
Rhode Island Community Development Block Grant (CDBG) Program

Training Module #2
National Objective & Eligibility

RI CDBG

- Six steps to fundability:
 - ❑ CDBG Statute
 - ❑ CDBG Regulations (“State” vs. “Entitlement”)
 - ❑ National Objective
 - ❑ Overall Benefit Impact
 - ❑ Necessary/Reasonable and comply with financial management regulations (eg. 24 CFR Part 85 and OMB Circular A-87) (Future Training Module)
 - ❑ Environmental Review (Future Training Module)
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- HUD-Guide to Eligibility and National Objectives for State CDBG Program

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/library/stateguide

RI CDBG

- National Objectives
 - Low/Moderate Income (LMI)
 - Low/Moderate Income Housing
 - Low/Moderate Income Jobs
 - Limited Clientele
 - Area Benefit
 - Slums & Blight (SB)
 - Spot Basis
 - Area Basis
 - Urgent Need (UN)
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- **Selecting appropriate National Objective**
 - Type/nature of activity generally dictates national objective to be used.
 - Incorrect classification could disqualify proposal from consideration.
 - If activity does qualify under more than one national objective, document all.
 - Refer to HUD Guide and/or consult with OHCD staff if unclear.
 - Documentation is essential!
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Overall Benefit Requirements

- At least 70% of all expenditures (over a 1-3 consecutive year period) must support activities which comply with the LMI National Objective.
 - PY'2011-PY'2013 – Rhode Island
 - Distinct from 51% LMI requirement which applies to each activity.
 - Rhode Island's CDBG rating/ranking process has designated LMI National Objective as priority for funding.
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- Considerations:

- Application must result in fundable project.
 - “Proposed” vs. “Actual”
 - Section 8 Income Limits (HUD updates annually)
 - Income “inclusions” and “exclusions” (see previous training module)

<http://www.huduser.org/portal/datasets/il.html>

- Common Errors:

- Incomplete applications
 - National Objective based upon assumption
 - Non-compliance with documentation requirements
 - Misclassification of activity
 - Income calculated improperly
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National Objective - LMI HOUSING

Providing or improving permanent residential structures which, upon completion, will be occupied by LMI households.

- Structures with 1 unit must be occupied by a LMI household
 - Structures with 2 units: at least 1 unit must be occupied by at least 1 LMI household.
 - Rental buildings under common ownership and management which are located on the same or contiguous properties may be considered as a single structure.
 - For rental housing, occupancy by LMI households must be at affordable rents.
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“Household” is defined as all persons occupying a unit.

Occupants may be single family; one person; 2 or more families living together; or any other group of related or unrelated persons who share living arrangements.

- Under certain limited circumstances, structures with less than 51% LMI occupants may be assisted:
 - If for an eligible activity that reduces the development cost of new construction of non-elderly, multi-family rental project; and
 - At least 20% of the units will be occupied by LMI households at an affordable rent; and
 - The proportion of cost borne by CDBG funds is no greater than the proportion to be occupied by LMI households.

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Examples of Housing Activities:

- Property acquisition to be used for permanent housing
- Rehabilitation of property for permanent housing
- Conversion of non-residential structures into permanent housing
- New housing construction by a community-based development organization (CGDO)
- Assistance to a household to enable it to acquire ownership of a home (homeownership assistance); and
- Hookups to connect residential structures to water and sewer systems

In each of the above activities, National Objective is not met until the unit(s) are occupied by the specified number of LMI households.

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- Quiz Questions Here

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National Objective: Job Creation or Retention

- Designed to create or retain permanent jobs, at least 51% of which (computed on a full-time equivalent basis) will be held by or made available to LMI persons. (OHCD Policy: jobs must be “held by.”)

- Public Benefit Standards:
 - Individual: One job created/retained for each \$50,000 in direct CDBG assistance or \$1,000 per LMI person receiving goods/services (area benefit activities)
 - Aggregate: Assistance cannot exceed \$35,000 per FTE Job; or \$350 per LMI person receiving goods/services (area benefit activities)

NOTE: OHCD applies the Aggregate Standard to all economic development activities.

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Potentially eligible Jobs activities include:

- Loans to help finance the expansion of a plant or factory
 - Assistance to a business to prevent closure and a resultant loss of jobs for LMI persons
 - Installation of water and sewer lines to a site, and upgrading an access road, to serve a new distribution warehouse being built by a firm
 - Construction by subgrantee of business incubator which is designed to offer both space and assistance to new, small businesses to help them survive and grow (See *Caveats, next slide.*)
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Business Incubator or Speculative Development: Issues & Concerns with job creation/retention:

- Town contracts with, and provides \$\$ assistance to, the “developer” of the space, not the business(es); and
 - The business(es) must provide the required jobs reporting information necessary to prove that National Objective is met; and
 - The developer may not know the actual number of jobs that will be created at the site; and
 - The reporting requirements are onerous. Therefore:
 - It can be very challenging to meet projected jobs totals and even more challenging to collect the required documentation.
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For a job to be considered created or retained, the following is required:

- In creating jobs, documentation must show that at least 51% of the jobs will be held-by, or made available to, LMI persons. (***Note: the RI Small Cities program does not allow the use of “made available to” in job-creation activities. Jobs must be HELD.***)
 - For retained jobs, documentation must show that the jobs would have been lost without the CDBG assistance and that one or both of the following applies to at least 51% of the jobs:
 - The job is held by a LMI person; or
 - The job can reasonably be expected to turn over within the following 2 years and steps will be taken to ensure that the job will be filled by a LMI person.
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5 Suggested Options for documenting LMI status of an applicant or employee:

- ❑ Referrals from an agency that has agreed to refer individuals who are determined to be LMI based on HUD requirements
 - ❑ Written self-certification with family size and total income (signed and dated subject to Federal review).
 - ❑ Qualification for assistance under another program with similarly restrictive income qualification (ex. Public housing)
 - ❑ Evidence that the individual is homeless
 - ❑ Evidence that the individual is LMI by way of residence address (see next slide)
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In job creation/retention activities, a person may be presumed to be LMI if:

- S/he resides in Census tract/block group that has a 20% poverty rate (30%) if area includes a small business district; and the area evidences pervasive poverty and general distress; or
 - S/he lives in an area that is part of a Federally-designated Empowerment Zone (EZ) or Enterprise Community (EC); or
 - S/he resides in a Census tract/block group where at least 70% of the residents are LMI
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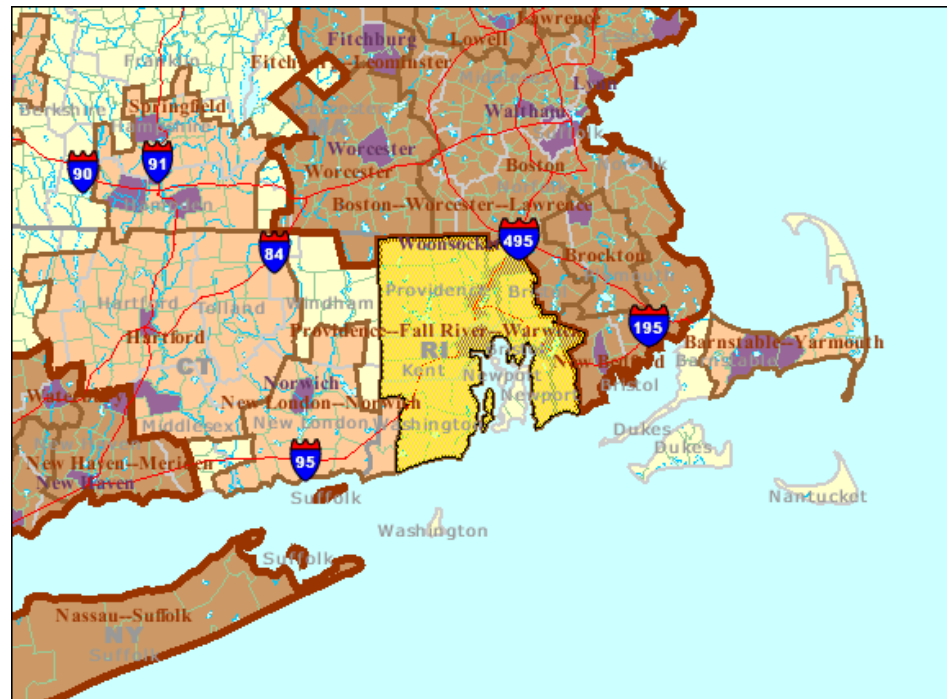
Jobs created or retained at assisted businesses may be presumed to be LMI if the job and business are located in an area that:

- Has a 20% poverty rate (30% if area includes central business district) and the area experiences pervasive poverty; or
 - Is part of a Federally-designated Enterprise Zone or Enterprise Community
 - *Limitations on eminent domain. “Public Use” shall not be construed to include economic development that primarily benefits private entities.*
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ANTI-PIRATING: CDBG cannot assist a project that will move jobs from one labor-market area to another

- Map: **Providence-Fall River-Warwick Metro NECTA** (includes several MA communities)



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RECORD-KEEPING for Job Creation/Retention

- Record-keeping for job creation is challenging!
 - Records include detailed descriptions and backup documentation for jobs held; jobs to be created (available to LMI; requiring training, and/or part time); hiring process used; process used to give first preference for LMI persons; methodology for determining income of job applicants; ... and more!
 - Obtaining the information from business can be difficult because in most cases the business has received the assistance prior to creating the jobs.
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Record-keeping for job retention -- more up front due diligence is required

- Document with clear and objective evidence that in the absence of the CDBG assistance the jobs will be lost. (pink slips, newspaper articles of plant closing, etc.)
- Detailed descriptions and backup documentation must be kept on file for jobs retained.

Remember: If the created/retained jobs cannot be adequately documented, National Objective has not been met and funds must be returned.

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QUIZ:

CDBG assistance is requested to rehabilitate an old textile mill into commercial/ industrial space. Several businesses have outgrown their existing space and are committed to leasing space in the CDBG-assisted facility if improvements are made:

- Business A: bringing 10 jobs when it moves in. Adding 10 jobs in the next year.
- Business B: bringing 20 jobs when it moves in. Adding 20 jobs in the next year.

Based on public benefit standard for job creation/retention, what is the maximum amount of CDBG assistance this project could receive?
How many of the jobs must be LMI?

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QUIZ: A homeless shelter with 3 supportive housing units also offers a job training program. Each year, 3 residents are trained and provided paying jobs in food preparation and service at the shelter. After a year working at the shelter, workers typically obtain private sector food service employment. In order to receive operating assistance for the job training program, what would be the most competitive way to package this activity for a CDBG application?

AREA BENEFIT National Objective

- Activities must benefit all residents in a particular area, in which at least 51% of the service area residents are LMI persons; and
 - The service area must be primarily residential and the activity must meet the identified needs of LMI persons.
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Area benefit activities include:

- Street improvements
 - Water and sewer lines
 - Neighborhood facilities
 - Façade improvements in neighborhood commercial districts
 - And others
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An area is considered LMI if:

- There is sufficiently large percentage (at least 51%) of LMI persons residing in the service area by using the most recently available HUD-generated Low/Moderate Income Summary Data (LMISD) accessed via the HUD website. (Census Tract and Block Group data)
- Do not round up: 50.9999% LMI is not enough! It must be 51%
- Do not calculate your own numbers from Census-American Community Survey
- Note: Block Group data will not be provided by HUD in future years.

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LMI SURVEYS

- If a subgrantee believes that LMISD data does not reflect current income levels, or census boundaries do not coincide sufficiently well with the service area of an activity, a survey may be utilized to determine whether the area is at least 51% LMI.
- For the State program, CDBG regulations at 24 CFR 570.483(b)(1)(i) require that grantees conduct surveys that are methodologically sound to determine the percentage of LMI persons in the service area of a CDBG-funded activity.
- HUD will generally accept the LMI determination of the service area by the state and its grant recipients unless the nature of the activity or its location raises serious doubt about the area claimed by the state and its grant recipients.

Technical Assistance Grants may be used to cover the cost of conducting a survey.

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LMI SURVEYS *(cont.)*

- Notice CPD 05-06 Suggested Survey Methodology provides details. *(Note: Follow instructions for “State Program”)*
 - Consultation with OHCD is required prior to initiating a survey.
 - In conducting surveys, communities should utilize “household” income rather than “family” income as detailed in the Notice.
 - Surveys will be valid for up to 5 years, after which time they will be reexamined annually to assure they are still representative of the area.
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LMI SURVEYS *(cont.)*

- Contiguous Areas – The area surveyed must be the entire service area for the project, and consistent with the true known neighborhood boundaries.
 - *Critical Mass – If a LMI survey is undertaken in order to obtain Neighborhood Revitalization status, the area must contain a minimum of 500 LMI individuals.*
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STEPS IN CONDUCTING LMI SURVEYS

1. Select the type of survey - telephone, door-to-door, mail
2. Develop the questionnaire – use correct HUD Income limits
3. Select the sample – identify all households in service area. The smaller the number of households, the larger the percentage of HH must be surveyed
4. Conduct the survey
5. Analyze the results – document how the percentage of LMI persons was calculated. Calculate the percentage based upon the total size of the survey area; not the number of respondents.
6. Document & save results

Approved Surveys will be valid for up to 5 years.

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■ AREA BENEFIT CAVEATS

- ❑ Parks and playgrounds can only be considered Area Benefit if they serve the immediate surrounding LMI neighborhood.
 - ❑ Watch out for improvements in locations serving tourist populations.
 - ❑ Improvements on streets serving through-traffic (arterial and larger) are not considered area benefit.
 - ❑ Public facilities improvements within an industrial park or commercial corridor are not area benefit – even if they are located in an LMI census tract or BG.
 - ❑ Improvements to health centers, community centers, etc. are not area benefit activities.
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LIMITED CLIENTELE ACTIVITIES

- Eligible activities benefiting a limited number of people, with at least 51% of those served being LMI. The Limited Clientele test can be met in any of the following 4 ways:
 - 1. Presumed Benefit – benefiting a clientele generally presumed to be principally LMI
 - Abused children
 - Battered spouses
 - Elderly persons (“elderly household = 1-2 person HH in which head is at least 62)
 - Homeless persons
 - Illiterate adults
 - Persons living with AIDS
 - Migrant farm workers
 - Severely disabled adults

Meeting the Limited Clientele test *(continued)*

- 2. Required documentation on family size and income is provided in order to show that at least 51% of the clientele are LMI; or
 - 3. Income eligibility requirements limit the activity to LMI persons only; or
 - 4. Be of such a nature and in such a location that it can be concluded that clients are primarily LMI (example: day care center serving residents of public housing complex)
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Other activities that may qualify as Limited Clientele:

- Removal or architectural barriers to mobility for elderly persons or the severely disabled. (some restrictions apply. See 24 CFR 570.483.(b)(2)) (“Severely disabled” is defined in next slide.)
- Micro-enterprise activities carried out in accordance with the HUD regulations when the person owning or developing the micro-enterprise is LMI; or
- Activities that provide training and other employment support services when the percentage of persons assisted is less than 51% may qualify if: the proportion of total cost borne by CDBG is no greater than the proportion of LMI persons assisted; and when the service assists businesses, CDBG is only used in the project to pay for the job training and/or supportive services.

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Note: Definition of “Severely Disabled” (relates only to adults) can be any of the following:

- Use a wheelchair or special aid for 6 months or longer; or
 - Unable to perform one or more functional activities (seeing , hearing, speaking in an understandable manner, dressing, eating, toileting, or instrumental activities of living such as paying bills, preparing meals, doing light housework, using the phone;
 - Are prevented from working or doing housework; or
 - Have a condition such as autism, cerebral palsy, Alzheimer’s disease, senility, dementia, or mental retardation; or
 - Are 65 years of age and are covered by Medicare or receive Supplemental Security Income (SSI)
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LIMITED CLIENTELE CAVEATS

- Activities, the benefits of which are available to all the residents of an area, cannot be classified as limited clientele.
 - In CDBG applications, a single activity CANNOT be qualified as both limited clientele and area benefit.
 - Job Training if offered by a shelter or public service area is a limited clientele public service activity, even if the outcome is job-placement.
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QUIZ: A community center offers an after school program for high school students. In the last year a total of 150 students participated. The center is located within a census block group qualifying as over 51% LMI (total pop=2000, LMI pop=1060). How should the town report the anticipated beneficiary information for the CDBG application?

- a. Use the block group census data.
 - b. Use the number of program participants.
 - c. Use both a and b.
 - d. Cannot determine from information provided.
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ELIMINATION OF SLUM AND BLIGHT:

Activities which help to prevent or eliminate slums and blighted conditions. They must:

- ❑ Prevent or eliminate slums and blight on an area basis; or
 - ❑ Prevent or eliminate slum and blight on a spot basis; or
 - ❑ Be in an urban renewal area
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SLUM/BLIGHT AREA BASIS: Requires a delineated area, and at least 25% of the properties throughout the designated area must exhibit one or more of the following:

- Physical deterioration of buildings or improvements
 - Abandonment of properties
 - Chronic high occupancy turnover or vacancy rates in commercial or industrial buildings
 - Significant decline in property values or abnormally low property values
 - Known or suspected environmental contamination
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Or... The public improvements throughout the area are in a general state of deterioration

- The delineated area must meet a definition of a slum, blighted, deteriorated or deteriorating area under state or local law, and such a determination must be made every 10 years in order for the area to continue to qualify; and
 - There must be a substantial number of deteriorated or deteriorating buildings or public improvements in the area, and the activity must address one or more of the conditions which contributed to the deterioration of the area.
 - Documentation must be maintained on the boundaries of the area and the conditions that qualified the area at the time of its designation.
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- Examples of Area Slum Blight Activities include:
 - Assistance to commercial or industrial businesses
 - Public facilities or improvements
 - Code enforcement
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SLUMS AND BLIGHT – SPOT BASIS

- Elimination specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area:
 - Only acquisition, clearance, relocation, historic preservation and building rehabilitation activities qualify for this national objective; and
 - Rehabilitation is limited to the extent necessary to eliminate a specific condition detrimental to public health and safety.
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Examples of spot slum and blight include:

- Elimination of faulty wiring, falling plaster, or other conditions detrimental to occupants
 - Historic preservation of a public facility
 - Demolition of a vacant, deteriorated building
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- QUIZ:

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URGENT NEED

- Extremely Rare. Designed to alleviate natural disaster conditions. Must meet ALL of the the following:
 - The existing conditions must pose a serious and immediate threat to the health or welfare of the community (public health risk); and
 - The existing conditions are of recent origin or recently became urgent (within past 18 months); and
 - The recipient is unable to finance the activity on its own; and
 - Other sources of funding are not available.
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CDBG-DR – Common Problems with Applications

- *Public Infrastructure activities submitted as Planning Activities. (Engineering “studies” qualify as planning. Engineering plans resulting in a specific improvement are public infrastructure soft costs and should be requested under ‘public infrastructure’.)*
 - *Economic Development Activities not meeting program requirements. In applying for direct business assistance, DR funds are available only as necessary to the continued operation of the business and/or retention of jobs. This program is not designed for business expansion. Underwriting indicating that the “business is viable and will continue to operate” and that the town would like to “assist the company in its growth” are more commonly associated with business expansion assistance which should be applied for under “regular CDBG” or the 108 Program.*
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CDBG-DR – Common Problems with Applications (cont.)

AREA BENEFIT ERRORS

- *Commercial/Industrial area improvements (primarily industrial parks and commercial streets) submitted as Area Benefit. Area benefit activities must benefit the LMI residents of an area. The area must be primarily residential in character.*
- *Scattered-site residential buy-outs submitted as (Census delineated) Area Benefit. In order to qualify as Area Benefit, the end-use of the property to be acquired must provide area benefit to the delineated census area. “Open space” types of end uses would only meet area benefit if they are located in a thickly-settled area in which open space has been identified as a need. (Residential buy-outs not eligible under Area Benefit must be occupied by a LMI household to qualify.)*

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CDBG-DR – Common Problems with Applications (cont.)

AREA BENEFIT ERRORS (cont.)

- *A public improvement with a specific service area (such as a sewer line serving 20 households) cannot meet the Area Benefit requirements based upon a larger census delineated area. A survey is required to determine that at least 51% of the actual service area is LMI.*
- *Remember – Just because a proposed activity is located within a LMI census tract or block group does not mean it meets the Area Benefit National Objective!*







