



# STATE OF COLORADO

## STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

2010 FINAL STATEMENT

Taken from the Colorado 2010 - 2015 Final Consolidated Plan

Entire Plan can be viewed at:

[http://www.dola.state.co.us/dlg/fa/cdbg/index.html#consolidated\\_plan](http://www.dola.state.co.us/dlg/fa/cdbg/index.html#consolidated_plan)

Department of Local Affairs  
1313 Sherman Street, Room 520  
Denver, CO 80203

**For the Period of April 1, 2010 through March 31, 2011**

## **CDBG Program Description**

### **I. Foreword**

The State of Colorado, Department of Local Affairs, administers the "Small Cities" Community Development Block Grant (CDBG) program for non-entitlement jurisdictions of the State.

The State of Colorado, through the Colorado Governor's Office of Economic Development and International Trade (OEDIT), and the Department of Local Affairs, will administer the "Small Cities" Community Development Block Grant (CDBG) program for non-entitlement jurisdictions of the State for Federal Fiscal Year 2010.

The Department's Division of Housing (DOH) has "lead" responsibility for housing and homeless assistance projects funded through the program. The Colorado Governor's Office of Economic Development and International Trade (OEDIT), working with Department's Division of Local Government (DLG) administers economic development projects, and DLG is responsible for CDBG-assisted public facilities and community development projects, as well as overall coordination of the State's CDBG program. The mission of the CDBG program is to improve the economic, social and physical environment of eligible cities and counties in ways that enhance the quality of life for low- and moderate-income residents.

### **II. Introduction**

The Housing and Community Development Act of 1974 established the federal Community Development Block Grant (CDBG) program. The program purpose is to help communities meet their greatest community development and redevelopment needs, with particular emphasis on assisting persons of low and moderate income. The overall program consists of three major elements:

- The "**entitlement**" program." The U.S. Department of Housing and Urban Development (HUD) directly administers CDBG to jurisdictions that meet certain thresholds. Entitlement communities are those cities within a metropolitan area that have a population of 50,000 or more, or are designated as a "central city," and counties that are within a metropolitan area that have a combined population of 200,000 or more in their unincorporated areas and non-entitlement municipalities. There are 20 entitlement jurisdictions in Colorado, not eligible for State CDBG. Please refer to Appendix D for the list of entitlement jurisdictions.
- The "**non-entitlement**," or "**Small Cities**," program. This portion of the overall program assists communities that do not qualify for the entitlement program. The State assumed responsibility for administration of this portion of the CDBG program starting in federal Fiscal Year 1983.
- The **Neighborhood Stabilization Program (NSP)** is available to fund acquisition, rehabilitation and rent or resale of abandoned and foreclosed homes as part of the Housing and Economic Recovery Act of 2008. The State follows its Action Plan for NSP funds which can be found at the following URL address:  
[http://www.dola.state.co.us/DOH/NSP/ACTION\\_PLAN\\_Final\\_121108.pdf](http://www.dola.state.co.us/DOH/NSP/ACTION_PLAN_Final_121108.pdf)

### **Local Government and Citizen Review and Comment**

The State's annual Performance and Evaluation Report provides a basis for review and comment on the performance of the State. Pursuant to the State open records law and the federal CDBG law, records on use of any prior year and future Small Cities CDBG funds by the State or a local government or recipient must be available for access by citizens and units of general local government. The State's records are available through the Department of Local Affairs, 1313 Sherman Street, Room 521, Denver, Colorado 80203. The public may examine these records in the State's offices and obtain copies for a fee during regular working hours. The State will provide to citizens and to units of general local government reasonable notice of, and an opportunity to comment on, any proposed substantial changes in these program guidelines or in the use of CDBG funds.

### **Compliance with Federal and State Requirements**

DOLA developed a CDBG Guidebook, orientation sessions and applicant workshops as tools to assist grantees in complying with the State award terms and Federal regulations. CDBG staff will also provide ongoing technical assistance and conduct on-site monitoring reviews to ensure federal and State compliance.

### **III. Goal and Objectives**

**Goal:** Colorado's goal in administering the CDBG program is to operate a program that is responsive, attentive and solutions-oriented by providing technical assistance and financial resources to local governments and communities throughout Colorado to achieve community development that is revitalizing and sustainable.

**Primary Objective:** The primary objective of the State's program is the development of viable urban communities, by providing decent housing, a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this primary objective, the State will use not less than seventy percent (70%) of federal Fiscal Years 2010, 2011, and 2012 funds and State program income for project activities that benefit persons of low and moderate income.

**Broad Objectives:** The federal Housing and Community Development Act of 1974 establishes three broad national objectives for the CDBG program:

- (1) Benefit persons of low and moderate income;
- (2) Prevent or eliminate slums or blight; and
- (3) Address other urgent needs.

The State will achieve its primary objective through a program that gives maximum feasible priority to funding activities that benefit persons of low and moderate income, or aid in the prevention or elimination of slums or blight. The State may also provide funding for activities that grantees certify meet other community development needs that have arisen during the preceding 18-month period and have a particular urgency. Additionally, the State and Congress intend that CDBG funds should supplement local financial support for community development activities, rather than reduce it below the level of such support prior to the availability of CDBG assistance.

### **Benefit to Persons of Low and Moderate Income**

Except as otherwise specified in federal law and regulations, the Department of Local Affairs (DOLA) will determine that a local project activity addresses the broad national objective of "benefit to persons of low and moderate income" if at least fifty-one percent (51%) of the beneficiaries of the CDBG-funded project activity are low- and moderate income persons. Low- and moderate-income persons are those who are members of households (families for economic development purposes) whose annual incomes do not exceed HUD-prescribed income limits, which are based on eighty percent (80%) of median family income. DOLA posts these HUD income limits on its website at:

<http://www.dola.state.co.us/dlg/fa/cdbg/index.html>

Types of activities that benefit low- and moderate-income persons include:

- (1) Housing
- (2) Community Development
- (3) Economic Development

### **Prevention or Elimination of Slums or Blight**

Section X contains the requirements for a project activity to meet the broad national objective of "prevention or elimination of slums or blight." For determining whether a local project activity addresses this broad national objective, the definition of "slum" is the definition of "slum area" contained in 31-25-103 C.R.S., as amended, and, similarly, the definition of "blight" is the definition of "blighted area" contained in 31-25-103, C.R.S., as amended.

### **Address Other Urgent Needs**

To comply with the national objective of meeting community development needs having a particular urgency, DLG will consider an activity to address this objective if the applicant certifies that conditions exist which:

- pose a serious and immediate threat to the health or welfare of the community,
- are of recent origin or recently became urgent,
- the grantee is unable to finance on its own; and
- other sources of funds are not available.

A condition will be considered "of recent origin" if it developed or became critical within 18 months preceding the grantee's certification. Urgent needs include, but are not limited to flood, fire, blizzard, tornado, earthquake, disease or other natural disasters; explosion, or contamination of water supplies.

## **IV. Eligible Activities and Recipients**

**Eligible Activities:** All CDBG-funded projects must be an eligible activity according to Section 105(a) of Title 1 of the Housing and Community Development Act of 1974 as amended.

**Eligible Recipients:** Eligible cities and towns are those with populations of less than 50,000 or counties with populations of less than 200,000, provided the cities, towns or counties do not participate as members of HUD Urban County Consortiums. Please see Appendix D for a list of jurisdictions that are ineligible to receive State CDBG.

The State encourages arrangements between and among eligible entities to ensure adequate provision of common or related community development activities and services. Also, municipalities and counties may contract with other entities or parties (Councils of Governments, Regional Planning Districts, Special Districts, Local Development Corporations, Downtown Development Authorities, Urban Renewal Authorities, Housing Authorities, non-profit corporations, etc.) to carry out project activities as provided for under statutes (including 31-51-101 (1) (c), 30-11-101 (1) (d), 29-1-203 and 29- 1-204.5, C.R.S., as amended), ordinances and resolutions, and State and local financial management procedures.

### **Multi-Jurisdictional Projects**

A "multi-jurisdictional" project is one in which two or more municipalities and/or counties carry out an activity or set of closely connected activities that address an identified common problem or need. Multi-jurisdictional projects must meet the following specific requirements:

- Participating municipalities or counties must authorize one of the participating entities to act as a representative for all of the participants. The designated entity must assume overall responsibility for ensuring the entire project complies with all program requirements. A legally binding cooperation agreement between the designated entity and all other directly participating municipalities and counties must spell out the overall responsibility and any related individual responsibilities.
- To meet the citizen participation requirements of Section 104(a)(2) of the Housing and Community Development Act of 1974 ("the Act"), as amended, all the requirements listed in paragraph 2 of "Grantee Responsibilities," p. 123, must be met, including the requirements that:
  - Each participating jurisdiction must hold a public hearing; and
  - Each participating jurisdiction must make the proposed and final project plan/application for the combination of project participants available in each of the participating jurisdictions.
- To meet the citizen participation requirements of Section 104(a)(3) of the Act, each participating jurisdiction must have and follow a detailed citizen participation plan (or certify that it is complying with the State's plan which addresses the six areas of concern specified in paragraph 3 of "Grantee Responsibilities," p. 124.
- To meet the requirements of Section 104(d) of the Act, each participating jurisdiction must have and follow a Residential Anti-displacement and Relocation Assistance Plan. (See paragraph 5 of "Grantee Responsibilities," p. 124)
- To meet the requirements of Section 106(d)(5) of the Act, each participating jurisdiction must make and comply with the displacement, fair housing and other certifications described in paragraphs 6, 7, and 8 of "Grantee Responsibilities."

### **V. Method of Funds Distribution**

The State expects received an allocation of \$10,355,150 in FFY 2010. Of this amount, \$9,944,496 is available for commitment to local projects, and \$410,654 (3% of total, or \$310,654 + \$100,000 = \$410,654) is available to the State for administration of the program.

The State plans to use its CDBG award, plus any funds de-obligated from local governments and previous annual grant remaining balances, for public facility, economic development and housing activities. Because funds are distributed through a competitive process, the State cannot predict the ultimate geographic distribution of CDBG resources.

DOLA will distribute CDBG resources through a competitive process to eligible non-entitlement local governments through the divisions who administer these programs.

The Division of Housing administers housing programs, the Division of Local Government administers public facility and economic development programs.

No less than seventy percent (70%) of funds received by the State during the period of FFY's 2010, 2011, and 2012 will be used for project activities that benefit low- and moderate-income persons.

**CDBG Program Income:**

“Program Income” means gross income received by a Grantee: the State, unit of general local government (UGLG) or a sub-recipient of a unit of local government (sub-grantee) that was generated from the use of CDBG funds, except that program income does not include the total amount of funds less than \$25,000 received in a single year that is retained by a unit of general local government and its sub-grantees. When such income is generated by an activity that is partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used. DOH definition of Program Income includes, but is not limited to the following:

- Payments of principal and interest on loans made using CDBG funds;
- Proceeds from the sale of loans made with CDBG funds;
- Proceeds from the sale of obligations secured by loans made with CDBG funds
- Interest earned on funds held in a revolving fund account; and
- Interest earned on program income pending disposition of such income;
- Program Income does not include: loan servicing fees received by a Grantee that result directly from a loan.

**Administrative Caps for CDBG Program Income**

3% of CDBG RLF (Program Income) that is retained at the local level counts toward the 3% regular CDBG administrative cap.

**CDBG Revolving Fund (RLF)**

RLF means a separate fund (with a set of accounts that are independent of other program accounts) established for the purposes of carrying out specific activities which, in turn, generate payments to the fund for use in carrying out such activities.

**Miscellaneous Income**

CDBG Program Income Converted to Miscellaneous Income: The Division of Housing has approved applications from nonprofit organizations under Section 105(a) (15) for designation as “nonprofit organizations serving the development needs of the communities in non-entitlement areas,” and income generated by their activities is now Miscellaneous Income rather than Program Income. Therefore, the Program Income reporting threshold of \$25,000 received in a single year does not apply. These CDBG funds are used to establish and support housing organization loan funds throughout the State, funding housing rehabilitation and down payment assistance programs that will be fully controlled and administered by the nonprofit organizations.

### **Recapture**

DOH reserves the right to recapture Program Income, RLF or Miscellaneous Income from communities which fail to adequately meet the DOH Program Income (PI, RLF and Miscellaneous) statutory and regulatory requirements. DOH will evaluate the Grantee’s ability to effectively administer a local RLF at the time of application approval and time of annual reporting. If it is determined that the local RLF is not being satisfactorily administered, DOH has maximum feasible deference in determining the definition of “continuing the same activity.” Program Income, RLF or Miscellaneous Income returned to the State from the Grantee’s and Sub-grantees will be used to make new housing activity grant awards. DOH may choose to request that program income be returned with the intent of redistributing it in a new open contract in order to maintain adequate program oversight by tracking administrative costs and beneficiary information through our established process.

### **Interim/Short-Term Financing Grant Program**

In order to maximize the use of these funds, which are available under letters of credit from HUD, the State may choose to use the funds to provide grants to eligible recipients for interim or short-term financing of eligible economic development, housing and public facilities activities that are consistent with the federal and State program goals and objectives. The State will use program income or other funds paid to the State under the Interim/Short-Term Financing Grant Program to meet its other grant commitments to recipients. Because the availability of funds for subsequent use depends on the payment of these funds from the initial user, there is some risk to subsequent users. The State will minimize this risk through the use of irrevocable and unconditional letters of credit (to be required by recipients of borrowers, so that letter of credit proceeds will be available to the State through recipients) and/or other appropriate measures.

For proposals under Interim/Short-Term Financing Grants, the State will consider:

- Proposed direct benefit of the project activities to low- and moderate-income persons.
- The nature and extent of the effect of interim/short-term financing on project cost, feasibility and benefit, including the consequences of not providing a grant for the interim/short-term financing.
- The likelihood that program income or other funds will be available to the State in the amount and at the time proposed by the recipient so that the State will be able to meet its other grant commitments to recipients.

- If the interim/short-term assistance is to be provided to a private, for-profit entity to carry out an economic development project, the State will determine whether the assistance is "appropriate" (as required by federal statute, regulation and policy).

### **Regular Grant Program Funding**

Three divisions of the State utilize CDBG funds: the Division of Local Government, the Division of Housing, and the Office of Economic Development and International Trade. These divisions collaborate to create a seamless approach to funding community development needs. The State will set approximate funding for the three major categories of projects and activities for FFY2010 as follows: Economic Development \$3,314,832, Housing \$3,314,832, Public Facilities/Community Development \$3,314,832.

More or less than these amounts for each project category may actually be awarded, depending on the relative quality and quantity of proposals received and on State priorities. The State will provide information upon request, for those communities interested in applying for guaranteed loan funds under subpart M, the Section 108 Loan guarantee program as well as give consideration to funding multi-year and/or multipurpose applications.

### **Maximum and Minimum Grant Amounts**

The Department of Local Affairs has set no absolute limits to the amount of funding an applicant may request. The Department suggests that \$600,000 be considered the maximum grant guideline for public facility or community development projects. There is no suggested maximum for housing projects. There is no maximum limit for economic development projects. Suggested guidelines vary based on the use of funds.

### **Review Process for Housing, Public Facilities, and Community Development Proposals**

(1) The Department of Local Affairs will consider public facilities and community development proposals during specified application periods or in conjunction with funding cycles established by the Department. DOLA will post application cycles on its web page and advise local government associations and regional organizations of application opportunities.

(2) The term "community development proposals" includes such projects as public improvements in downtown or other commercial areas, public and private non-profit tourist facilities and attractions, public and private non-profit business incubators, and rehabilitation of publicly and privately owned non-residential properties when such properties are integral parts of local government sanctioned and planned community redevelopment efforts, or when such properties are of key historic or commercial importance to a community or neighborhood.

(3) Because housing, public facility and economic development projects are administered by separate DOLA divisions, the application review and award process is different for all.

However, all CDBG applications will initially be reviewed for the following:

- Applicant Eligibility
- Activity Eligibility
- National Objective Eligibility
- Consolidated Plan Funding Priorities
- The project's benefit to low- and moderate-income persons or households

Public facility applications are reviewed by CDBG staff and are evaluated on the following:

- Demonstrated need
- Implementation of the project and maintaining its operation
- Number and economic status of individuals affected by the need
- Level of Urgency
- Project's readiness to go
- Management capacity (whether or not the local government has organizational/financial capacity and authority to address the need). No rating points are assigned; however, a consensus is reached on level of funding recommendation that will be made. The funding recommendation is forwarded to the Executive Director of the Department of Local Affairs. The Department Executive Director considers staff review recommendations and makes the final funding decision based on the project review factors.

In 2010, the Division of Local Government will implement a pilot competitive application process, in which multiple grant applications are reviewed, rated and ranked, and grants are awarded to those applicants that most closely meet the selection criteria established by the Division of Local Government. Typically, review criteria are based both on programmatic requirements and on an applicant's ability to carry out the grant. Review criteria may include, but are not limited to the following:

- Project need
- Project sustainability
- Financial and administrative capacity of the applicant
- Geographic coverage
- Applicant's past performance as a grantee of the State

(4) The Department may end or defer consideration of public facilities/community development proposals when funds are exhausted or proposals are incomplete or premature. Housing proposals will be considered during specific application periods by the Division of Housing (DOH). DOH may end or defer consideration of housing proposals when funds available have been exhausted and when proposals are incomplete or premature. Business development proposals involving the provision of financial assistance for private-for-profit and nonprofit businesses will be received and considered on a continuous basis by the governor's Office of Economic Development and International trade. The Governor's Financial Review Committee reviews business development proposals and makes final funding decisions.

**The Division of Housing Applications.** Regional field and program staff review each application and reach a consensus on a recommended level of funding, although they do not assign points. Recommendations range from full funding, to high or low partial funding, to no funding. The staff forwards the results of its review to the Executive Director of the Department of Local Affairs, who may consult with the State Housing Board or other advisory groups on the proposal. The consultation may be by telephone or mail, or may involve a meeting or hearing. The State Housing Board has set a competitive application cycle for each HUD activity type that will allow for the direct comparison of programs, developments and

agencies to ensure funding of those projects with the best merits. The State Housing Board will allocate dollars by activity type. DOH will use CDBG funds for homeless services in *non-entitlement* areas only, consistent with funding provided to the ESG program.

**The Governor's Office of Economic Development and International Trade (OEDIT)** will receive and consider business development proposals involving the provision of financial assistance for private-for-profit and nonprofit businesses. OEDIT staff will evaluate proposals using the major factors noted in section (3) on page 118. The Governor's Financial Review Committee reviews business development proposals and makes final funding decisions.

### **Review Process for Business Development Proposals for Private Businesses**

The Colorado Governor's Office of Economic Development and International Trade (OEDIT) will accept and consider business development proposals that involve providing financial assistance to private for-profit and non-profit businesses (except for financing for "community development proposals," as previously described) on a continuous basis. Such proposals include those that would provide:

- funding through local or regional loan funds,
- infrastructure to benefit specific businesses and
- feasibility/planning studies to benefit specific businesses.

The OEDIT may end or defer consideration of business financing proposals when funds available for such projects are exhausted and when applications are incomplete or premature. Staff members will evaluate proposals using the same three major factors as noted above for housing, public facilities, and community development proposals. The Colorado Governor's Financial Review Committee will review the economic development proposals and make final funding decisions.

### **Review Factors**

**For projects including supportive human services activities** (including job training and day care aspects of economic development projects):

- How are such activities critical to the accomplishment of overall objectives?
- Will CDBG funding supplant local, federal or state assistance available for activities?
- Is the requested CDBG assistance for such activities sufficient to complete the activities, or must the activities continue in order to achieve overall objectives?
- What percentage of total project costs will be spent on these activities?

### **For economic development projects:**

How many permanent jobs (both full-time and part-time) will the proposed project create and/or retain?

- Are the required factors used to determine that assistance to a private, for-profit entity "appropriate?"
- What types of permanent jobs will be created or retained?
- What effect will the proposed project have on the local tax base?
- Does the proposal give adequate consideration to the relationships between job training needs, resources available, and the proposed project?

- When the proposed project involves public improvements in the central business district, are the proposed improvements being undertaken in designated slums or blighted areas?
- When the proposed project involves industrial sites and/or facilities, is a prospect "in hand?"

**For economic development projects that involve grants or business loan funds or loan guarantees:**

- At what point will the full amount of the loan(s) be repaid, if applicable?
- Is the local selection process for grants, loans, and other forms of assistance open and equitable, and does it address the greatest needs to the extent feasible?

**For site acquisition and/or other development projects:**

- Does the site meet lender or other site selection standards?
- Are preliminary engineering/architectural designs or plans, specifications and cost estimates or studies completed? What is the completion date for final plans, specifications and cost estimates?
- Has the applicant completed the proper studies to demonstrate that there is a market for the proposed project and that it is financially feasible?

**c. Is the proposal consistent with local development strategies and coordination with other activities.**

For all projects:

- How long has the proposed project been a priority or identified in an approved plan?
- What is the priority for the proposed project relative to other CDBG and Impact requests?
- Is the proposed project compatible with existing local planning regulations, such as zoning ordinances and subdivision regulations?
- How is the proposed project part of and consistent with an overall local capital improvements and maintenance plan and budget?
- If the community is included in an adopted development strategy or comprehensive plan for a larger geographic area, is the proposed project compatible with such a strategy or plan?
- How long has the proposed project represented a documented need?
- To what extent does the proposed project complement, supplement or support other local, State or federal projects, programs or plans already in effect or to be implemented?
- Is there duplication of effort or overlap?
- To what extent does the proposed project further related local projects or plans?
- If the proposed project lends itself to a multi-jurisdictional approach, has the applicant adequately considered such a joint approach?
- When projects involve public improvements in the central business district, are downtown public improvements being undertaken in coordination with, or by a representative local economic development organization?

**2. Public and Private Commitments.** This factor evaluates the extent of public and private commitment to the proposed project. Staff members will consider both the amount or value and the viability of those commitments. Communities are strongly encouraged to take primary responsibility for resolving their housing, economic development and public facilities problems. In specific projects, this may involve making financial commitments; adjusting development regulations, user rates and fees, and capital construction and maintenance programs; creating improvement districts; establishing development and redevelopment authorities; and generally sharing in or leveraging funds and management for development and redevelopment.

**a. Local Financial Commitments.**

For all projects:

- To the extent of their abilities, have the local government, project participants and beneficiaries engaged and/or committed to engage generally in taxing efforts to address their own continuing development and maintenance needs?
- To the extent of their abilities, have the local government and local project participants and beneficiaries appropriated/committed funds specifically for the proposed project and/or committed to alter fees to ensure the success of the specific project?
- When the proposed project involves business loan funds or loan guarantees, what is the ratio of private and/or local public investment to the amount of CDBG funds requested? How was this determined?
- When the proposed project involves public improvements in the central business district, has the private sector demonstrated a commitment to reinvest (e.g., through formation of an improvement district or through committing to business loans)?
- When a proposed development project requires interim and/or permanent financing, is the needed financing firmly committed? If not, is there a conditional or preliminary commitment, and what is the likelihood that a firm commitment will be made?

**b. Local Non-Financial Commitments**

For all projects:

If necessary, has the community committed to alter local regulations to ensure the success of the project?

- Has the community made good faith efforts to involve residents, including low and moderate-income persons and minorities, in assessing community needs and developing strategies to address its needs?
- Have the directly affected parties in the community demonstrated active support for the project?

**c. Other Commitments**

For all projects:

- Have any grant funds been sought for or committed to the proposed project?
- What are the sources, amounts and availabilities of these grant funds?

**3. Management Capability.** The purpose of considering this factor is to evaluate the ability of the local government submitting the proposal to administer the project as described.

### **a. Staff and Contractors**

For all projects:

- Does the local government have adequate and experienced programmatic and fiscal staff and contractors, or has the applicant thoroughly considered the types of staff and contractor experience and qualifications necessary to carry out the project, including extensive statutory and regulatory requirements?
- How have the local government and its contractors performed in the past in carrying out development and redevelopment activities, and any type of activity with extensive statutory and regulatory requirements?
- To what extent will local government staff be directly involved in project management?
- What criteria and procedures will the local government use for selecting contractors?
- Have the roles and responsibilities of project participants been clearly established?

### **For economic development projects:**

- Has the local government established an advisory or decision-making committee knowledgeable in economic development matters, including small business support, industrial recruiting, business loan funds, etc.?
- Does the jurisdiction have business management experience sufficient to review pro forma, cash flow statements and business plans? If not, how will these tasks be accomplished?

### **b. Budget**

DOLA staff will compare administrative and other costs with those of other similar proposals.

For all projects:

- Are the proposed administration and overall project budgets (including appropriate development and operating budgets in the case of development projects) adequate, reasonable and realistic given the project work plan?

### **c. Statutory and Regulatory Compliance**

- Does the proposed project involve or result in residential displacement? If so, has the applicant taken all reasonable steps to minimize displacement? Is there a plan to replace all low/moderate income housing demolished or converted, and to assist persons being relocated?
- Does the proposed project involve real property acquisition or relocation of any persons or businesses? Does it trigger Uniform Relocation Act requirements? Are cost and time requirement estimates reasonable?
- Are estimated labor wage costs reasonable? (Especially, has the applicant considered whether the proposed project is subject to Davis-Bacon prevailing wage requirements?)
- Is the proposed project in a floodplain or geological hazard area, or does it affect cultural or historic resources? Are there other environmental considerations? If so, what mitigation measures are proposed and what alternatives have been considered?

## **VI. Technical Assistance**

The State will continue a coordinated technical assistance program to assist communities with CDBG project management and project formulation and planning, particularly in coordination with State programs such as Impact grants, housing grants and loans, and economic

development funds. The State will target special project management technical assistance to communities that have never administered a CDBG grant, and to those that have experienced or are experiencing difficulty in administering a CDBG grant. Project formulation and planning assistance will be targeted to communities that need more long-term technical assistance to prepare for CDBG or other State funding in the future, and that have committed to undertake overall development and maintenance planning and budgeting efforts.

To provide consistent guidance to CDBG recipients, the Department of Local Affairs will have a CDBG staff specialist. State technical assistance may be in the form of personal contact with local government officials and staff, workshops, brokering assistance from private or local public sources, and documents and materials. Staff members have prepared a CDBG Guidebook that is available online at: [www.dola.state.co.us/LGS/FA/cdbg.htm](http://www.dola.state.co.us/LGS/FA/cdbg.htm).

The Guidebook contains information on Project Start-up, Financial Management, Reporting, Environmental Review, Civil Rights, Acquisition, Relocation, Labor and Construction, Project Close-Out, and Monitoring. All sections are available in PDF or Word format. DOLA also gives this Guidebook to grantees in hard copy at the time of award.

## **VII. Grantee Responsibilities**

Municipal and county governments are strongly encouraged to take primary responsibility for resolving housing and community development problems. In specific projects, this may involve adjusting development regulations, user rates and fees and capital construction and maintenance programs, creation of improvement districts, and generally sharing in or leveraging funds and management for development and redevelopment. Local governments and project sponsors are also strongly encouraged to use advisory committees and assessment tools in evaluating needs and in formulating, implementing and modifying local development and redevelopment strategies. Use of such committees or tools can often lend continuity and objectivity to the planning and development process. Additionally, applicants must comply with the following specific requirements by addressing the preceding "Review Factors" and providing specific certifications and statements:

1. Develop a community development plan that gives maximum feasible priority to activities that will benefit persons of low and moderate income, or aid in the prevention or elimination of slums or blight. An applicant may also certify that specific activities are designed to meet other community development needs that have arisen during the preceding 12-month period and have 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.
2. Provide opportunities for citizen participation, public hearings, and access to information in a timely manner with respect to its community development plan, specifically including:
  - Furnishing citizens information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income and its plans for minimizing displacement of persons as a result of activities assisted with CDBG funds and to assist persons actually displaced as a result of such activities;

- Publishing a proposed project plan/application in a manner that affords affected citizens an opportunity to examine its content and to submit comments on the proposed project plan/application and the community development performance of the applicant;
- Holding one or more public hearings to obtain the views of citizens on community development and housing needs;
- Providing citizens with reasonable access to records regarding its past use of CDBG funds;
- In preparing its project plan/application, considering any such comments and views and, if deemed appropriate, modifying the proposed project plan/application;
- Making the final project plan/application available to the public;
- In the event it is awarded CDBG funds by the State, the jurisdiction must provide citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of CDBG funds from one eligible activity to another by following the same procedures required in this paragraph for the preparation and submission of the final project plan/application.

3. Follow a detailed citizen participation plan which:

- Provides for and encourages citizen participation, particularly by persons of low and moderate income who are residents of slum and blight areas and areas in which CDBG funds are proposed to be used;
- Provides citizens with reasonable and timely access to local meetings, information, and records relating to its proposed and actual use of CDBG funds;
- Provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the applicant;
- Provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance. These hearings shall be held after adequate notice at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;
- Provides for a timely written answer to written complaints and grievances, within 15 working days where practicable; and
- Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

4. Prior to submitting a proposal for funds, identify and document community development and housing needs, including the needs of low- and moderate- income persons, and the activities to be undertaken to meet such needs.

5. Follow a residential anti-displacement and relocation assistance plan which shall in the event of such displacement, provide that:

- Governmental agencies or private developers shall provide comparable replacement dwellings for the same number of occupants as could have been housed in the habitable low- and moderate-income dwelling units that were demolished or converted to a use

other than for housing for low- and moderate income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under Section 8 of the United State's Housing Act of 1937;

- Such comparable replacement dwellings shall be designed to remain affordable to persons of low and moderate income for 10 years from the time of initial occupancy;
- Relocation shall be provided for all low- or moderate-income persons who occupied housing demolished or converted to a use other than for low- or moderate-income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and, in the case of displaced persons of low and moderate income, provide either:
  - Compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or
  - If elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under sub-clause (I) to permit the household to secure participation in a housing cooperative or mutual housing association:
- Persons displaced shall be relocated into comparable replacement housing that is:
  - decent, safe, and sanitary
  - adequate in size to accommodate the occupants
  - functionally equivalent
  - in an area not subject to unreasonably adverse environmental conditions.

6. Will not plan or 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 received are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than CDBG; or (B) for the purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the grantee certifies to the State that it lacks sufficient funds received from the State to comply with the requirements of (A).

7. Conduct and administer its program in conformity with the Civil Rights Act of 1964 and The Fair Housing Act.

8. Complete a self-evaluation of its current policies and practices to determine whether they meet the requirements of Section 504 of the Rehabilitation Act of 1973 as amended and the HUD implementing regulations at 24 CFR Part 8.

9. Comply with other provisions of Title I of the Act and other applicable federal and state laws and regulations. (A summary of many of the federal laws and regulations is contained in Section VIII.)

Finally, it should be noted that, to the greatest extent permitted by federal law and regulations, it is the State's intent that the local governments' monitoring and evaluation of projects be in

accordance with program and financial oversight responsibilities to their citizens under State statutes and fiscal rules. Principal matters for monitoring and evaluation will be project progress, financial management, subcontracts, documentation, project benefit to low- and moderate- income persons, and compliance with federal and state laws and regulations. The State shall require quarterly financial and program performance reports, a completion performance report and other reports. An audit is required. Information requested will provide the State with a basis for evaluation of grantee performance. In addition, the reports will provide additional assurance of compliance with applicable federal and State laws and regulations.

### **VIII. Federal Laws and Regulations Applicable To the State-Administered Community Development Block Grant Program**

**National Environmental Policy Act of 1969** (42 USC 4321 et seq.), as amended, and the implementing regulations of HUD (24 CFR Part 58) and of the Council on Environmental Quality (40 CFR Parts 1500 - 1508) providing for establishment of national policy, goals, and procedures for protecting, restoring and enhancing environmental quality.

**National Historic Preservation Act of 1966** (16 USC 470 et seq.), as amended, requiring consideration of the effect of a project on any district, site, building, structure or object that is included in or eligible for inclusion in the National Register of Historic Places.

**Executive Order 11593, Protection and Enhancement of the Cultural Environment**, May 13, 1971 (36 FR 8921 et seq.) requiring that federally-funded projects contribute to the preservation and enhancement of sites, structures and objects of historical, architectural or archaeological significance.

**The Archaeological and Historical Data Preservation Act of 1974**, amending the Reservoir Salvage Act of 1960 (16 USC 469 et seq.), providing for the preservation of historic and archaeological data that would be lost due to federally-funded development and construction activities.

**Executive Order 11988, Floodplain Management, May 24, 1977** (42 FR 26951 et seq.) prohibits undertaking certain activities in flood plains unless it has been determined that there is no practical alternative, in which case notice of the action must be provided and the action must be designed or modified to minimize potential damage.

**Flood Disaster Protection Act of 1973** (42 USC 4001), placing restrictions on eligibility and acquisition and construction in areas identified as having special flood hazards.

**Executive Order 11990, Protection of Wetlands, May 24, 1977** (42 FR 26961 et seq.), requiring review of all actions proposed to be located in or appreciably affecting a wetland. Undertaking or assisting new construction located in wetlands must be avoided unless it is determined that there is no practical alternative to such construction and that the proposed action includes all practical measures to minimize potential damage.

**Safe Drinking Water Act of 1974** (42 USC 201, 300 et seq., 7401 et seq.), as amended, prohibiting the commitment of federal financial assistance for any project which the Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal drinking water source for an area.

**The Endangered Species Act of 1973** (16 USC 1531 et seq.), as amended, requiring that actions authorized, funded, or carried out by the federal government do not jeopardize the continued existence of endangered and threatened species or result in the destruction or

modification of the habitat of such species which is determined by the Department of the Interior, after consultation with the State, to be critical.

**The Wild and Scenic Rivers Act of 1968** (16 USC 1271 et seq.), as amended, prohibiting federal assistance in the construction of any water resources project that would have a direct and adverse effect on any river included in or designated for study or inclusion in the National Wild and Scenic Rivers System.

**The Clean Air Act of 1970** (42 USC 1857 et seq.), as amended, requiring that federal assistance will not be given and that license or permit will not be issued to any activity not conforming to the State implementation plan for national primary and secondary ambient air quality standards.

**HUD Environmental Criteria and Standards** (24 CFR Part 51), providing national standards for noise abatement and control, acceptable separation distances from explosive or fire prone substances, and suitable land uses for airport runway clear zones.

**Section 104(d) of the Housing and Community Development Act of 1974**, as amended (42 USC 5301), known as the "Barney Frank Amendment," and the HUD implementing regulations requiring that local grantees follow a residential anti-displacement and relocation assistance plan that provides for the replacement of all low/moderate income dwelling units that are demolished or converted to another use as a direct result of the use of CDBG funds, and which provides for relocation assistance for all low/moderate income households so displaced.

**Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, as amended. -- Title III, Real Property Acquisition (Pub. L. 91-646 and HUD implementing regulations at 49 CFR Part 24), providing for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by federal or federally-assisted programs and establishing uniform and equitable land acquisition policies for federal assisted programs. Requirements include bona fide land appraisals as a basis for land acquisition, specific procedures for selecting contract appraisers and contract negotiations, furnishing to owners of property to be acquired a written summary statement of the acquisition price offer based on the fair market price, and specified procedures connected with condemnation.

**Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, as amended, -- Title II, Uniform Relocation Assistance (Pub. L. 91-646 and HUD implementing regulations at 49 CFR Part 24), providing for fair and equitable treatment of all persons displaced as a result of any federal or federally-assisted program. Relocation payments and assistance, last-resort housing replacement by displacing agency, and grievance procedures are covered under the Act. Payments and assistance will be made pursuant to State or local law, or the grant recipient must adopt a written policy available to the public describing the relocation payments and assistance that will be provided. Moving expenses and up to \$22,500 for each qualified homeowner or up to \$5,250 for each tenant are required to be paid.

**Davis-Bacon Fair Labor Standards Act** (40 USC 276a - 276a-5) requiring that, on all contracts and subcontracts which exceed \$2,000 for federally-assisted construction, alteration or rehabilitation, laborers and mechanics employed by contractors or subcontractors shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor. (This requirement applies to the rehabilitation of residential property only if such property is designed for use of eight or more families.) Assistance shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any subcontractor or sub-recipient during any period of debarment, suspension, or placement in ineligibility status under the provisions

of 24 CFR Part 24.

**Contract Work Hours and Safety Standards Act of 1962** (40 USC 327 et seq.) requiring that mechanics and laborers employed on federally-assisted contracts which exceed \$2,000 be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty in a work week.

**Copeland "Anti-Kickback" Act of 1934** (40 USC 276 (c)) prohibiting and prescribing penalties for "kickbacks" of wages in federally-financed or assisted construction activities.

**The Lead-Based Paint Poisoning Prevention Act -- Title IV** (42 USC 4831) prohibiting the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance, and requiring notification to purchasers and tenants of such housing of the hazards of lead-based paint and of the symptoms and treatment of lead-based paint poisoning.

**Section 3 of the Housing and Community Development Act of 1968** (12 USC 1701 (u)), as amended, providing that, to the greatest extent feasible, opportunities for training and employment that arise through HUD-financed projects, will be given to lower-income persons in the unit of the project area, and that contracts be awarded to businesses located in the project area or to businesses owned, in substantial part, by residents of the project area.

**Section 109 of the Housing and Community Development Act of 1974** (42 USC 5309), as amended, providing that no person shall be excluded from participation (including employment), denied program benefits or subjected to discrimination on the basis of race, color, national origin or sex under any program or activity funded in whole or in part under Title I (Community Development) of the Act.

**Title VI of the Civil Rights Act of 1964** (Pub. L. 88-352; 42 USC 2000 (d)) prohibiting discrimination on the basis of race, color, religion or religious affiliation, or national origin in any program or activity receiving federal financial assistance.

**The Fair Housing Act** (42 USC 3601-20), as amended, prohibiting housing discrimination on the basis of race, color, religion, sex, national origin, handicap and familial status.

**Executive Order 11246** (1965), as amended by Executive Orders 11375 and 12086, prohibiting discrimination on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of federal or federally-assisted contracts in excess of \$2,000.

**Executive Order 11063** (1962), as amended by Executive Order 12259, requiring equal opportunity in housing by prohibiting discrimination on the basis of race, color, religion, sex or national origin in the sale or rental of housing built with federal assistance.

**Section 504 of the Rehabilitation Act of 1973** (29 USC 793), as amended, providing that no otherwise qualified individual shall, solely by reason of a handicap, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal funds.

**Age Discrimination Act of 1975**, (42 USC 6101), as amended, providing that no person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funds.

**Armstrong/Walker "Excessive Force" Amendment**, (P.L. 101-144) & Section 906 of Cranston-Gonzalez Affordable Housing Act of 1990, requiring that a recipient of HUD funds certify that they have adopted or will adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within their jurisdiction against individuals engaged in nonviolent civil rights demonstration; 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.

**Government-wide Restriction on Lobbying**, (P.L. 101-121), prohibits spending CDBG funds to influence or attempt to influence federal officials; requires the filing of a disclosure form when non-CDBG funds are used for such purposes; requires certification of compliance by the State; and requires the State to include the certification language in grant awards it makes to units of general local government at all tiers and that all subrecipients shall certify accordingly as imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

**Department of Housing and Urban Development Reform Act of 1989** (24 CFR Part 12) requiring applicants for assistance for a specific project or activity from HUD, to make a number of disclosures if the applicant meets a dollar threshold for the receipt of covered assistance during the fiscal year in which an application is submitted. An applicant must also make the disclosures if it is requesting assistance from HUD for a specific housing project that involves assistance from other governmental sources.

**Public Law 110-289, Housing and Economic Recovery Act of 2008 (HERA)**, pertaining to the Neighborhood Stabilization Program funding.

**Public Law 111-5, American Recovery and Reinvestment Act of 2009 (ARRA)**, as it pertains to the Neighborhood Stabilization Program (NSP1 and NSP2); Community Development Block Grant – Recovery Program (CDBG-R); and Homeless Prevention And Rapid Re-housing Program (HPRP).

## **X. Definitions - Slums and Blight State Statutory Definitions**

**Blight Area.** Blighted area, per CRS §31-25-103, means an area that, in its present condition and use and, by reason of the presence of at least four of the following factors, substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare:

- (a) Slum, deteriorated, or deteriorating structures;
- (b) Predominance of defective or inadequate street layout;
- (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (d) Unsanitary or unsafe conditions;
- (e) Deterioration of site or other improvements;
- (f) Unusual topography or inadequate public improvements or utilities;
- (g) Defective or unusual conditions of title rendering the title nonmarketable;
- (h) The existence of conditions that endanger life or property by fire or other causes;
- (i) Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities;
- (j) Environmental contamination of buildings or property;
- (k) (Deleted by amendment, L. 2004, p. 1745, § 3, effective June 4, 2004.)
- (k.5) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements; or

(l) If there is no objection by the property owner or owners and the tenant or tenants of such owner or owners, if any, to the inclusion of such property in an urban renewal area, "blighted area" also means an area that, in its present condition and use and, by reason of the presence of any one of the factors specified in paragraphs (a) to (k.5) of this subsection 2.2, substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare. For purposes of this paragraph (l), the fact that an owner of an interest in such property does not object to the inclusion of such property in the urban renewal area does not mean that the owner has waived any rights of such owner in connection with laws governing condemnation.

**Blighted Structure.** A blighted structure has one or more of the following conditions:

(1) Physical deterioration of buildings or improvements; (2) Abandonment; (3) Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings; (4) Significant declines in property values or abnormally low property values relative to other areas in the community; or (5) Known or suspected environmental contamination; (6) The public improvements throughout the area are in a general state of deterioration. The State also accepts local determinations.

**Slum Area.** Slum area, per CRS §31-25-103, means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding or the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and is detrimental to the public health, safety, morals, or welfare.

### **Federal Regulatory Definitions and Clarifications**

Activities meeting the following criteria, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

1. Activities to address slums or blight on an area basis. An activity will be considered to address prevention or elimination of slums or blight in an area if:

- The area, delineated by the grantee, meets a definition of a slum, blighted, deteriorated or deteriorating area under State or local law;
- Throughout the area there is a substantial number of deteriorated or deteriorating buildings or the public improvements are in a general state of deterioration;
- Documentation is maintained by the grantee on the boundaries of the area and the condition which qualified the area at the time of its designation; and
- The assisted activity addresses one or more of the conditions that contributed to the deterioration of the area.

Rehabilitation of residential buildings carried out in an area meeting the above requirements will be considered to address the area's deterioration only where each such building rehabilitated is considered substandard under local definition before rehabilitation, and all deficiencies making a building substandard have been eliminated if less critical work on the building is undertaken. At a minimum, the local definition for this purpose must be such that

buildings that it would render substandard would also fail to meet the housing quality standards for the Section 8 Housing Assistance Payments Program-Existing Housing (24 CFR 882.109).

2. Activities to address slums or blight on a spot basis. Acquisition, clearance, relocation, historic preservation and building rehabilitation activities that eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area will meet this objective.

Under this criterion, rehabilitation is limited to the extent necessary to eliminate specific conditions detrimental to public health and safety.

### **XI. Eligible Activities**

Eligible activities and services under the Community Development Block Grant (CDBG) Program are those which are:

- consistent with the stated program goal and objectives; and
- included as eligible activities under Section 105 of Title I of the Housing and Community Development Act of 1974 (the "Act"), as amended, and are otherwise eligible under other sections of Title I and under detailed federal regulations,
- included as eligible activities under the Housing and Economic Recovery Act of 2008 (HERA), Title III,
- included as eligible activities under the American Recovery and Reinvestment Act of 2009 (ARRA), Title III.