

## Chapter 14 Emergency Projects

The state may use CDBG funds at any time during the program year to provide grants to eligible applicants for projects arising from bona fide emergencies. To be considered a bona fide emergency the situation must be:

- Officially declared by the Governor as a “State of Emergency” needing immediate action; and/or
- A Presidential declared federal disaster declaration has been issued for the event.

CDBG Emergency project funds may only be used to repair or mitigate damages that were a direct result of the qualifying disaster.

**Note:** An applicant for a CDBG award is considered a recipient under the Environmental Review and URA requirements starting with the date of submission of a CDBG application. An “Applicant” is one who submits an application, request, plan or statement required to be approved by an official as a condition of eligibility for federal financial assistance.

The federal program regulations, under Part 58-Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities, Subpart C, 58.22(a), specifies that neither a recipient nor any participant in a HUD CDBG funded project may commit HUD assistance on an activity or project until HUD or the state has approved the recipient’s Request for Release of Funds (RROF) and related certification from the responsible entity (recipient). In addition, until the RROF and related certification have been approved, neither a recipient nor any participant may commit non-HUD CDBG funds on or undertake an activity or project if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives. Under 58.22(b), if a project or activity is exempt or categorically excluded, no RROF is required and the recipient may undertake the activity immediately after the responsible entity has documented its determination activity but must comply with applicable requirements. Before committing any HUD and non-HUD funds to a project or activity, the recipient should consult with the department’s Regional Development Officer.

HUD Handbook 1378 provides HUD policy guidance on acquisition and relocation under the federal Uniform Relocation Assistance and Real Property Acquisition Act (URA) and other HUD requirements. Chapter 1-4-I-2, identifies the date of submission of an application as an event that establishes a rebuttable presumption that a project begins and triggers the Initiation of Negotiations requirement of URA and the need for issuance of the Notice of Eligibility for Relocation Assistance or Notice of Nondisplacement. Before initiating any real property acquisition activity, an applicant should consult with the department’s Regional Development Officer.

### Available Funds

Funds available for emergency grants will be limited to 5 percent of the state’s annual allocation from the U.S. Department of Housing and Urban Development. Actual funds available at any given point in time may be less than the 5 percent of the annual allocation.

### **Priority**

In the event that an emergency grant is needed while one or more projects are on the backup funding list, the emergency project will have priority.

### **Maximum Grant**

The maximum grant per project will be \$500,000.

The maximum grant for projects receiving federal disaster funds also is limited to the amount required by the local government to match the federal disaster grant funding, but in no case shall it exceed \$500,000.

### **Matching Funds Requirement**

There is no minimum match requirement. All matching funds necessary to complete the proposed CDBG project, must be in the form of cash or debt service. All project funds necessary to complete the proposed project must be available and committed at the time the application is received by the department. Refer to the “Readiness to Proceed” definition in Chapter 5 for more details.

### **Financial Review**

All applications will undergo a financial review to assure that the grant is the minimum necessary, in combination with other resources, to ensure the completion of the project. In addition to determining that the applicant is unable to finance the activity on its own and other sources of funds are not available to carry out the activity.

### **National Objective**

Prior to awarding an emergency project grant, the state must determine that the proposed use of grant funds will meet the urgent need national objective as defined by 24 CFR Part 570.483(d). Refer to Chapter 3 for more information. The Housing and Community Development Act of 1974, as amended and promulgated, further assists in determining eligible activities.

### **Urgent Need**

This national objective requires a project to be designated to alleviate existing conditions the local government certifies and the state determines:

- Pose a serious and immediate threat to the health or welfare of the community (Governor declared “State of Emergency” or Presidential declared disaster, through FEMA declaration);
- Recently became urgent (application must be received within 12 months from the date of the Presidential or Governor disaster declaration);
- The applicant is unable to finance the activity on its own; and
- Other sources of funds are not available to carryout the activity.

### **Urgent Need Documentation**

The applicant must submit written certification of the following to the state:

- **A description of the nature and degree of seriousness/urgency of the conditions requiring assistance.**
- Eligibility certification from the applicant’s governing body that the CDBG activity is designated to address an urgent need.
- The timeline of the development of the urgent need condition.
- Evidence confirming that other financial resources to alleviate/remedy the situation are not available.

- A description of how the proposed project addresses a need identified in the applicable jurisdiction’s hazard mitigation plan and/or hazard element of the local land use plan.

**Eligible Projects**

The proposed project must be for an activity that is eligible under Section 105(a) of the Housing and Community Development Act. The portions of the Act, applicable to the state’s program and “urgent” need projects, are listed below.

- **105(a)(1)** the acquisition of real property (including air rights, water rights, and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) appropriate for rehabilitation or conservation activities; (C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this title; or (E) to be used for other public purposes;
- **105(a)(2)** the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements;
- **105(a)(3)** code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public or private improvements or services to be provided, may be expected to arrest the decline of the area;
- **105(a)(4)** clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned properties, and including the renovation of closed school buildings);
- **105(a)(5)** special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;
- **105(a)(6)** payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this title;
- **105(a)(7)** disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this title or its retention for public purposes;
- **105(a)(8)** provision of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the state in which it is located) during any part of the twelve month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this title, and which are to be used for such services,

unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government;

- **105(a)(9)** payment of the non-federal share required in connection with a federal grant-in-aid program undertaken as part of activities assisted under this title;
- **105(a)(11)** relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;
- **105(a)(12)** activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this title may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;
- **105(a)(14)** provision of assistance including loans (both interim and long term) and grants for activities which are carried out by public or private nonprofit entities, including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning;
- **105(a)(15)** assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of the communities in non-entitlement areas, or entities organized under section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of section 101(c) of this title, and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in section 3(b)(3) of the United States Housing Act of 1937) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;
- **105(a)(17)** provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that (A) creates or retains jobs for low- and moderate-income persons; (B) prevents or eliminates slums and blight; (C) meets urgent needs; (D) creates or retains businesses owned by community residents; (E) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or (F) provides technical assistance to promote any of the activities under subparagraphs (A) through (E);

- **105(a)(19)** provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, which assistance shall not be considered a planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13);
- **105(a)(20)** housing services, such as housing counseling, in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act, energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act;
- **105(a)(22)** provision of assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by (A) providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises; (B) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and (C) providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises;
- **105(a)(23)** activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods;
- **105(a)(24)** provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to (A) subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers; (B) finance the acquisition by low- and moderate-income home buyers of housing that is occupied by the homebuyers; (C) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this title may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this title may not directly provide such guarantees); (D) provide up to 50 percent of any down payment required from low- or moderate-income homebuyer; or (E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by low- or moderate-income home buyers; and
- **105(a)(25)** lead-based paint hazard evaluation and reduction, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

#### **Ineligible Projects/Costs**

- Buildings for the general conduct of government

- Typical government expenses
- Political activities
- Purchase of equipment that is not fixed and integral
- General operating and maintenance expenses
- New housing construction
- Income payments—a series of subsistence type grant payments for food, clothing, housing, (rent and mortgage) or utilities. **Note:** Under the entitlement regulations 24 CFR Part 570.207(b)(4) allows emergency grant payments made over a period of three consecutive months directly to a provider of such items or services on behalf of an individual family. One-time grants for such purposes may be authorized under the category of public services.
- Pre-award costs. Refer to Chapter 5 for more information.

**Eligible Costs** (Refer to Chapter 5 for more details about eligible costs)

- Grant Administration, as detailed in Chapter 5.
- Program Management, as detailed in Chapter 5. (Restricted in use to revolving loan fund projects).
- Preparation of the environmental review for the proposed project in compliance with the National Environmental Policy Act (NEPA) and other applicable federal authorities implemented by HUD. Refer to Chapters 4 and 5 for more information.
- Architectural/engineering design, oversight and construction management, including as-built drawings and operation and maintenance manuals, as detailed in Chapter 5.
- Construction and construction contingencies, as detailed in Chapter 5.
- Work write-up and bidding expenses for eligible projects.
- Public services.
- Housing Rehabilitation.
- Appraisals and acquisition of real property, including permanent easements, clearance and disposition. Refer to Chapter 4 for more information.
- Relocation Assistance to meet federal requirements. Refer to Chapter 4 for more information. Due the specialty calculations and detailed requirements for relocation activities, any applicant with a proposed project that involves relocation will be required by Business Oregon to hire a specialist acceptable to Business Oregon to complete the required URA relocation process.
- Construction, rehabilitation, reconstruction or installation of improvements.
- Purchase and installation of equipment that is fixed and integral.
- Clearance–Demolition of buildings and improvements, removal of demolition products (rubble), and other debris.
- Legal services.
- Costs associated with labor standards monitoring. Refer to Chapters 4 and 5 for more information.
- Pre-agreement costs, requested in accordance with the requirements contained in Chapter 5.

### **Applications Accepted**

Emergency project applications are accepted year-round. Contact a regional development officer for assistance and more information. Complete applications for emergency projects must be received by the department within 12 months of either the Governor's declaration or a Presidential disaster declaration of emergency for the event creating the emergency.

### **Step 1–(Initial Contact/Project Concept)**

The project proponent must contact the department prior to submitting an application. One of the department's regional development officers (RDO) will be assigned to work with the project proponent to develop and review the proposed concept.

The RDO will work with the proponent and the department's program and policy coordinators to provide project development and to determine if the proposed project will meet the CDBG funding criteria and is ready to proceed with a well-defined statement and scope of work, including the following:

- The project is eligible under 105(a) of the HCDA;
- The project will meet the urgent need national objective;
- The costs are eligible under the CDBG program;
- The applicant is unable to finance the activity on its own;
- Other sources of funds are not available to carry-out the activity; and
- The project meets the readiness to proceed criteria contained in Chapter 5.

A "One Stop" meeting will be scheduled if warranted or requested by the proponent. A Project Notification and Intake Form will be developed and the RDO will then route the form for internal agency comment.

### **Step 2–(Invite Application)**

The RDO will inform the proponent and the unit of general local government (city or county) about the department's review of the Project Notification and Intake Form. If the proposed project is determined to qualify for CDBG funding by the program services manager, the applicant will be invited in writing to submit a complete application for CDBG funding.

### **Step 3–(Application)**

One signed original and two copies (3 total) of the complete application must be received by Business Oregon no later than 12 months after the disaster declaration by the President or Governor. The applicant's highest elected official must sign the application. Applications transmitted electronically or by fax will not be accepted.

### **Step 4–(Review)**

The RDO will review applications for completeness and prepare the initial staff report. The CDBG program and policy coordinator will evaluate the initial staff report for final recommendation.

### **Step 5–(Decision)**

The final recommendation prepared by the CDBG program and policy coordinator will be forwarded to Business Oregon program services manager and the assistant director for review and approval.

Ineligible, improperly developed, untimely, or not ready-to-proceed applications will not be funded. All funding decisions made by the department director are final.

**Step 6–(Notification)**

The department shall notify applicants, in writing, of their funding status approximately 60 days after receipt of a complete application.