numbers and concentrations of LMI persons will receive priority consideration.

 - b. Anticipated Project Benefits
 1. Cost Effectiveness:

Up to 50 points will be awarded to activities based upon the cost per benefit (0-50pts with the highest points going to projects which assist the greatest number of LMI people per CDBG dollar invested).

 2. Priorities:

Up to 25 points will be awarded to activities which address the following priorities:

 - Activities principally serving areas with concentration of high need;
 - Activities serving populations particularly vulnerable to COVID19 (eg. homeless, elderly);
 - Activities which are designed to meet essential basic needs (food security, employment/job, shelter/housing).