

2022

NORTH DAKOTA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM DISTRIBUTION STATEMENT

Prepared By

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**ALTERNATIVE FORMATS FOR DISABLED
PERSONS ARE AVAILABLE UPON REQUEST**

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This Program Distribution Statement contains information about the State's Community Development Block Grant (CDBG) Program. CDBG funds must be used to achieve one of the following national objectives:

1. Activities benefiting low (L) and moderate (M) income (I) persons.
2. Activities which aid in the prevention or elimination of slums or blight.
3. Activities designed to meet community development needs having a particular urgency.

To better address local community development needs, the Governor has directed that the State's allocation be divided among the eight regions of North Dakota. The eight regions can be found in the appendices.

The following priorities and objectives have been established for the distribution of Community Development Block Grant funds in North Dakota:

1. Objectives for economic development will focus on:
 - a. 51% Creation of permanent jobs must be available for low and moderate income persons;
 - b. Economic diversification;
 - c. Leveraging of private and local investment; and
 - d. Benefit to the state's economy.
2. Funding for Public Facilities activities will primarily focus on:
 - a. Water and sewer activities which currently present a threat to health and safety;
 - b. Removal of architectural barriers which will permit access for the handicapped;
 - c. Direct benefit to a locality's low and moderate income persons; and
 - d. Leveraging local and other available financial resources to finance the cost of the activity.
3. Funding for Housing Activities will primarily focus on:
 - a. Meeting the health and safety needs of very low income persons by bringing the rehabilitated housing up to a minimum of the Section 8 Housing Quality Standards; and
 - b. Making more affordable housing available for low income persons. Emphasis will be given to encouraging applicants to use other public and private funds to complement Community Development Block Grant funds.

SECTION I

Introduction

A. Purpose of Program Distribution Statement

The purpose of the Community Development Block Grant (CDBG) and Community Development Loan Fund (CDLF) Program Distribution Statement is to describe how the state of North Dakota intends to distribute its CDBG Public Facilities, Housing, and Economic Development funds. Specifically, the Statement describes the three National Objectives of the CDBG program, eligible applicants, eligible activities, special eligibility requirements, distribution of funds, policies and procedures, and the grant submission and selection process.

For fiscal year 2022 the North Dakota CDLF program for Economic Development is designed to more effectively meet the goals set by the Governor. The program is targeted to business proposals which will operate within the primary sector of the North Dakota economy and also used for retail sector projects. CDLF assistance is intended to be used in situations where a funding gap exists and alternative sources and/or terms and conditions of public and private financing are not adequate. To access the CDLF program, applicants should contact the Division of Community Services.

B. Purpose of the Community Development Block Grant Program

The Community Development Block Grant was established by Congress in the Housing and Community Development Acts of 1974. In 1981, Congress amended the act to authorize state governments to administer the State Community Development Block Grant Program.

Nationally, the CDBG Program is divided into two categories:

1. The Department of Housing and Urban Development (HUD) continues to administer the "entitlement" program which is for cities over 50,000 and counties over 200,000 population. These entities receive CDBG Program funds on an annual formula basis directly from the Department of HUD. In North Dakota, the entitlement cities are Fargo, Bismarck, and Grand Forks.
2. The State administers the "nonentitlement" CDBG Program for cities under 50,000 and counties under 200,000 population. Allocation for the nonentitlement program is based on a formula and each state must submit a "Notice of Election" each year to administer the program. In North Dakota, there are approximately 449 eligible cities and counties capable of competing for state CDBG funds. No State CDBG funds will be spent in entitlement jurisdictions.

C. National Objectives

The primary purpose of the CDBG Program, as declared by Congress in Title I of the Housing and Community Development Act of 1974, as amended (HCD ACT), is "the development of viable communities, by providing decent housing and suitable living environment and expanding economic opportunities, principally for persons of low and moderate income."

Therefore, in providing assistance, the fundability of any eligible community activity is dependent upon its meeting at least one of the following national objectives as established by Congress:

1. Activities benefiting low and moderate income persons:

An activity will be considered to address the objective of benefiting low and moderate income persons if it meets one of the criteria in this paragraph, unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. The activities, when taken as a whole, must not benefit moderate income persons to the exclusion of low income persons:

A. Area Benefit Activities:

- 1) An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low and moderate income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion. The local share for this type of activity cannot be special assessed.
- 2) An activity, where the assistance is to a public improvement that provides benefits to all the residents of an area, that is limited to paying special assessments levied against residential properties owned and occupied by persons of low and moderate income. Special assessments may be imposed as follows:
 - a) Special assessments to recover the CDBG funds may be made only against properties owned and occupied by persons not of low and moderate income. These assessments constitute program income.
 - (i) Special assessments to recover the non-CDBG portion may be made, provided that CDBG funds are used to pay the special assessment on behalf of all properties owned and occupied by low and moderate income persons; except that CDBG funds need not be used to pay the special assessments on behalf of properties owned and occupied by moderate income persons if, when permitted by the state, the unit of general local government certifies that it does not have sufficient CDBG funds to pay the assessments on behalf of all of the low and moderate income owner-occupant persons. Funds collected through such special assessments are not program income.
 - b) CDBG funds may be used to pay special assessments levied against property when this form of assessment is used to recover the capital cost of eligible public improvements initially financed solely from sources other than CDBG funds. The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments, provided that:
 - (i) The installation of the public improvements was carried out in compliance with requirements applicable to activities assisted under this subpart, including labor, environmental and citizen participation requirements;
 - (ii) The installation of the public improvement meets a criterion for national objectives.
 - (iii) The requirements of § 570.482(a)(ii) are met.

- 3) An activity to develop, establish and operate (not to exceed two years after establishment), a uniform emergency telephone number system serving an area having less than 51 percent of low and moderate income residents, when the system has not been made operational before the receipt of CDBG funds, provided a prior written determination is obtained from HUD. HUD's determination will be based upon several certifications by the State [(See 24 CFR 570.483(b)(iii)].

b. Limited Clientele Activities:

- 1) An activity which benefits a limited clientele, at least 51 percent of whom are low and moderate income persons. (The following kinds of activities may not qualify under this paragraph: activities, the benefits of which are available to all the residents of an area; activities involving the acquisition, construction or rehabilitation of property for housing; or activities where the benefit to low and moderate income persons to be considered is the creation or retention of jobs.) To qualify under this paragraph, the activity must meet one of the following tests:
 - a) It must benefit a clientele who are generally presumed to be principally low and moderate income persons. The following groups are presumed by HUD to meet this criterion: abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate persons, persons with AIDS, and migrant farm workers; or
 - b) It must require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit (i.e., water meters); or
 - c) It must have income eligibility requirements which limit the activity exclusively to low and moderate income persons (i.e., water meters); or
 - d) It must be of such a nature, and be in such a location, that it may be concluded that the activity's clientele will primarily be low and moderate income persons.
- 2) A special project directed to removal of material and architectural barriers which restrict the mobility and accessibility of elderly or disabled persons to publicly owned and privately owned non-residential buildings, facilities and improvements, and the common areas of residential structures containing more than one dwelling unit.

c. Housing Activities:

An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low and moderate income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property, conversion of non-residential structures, and new housing construction as described in Section IX. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. Where two or more rental buildings being assisted are or will be located on the same or

contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The unit of general local government shall adopt and make public its standards for determining "affordable rents" for this purpose. The following shall also qualify under this criterion:

- 1) When less than 51 percent of the units in a structure will be occupied by low and moderate income households, CDBG assistance may be provided in the following limited circumstances:
 - a) The assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project; and
 - b) Not less than 20 percent of the units will be occupied by low and moderate income households at affordable rents; and
 - c) The proportion of the total cost of developing the project to be borne by CDBG funds is no greater than the proportion of units in the project that will be occupied by low and moderate income households.
- 2) Where CDBG funds are used to assist rehabilitation delivery services or in direct support of the unit of general local government's Rental Rehabilitation Program authorized under 24 CFR part 511, the funds shall be considered to benefit low and moderate income persons were not less than 51 percent of the units assisted, or to be assisted, by the Rental Rehabilitation Program overall are for low and moderate income persons.

d. Job Creation or Retention Activities:

- 1) An activity designed to create permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involved the employment of low and moderate income persons. For an activity that creates jobs, the unit of general local government must document that at least 51 percent of the jobs will be held by, or will be made available to low and moderate income persons.
- 2) For an activity that retains jobs, the unit of general local government must make public and document that the jobs would actually be lost without the CDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDBG assistance is provided: The job is known to be held by a low or moderate income person; or the job can reasonably be expected to turn over within the following two years and that it will be filled by, or that steps will be taken to ensure that it is made available to, a low or moderate income person upon turnover.
- 3) Jobs will be considered to be available to low and moderate income persons for these purposes only if:
 - a) Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and

- b) The unit of general local government and the assisted business take actions to ensure that low and moderate income persons receive first consideration for filling such jobs.
- 4) As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except:
- a) In certain cases, such as where CDBG funds are used to acquire, develop or improve a real property (e.g. a business incubator or an industrial park), the requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property, provided the businesses are not otherwise assisted by CDBG funds.
 - b) Where CDBG funds are used to pay for the staff and overhead costs of a sub-recipient specified in section 105(a)(15) of the Housing and Community Development Act of 1974 making loans to businesses from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during any one-year period.
 - c) In any case where CDBG funds are used for public improvements (e.g., water, sewer and road) and the national objective is to be met by job creation or retention as a result of the public improvement, the requirement shall be met as follows:
 - (i) The assistance must be reasonable in relation to the number of jobs expected to be created or retained by the affected business(es) within three years from the completion of the public improvement. Before CDBG assistance is provided for such an activity, the unit of general local government shall develop an assessment which identifies the businesses located or expected to locate in the area to be served by the public improvement. The assessment shall include for each identified business a projection of the number of jobs to be created or retained as a result of the public improvement; and
 - (ii) The jobs to be considered for purposes of meeting the requirement shall be all jobs created or retained as a result of the public improvement by the business(es) identified in the assessment as well as any other business that locates in the area within a period of three years following the completion of the activity; except that, in any case where the amount of CDBG assistance provided for the public improvement in relation to the number of jobs projected to be created or retained by the business(es) identified in the assessment is such that the amount per job does not exceed \$10,000, jobs created by businesses not identified in the assessment need not be considered. (See Section VII for Economic Development Infrastructure Guidelines)
2. Activities which aid in the prevention or elimination of slums or blight.
 A slum and blight area is defined as having a significant amount of structures that demonstrate major deterioration. The boundary is exhibited by a survey of the area.
- a. "**Slum area**" means an area in which there is a predominance of buildings or

improvements, whether residential or nonresidential, 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 and other causes, or any combination of these 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. (N.D.C.C. 40-58-01.1(23))

- b. "**Blighted area**" means an area other than a slum area which by reason of the presence of a substantial number of slums, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors, substantially impairs or arrests the sound growth of a 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 in its present condition and use. "Blighted area" does not include any land that has been assessed as agricultural property within the last ten years unless it was located within the interior boundaries of a city for at least ten years. The applicant must provide architectural renderings of the proposed design. Renovations to a historic property must maintain its historic character and must also conform to guidelines established in the "Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings". (N.D.C.C. 40-58-01.1(2))
3. Activities meeting one or more of 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:
 - a. 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 state can determine that:
 - (1) The area, delineated by the unit of general local government, meets a definition of a slum, blighted, deteriorated or deteriorating area under state or local law;
 - (2) Throughout the area there is a substantial number of deteriorated or deteriorating buildings or the public improvements are in a general state of deterioration;
 - (3) The assisted activity addresses one or more of the conditions which 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 before rehabilitation, and all deficiencies making a building substandard have been eliminated if less critical work on the building is also undertaken. The State shall ensure that the unit of general local government has developed minimum standards for building quality which may take into account local conditions.

- (4) The state keeps records sufficient to document its findings that a project meets the national objective of prevention or elimination of slums and blight.
- b. Activities to address slums or blight on a spot basis. Acquisition, clearance, relocation, historic preservation and building rehabilitation activities which 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.
3. Activities designed to meet community development needs having a particular urgency.

In the absence of substantial evidence to the contrary, an activity will be considered to address this objective if the unit of general local government certifies, and the state determines, that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the unit of general local government is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became urgent within 18 months preceding the certification by the unit of general local government.

SECTION II

Eligible & Ineligible Activities

ELIGIBLE ACTIVITIES

Eligible activities must address at least one National Objective in order to be considered for funding. In addition, some activities have qualifying requirements (i.e. economic development activities) which are specified in Section 105 and in the Entitlement Regulations. If assistance is needed for interpretation, please contact the DCS for guidance.

A. Title I Eligible Activities

Section 105(a) Activities assisted under this title may include only:

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;
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 buildings for the general conduct of government), and site or other improvements (due to a recent interpretation water meter replacement projects are direct benefit activities, the national objective is LMI);
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;
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 rehabilitation, and reconstruction or rehabilitation, of privately owned properties and including the renovation or reconstruction of closed school buildings);
5. Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;
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;

7. Disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this title or its retention for public purposes;
8. Provisions 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, except that not more than 15 percent of the amount of any assistance to a unit of general local government under this title may be used for activities under this paragraph unless such unit of general local government (or in the case of nontitled communities not more than 15 percent statewide) under this title including program income may be used for activities under this paragraph unless such unit of general local government used more than 15 percent of the assistance received under this title for fiscal year 1982 or fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98-8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such fiscal year, whichever method of calculation yields the higher amount;
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;
10. Payment of the cost of completing a project funded under Title I of the Housing Act of 1949;
11. Relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations; 49 CFR Part 24 or Section 104(d) of the Housing and Community Development (HCD) Act of 1974;
12. Provision of assistance including loan (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;
13. Assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of communities of nonentitlement areas, or entities organized under section 681(d) of Title 15 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of section 5301(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 1437a(b)(3) of this title) 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;

14. Activities necessary to the development of energy use strategies related to recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as:
 - a. An analysis of the manner in, and the extent to which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions;
 - b. A statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low and moderate income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;
15. 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.
16. The rehabilitation or development of housing assisted under Section 1437 of this title;
17. 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);
18. Housing services, such as housing counseling in connection with tenant-based rental assistance and affordable housing projects assisted under Title II of 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-Gonzales National Affordable Housing Act;

19. Provision of assistance by recipients under this title to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;
20. 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;
21. 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; and
22. 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 of 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 homebuyers 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 a low or moderate income homebuyer.
23. Lead-based paint hazard evaluation and reduction, as defined in Section 4851b of this title.

B. Ineligible Activities

The activities listed below are ineligible for CDBG and CDLF assistance.

1. Public Works, Facilities, and Site or Other Improvements (this list is not inclusive) (Except for removal of architectural barriers for handicapped accessibility) for buildings and facilities for the general conduct of government, and/or which are predominantly used for municipal purposes.

- City/Town Halls
- Courthouses
- Other headquarters of government where the governing body meets regularly

2. Purchase of Equipment

The purchase of furnishings and personal property, except when necessary for use by a recipient or its subgrantees in the administration of its community development program, is generally ineligible (except for certain economic development projects). Examples are:

- The purchase of office equipment and fixtures
- Motor vehicles
- Furnishings
- Personal property not an integral structural fixture

3. Operating and Maintenance Expenses

The general rule is that any expense associated with operating, maintaining, or repairing Public Facilities and works, or any expense associated with providing public services not assisted with block grant funds is ineligible for assistance. However, operating and maintenance expenses associated with providing public services or interim assistance otherwise eligible for assistance under this part may be assisted. Examples of activities which are not eligible for block grant assistance are:

- a. Routine maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar Public Facilities, filling of holes in streets, repairing of cracks in side-walks, mowing of recreational areas, and replacement of expended street light bulbs.
- b. Regular payments of salaries for staff, utility costs, and similar expenses necessary for the operation of public works and facilities.

4. General Government Expenses

Except for where specifically authorized in this subpart or under state law, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

5. Political Activities

No expenditure may be made for the use of equipment or premises for political purposes, sponsoring or conducting candidate meetings, engaging in voter registration activity or voter transportation, or other partisan political activities.

6. Religious Purposes

Renovation, rehabilitation or conversion of buildings owned by primarily religious organizations or entities are generally ineligible activities. (Contact the DCS for guidance pertaining to eligible uses of CDBG and CDLF funds involving primarily religious organizations or entities.)

7. Nursing Homes

Except for removal of architectural barriers for handicapped accessibility CDBG funds will not be utilized in nursing homes for expansion, renovation or general operation.

SECTION III

General Information for Applicants

A. Eligible Applicants

Eligible applicants under the North Dakota Community Development Loan Fund and Community Development Block Grant Program are limited to counties and incorporated cities:

1. A city is the eligible applicant for activities designed to take place within city limits. A city may apply for a project which would include an activity to be located outside city limits if the proposed activity will principally benefit residents within the city's jurisdiction, such as a solid waste disposal site, a water or sewage treatment facility, an economic development project or if the activity involves property/facilities over which the city has direct control as the owner/operator, and for which a county could not apply.
2. A county is the eligible applicant for activities designed to take place outside the limits of an incorporated city and in unincorporated areas. A county, however, may apply for an activity within an incorporated city that involves property/facilities over which the county has direct control as the owner/operator, and for which a city could not apply, such as a county courthouse. A county will not be limited to the number of unincorporated areas for which it may submit an application.
3. A city or county may also submit an "on-behalf of" (multi-jurisdictional) application for an incorporated city which has determined that it lacks the administrative capacity to apply for and administer a grant. If an incorporated city permits a county or another city to submit an "on-behalf of" application, it may not submit an application on its own for any emphasis area. An "on-behalf of" application may consist of more than one city, but the activity must be the same in each city. In addition, each city must be discussed separately, each must include a written agreement with the on behalf of applicant, each must do a needs assessment and undertake actions to affirmatively further fair housing, each must sign the anti-displacement policy and all program assurances, and each must fulfill all citizen participation requirements. Such an arrangement must be identified in advance of an application in order to permit the Secretary of HUD to grant recognition to the combination of governments as a unit of local government.
4. Where two or more eligible local governments (cities or counties) face a common community development problem, a joint application may be submitted with one local government designated as the lead applicant. To submit this type of application, the following conditions must be met:
 - a. The problem to be addressed involves joint ownership and lies in an area of contiguous or overlapping jurisdiction;
 - b. The solution to the common problem clearly requires cooperative action and is the most efficient strategy;
 - c. The local governments involved must submit a signed cooperative agreement which defines who will be responsible for the administration and implementation of the grant if awarded.

5. When submitting an application for a fire department/fire district, the following guidance for determining the eligible, or lead applicant is applicable:
 - a. If a fire department/fire district primarily serves an eligible community, that community is the eligible applicant.
 - b. If a fire department/fire district serves an eligible community, as well as the immediate surrounding area, then the community is the eligible applicant.
 - c. If a fire department/fire district serves an area consisting of two or more counties, then the parent county (that county in which a majority of the area of the fire district is located) is the eligible applicant.
 - d. A county is the eligible applicant for rural fire departments/districts not primarily serving an incorporated area.

B. Eligible Applicants for Multi-Jurisdictional Housing

1. County wide Projects

- a. A county may submit a multi-jurisdictional application to address housing needs throughout its jurisdiction to include incorporated cities within the county.
- b. The county must have a written multi-jurisdictional/joint agreement with all incorporated cities within the county. The application must contain a written statement from each city that chooses not to participate in the activity.
- c. The county must complete a county wide needs assessment and undertake actions to affirmatively further fair housing.
- d. To fulfill the citizen participation requirements, the County must hold one public hearing no earlier than 180 days prior to submitting the grant application and one public hearing prior to grant closeout. The County will be required to publish the notice of public hearing in the county's official newspaper and in all official newspapers of each participating jurisdiction.

2. Multi-County Projects

- a. A county may submit a multi-county application to address housing needs to include incorporated cities within those counties.
- b. The multi-county application will include a multi-jurisdictional/joint agreement executed by all participating jurisdictions to include all incorporated cities and participating counties and must include a designation of the lead county. The application must contain a written statement from each jurisdiction that chooses not to participate in the activity.
- c. Each participating county must complete a county wide needs assessment and undertake actions to affirmatively further fair housing.

- d. To fulfill the citizen participation requirements, each County must hold one public hearing no earlier than 180 days prior to submitting the grant application and one public hearing prior to grant closeout. Each County will be required to publish the notice of public hearing in the county's official newspaper and in all official newspapers of each participating jurisdiction. (i.e., if three counties are included in the multi-county project, three public hearings will be held).

C. Types of Grants Available

Applicants may only apply for a single activity per application.

SECTION IV
Allocation of Funds

This section of the Program Distribution Statement describes the estimated allocation of funds the state will receive in FY2021.

A. Funds Available

2022 Estimated CDBG Funds Available

FY2022 Allocation	\$3,927,948
Less 2% State Administration	178,559
Less 1% Technical Assistance	39,279
Total Allocation Available for Projects	3,710,110
Less Governor's Set Aside for Community Development	1,649,738
Total Allocation Available for Regional Distribution from Allocation	2,060,371
Plus Revolving Loan Fund	1,000,000
Funds Available for Regional Distribution	3,060,371

*Any funds left will revolve back into the Governor's Set-Aside fund. All CDLF projects will be funded with CDLF Program Income prior to CDBG allocation funds

Prior to actual funding decisions and from time to time as necessary, the Estimated Funds Available for Distribution will be adjusted to reflect any unobligated and returned funds that may be available.

For loans awarded prior to fiscal year 2022, program income generated by previously funded projects (from allocation funds or revolving loan funds) will be deposited to the statewide fund.

Should the state receive recaptured funds from the Department of Housing and Urban Development, those funds will be available for distribution during the year in which those funds are received. (Recaptured funds are funds that the Department of HUD deobligates from other States for infractions such as not meeting timely distribution of funds, disallowed cost, etc.).

B. Regional Allocations

Each region will receive a preset amount of funds. The dollar amount is derived by taking 50 percent of the total funds available for regional distribution and equally distributing that to all eight planning regions. The remaining 50 percent is divided among the regions using the latest percentage of very low and low income persons per region in comparison to the total VL & LI persons in the State of North Dakota (All Entitlement and Air Force Base LMI statistics are not included).

2022 CDBG Allocation American Community Survey 5-Year 2011-2015 Low and Moderate Income Summary Data					
Region	Total VL & LI Persons	Percent VL & LI Persons	VL & LI Persons Allocation	50% Base Allocation	Total Allocation
1	13,577	8%	122,415	191,273	313,688
2	35,191	19%	290,735	191,273	482,008
3	22,959	13%	198,924	191,273	390,197
4	13,276	7%	107,113	191,273	298,386
5	27,286	15%	229,528	191,273	420,801
6	23,558	13%	198,924	191,273	390,197
7	31,644	17%	260,132	191,273	451,405
8	15,390	8%	122,415	191,273	313,688
Total	182,881	100.00%	1,530,186	1,530,186	3,060,371
*The percentage for LMI persons were rounded to the nearest whole number. ** Program income funds are not reflected in this total.					

C. Estimate of Funds to Benefit Low and Moderate Income Persons

Title I of the Housing and Community Development Act of 1974, as amended (HCD ACT), requires that the State must estimate the amount of funds to be used to benefit low and moderate income persons. Since the State must assure that for the three-year period 2022, 2023, and 2024, its funds benefit low and moderate income persons, the following depicts the minimum amount that must directly benefit such persons:

2024 Total Funds Available for Distribution				\$4,965,349
Less Local Administration				<u>496,535</u>
			Subtotal	\$4,468,814
Minimum Amount Estimated to Benefit	.70 x	\$4,468,814 =		<u>\$3,128,170</u>
2023 Total Funds Available for Distribution				\$4,991,758
Less Local Administration				<u>499,176</u>
			Subtotal	4,492,582
Minimum Amount Estimated to Benefit	.70 x	\$4,492,582 =		<u>\$3,144,807</u>
2022 Total Funds Available for Distribution				\$3,927,948
Less Local Administration				<u>392,795</u>
			Subtotal	3,535,153

$$\text{Minimum Amount Estimated to Benefit} \quad .70 \times \quad \$3,535,153 = \quad \underline{\underline{\$2,474,607}}$$

North Dakota will assure that 70 percent of the funds spent during the three-year period beginning with the 2022 program year, will be spent on projects benefiting low and moderate income persons. This will be achieved through the State's funding distribution system. Each Regional Council is required to individually meet this goal and will adjust their project review/priority ranking system and funding allocations so that each spends 70 percent of their yearly allocation on projects which meet the national objective of benefiting low and moderate income persons.

D. Grant Minimum and Maximum

Waivers may be requested for situations where one applicant is being offered the remaining funds in the allocation. Minimum and maximum grant levels (excluding administration) are as follows:

<u>Public Facilities & Public Services</u>	
Minimum Amount	\$75,000.00
Maximum Amount	No Maximum
<u>Housing - Single Family</u>	
Minimum Amount	\$200,000.00
Maximum Amount	No Maximum
<u>Housing - Multi- Family</u>	
Minimum Amount	\$100,000.00
Maximum Amount	No Maximum
<u>Economic Development</u>	
Primary Sector	
Minimum Amount	\$100,000.00
Maximum Amount	No Maximum

E. Limitation of Award of Funds for Economic Development Projects

Applicants who have previously received an award for economic development and need additional funds for expansion, may apply for additional funds if:

1. The existing CDLF is current;
2. All other requirements of the program are met; and
3. The total outstanding at any time is not more than \$500,000.
4. Eligible under environmental review regulations. Reach out to DCS staff for this determination.

These applications will be considered using the same criteria used for all other economic development applications.

No individual, corporation, or organization with an existing program loan or has defaulted on a loan that is not in good standing at the local and/or state levels may receive additional or new financing from the program.

F. Amendments to Program Statement Affecting the Action Plan of the Consolidated Plan as stated in the Citizen Participation Plan for the North Dakota Consolidated Plan and Annual Performance Report.

1. The Division of Community Services will follow the Citizen Participation Plan to amend the Program Statement.

What constitutes an amendment to the Action Plan? (the following are examples, but the list is not inclusive)

1. Changes to initially established grant selection criteria.
2. Funding of activities not initially identified in the Annual Action Plan.
3. Funding of an activity not identified in the Plan as a high or medium priority.

H. Timely Distribution of Funds

One hundred percent (100%) of FY2022 CDBG funds must be obligated and announced to units of general local governments within 15 months of the State signing its grant agreement with HUD.

At the Governor's direction, any unobligated and deobligated regional allocation funds as of July 31, 2023, will be recaptured and placed in the Governor's Fund. These funds will be made available in Fall 2023 through a special funding round.

All CDBG applications and amendments must contain original signatures and be received in the DCS office by June 15, 2023 for the 2022 program year.

I. Monitoring Findings

Findings that are identified during annual systems and compliance reviews must be cleared within six months of the date of the monitoring visit.

SECTION V

Community Development Block Grant and Community Development Fund General Policies and Procedures and Statement of Assurances

This section identifies general policies and procedures that are applicable to all applicants and activities.

A. General CDBG and CDLF Policies and Procedures

1. A grant recipient must sign and return its Financial Award within 60 days of the effective date of the award, or the award may be terminated.
2. **Federal funds may not be obligated prior to a Financial Award and the completion of the environmental requirements.** Once a financial award has been issued but prior to completion of the environmental review requirements the grantee may only incur eligible administrative, engineering, and architectural costs. If CDBG funds are being used for administration, an environmental review form for exemption must be filled out and approved by the Division of Community Services before procuring out for administration. For further guidance on this environmental exemption, please refer to Chapter 7 of the CDBG Administrative Manual. To ensure compliance with the federal environmental regulations, consultation with the DCS should commence prior to any commitment of funds.
3. A grantee may not change the activities of an approved project without first obtaining written approval from the DCS. An amendment form must be completed for this approval.
4. If a grantee has not incurred eligible project costs for other than administrative activities within **twelve** months of the effective date of the Financial Award, the award can be terminated at the option of the DCS. If project dollars are deobligated, administrative funds will be deobligated proportionately. Administrative dollars will be allowed on projects that do not come to fruition. Based on documented expenses, up to 10 percent of CDBG administrative funds budgeted will be allowed.
5. The State of North Dakota is required to use the U.S. Department of Housing and Urban Development's (HUD) Integrated Disbursement and Information System (IDIS) for drawing funds and reporting accomplishments. As a result of an Inspector General's audit, HUD has enhanced IDIS to improve oversight of CDBG activities. The enhanced system requires justification along with field office approval for the following conditions:
 - Activities that have had no draws two years from the initial funding date;
 - Activities that have had no draws for a year, subsequent to the first draw for an activity;
 - Activities that have not reported accomplishments for three years;

- Activities that have 80 percent of their funded amount disbursed and no accomplishments reported;
- Activities that are cancelled after funds have been drawn; and
- Draws revised from one activity to another.

This change requires CDBG sub-recipients to proceed with projects in a timely manner.

6. **Affirmatively Furthering Fair Housing:** Each applicant must develop a positive program to affirmatively further fair housing. The application contains a section to be completed indicating what action(s) will be undertaken by the applicant if funded. The requirement to affirmatively further fair housing is a Congressional mandate which pertains to any use of CDBG/CDLF funds.
7. Reasonable fees may be charged for the use of facilities assisted with CDBG/CDLF funds, but charges such as membership fees which will have the effect of precluding lower income persons from using the facilities are not permitted.
8. If the final activity costs are less than originally funded, the amount of CDBG funds awarded and local funds will be adjusted proportionately.
9. In-kind contributions will not be considered as eligible match dollars except for land purchased within a twelve-month period prior to a grant application in association with a proposed Public Facilities activity. In-kind contributions are those that represent the value of noncash contributions provided by or to the grantee, regardless of the source.
10. The legislature adopted a moratorium on the expansion of basic care and nursing home beds and to be consistent with legislative intent ([NDCC 23-09.3-01.1](#)). CDBG funds will not be used in this area. Definitions regarding these facilities are as follows:

Long Term Residential Facilities

The cost associated with operating, maintaining or providing services through long term care (more than one year) residential facilities are not eligible.

Assisted Living

- A building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate an individual's needs and abilities to maintain as much independence as possible. An assisted living facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under chapter 23-16 or 25-16 or section 50-11-01.4.

Basic Care

- A facility licensed by the department under North Dakota Century Code chapter 23-09.3 whose focus is to provide room and board and health, social, and personal care to assist the residents to attain or maintain their highest level of functioning, consistent with the resident assessment and care plan, to five or more residents not related by blood or marriage to the owner or manager. These services shall be provided on a twenty-four-hour basis within the facility, either directly or through contract, and shall include assistance with activities of daily living and instrumental activities of daily living; provision of leisure, recreational, and therapeutic activities; and supervision of nutritional needs and medication administration.

Nursing Facility

- An institution or a distinct part of an institution established to provide health care under the supervision of a licensed health care practitioner and continuous nursing care for twenty-four or more consecutive hours to two or more residents who are not related to the licensee by marriage, blood, or adoption; and who do not require care in a hospital setting.

11. Administrative funds may be requested at the following levels:

- Housing Rehabilitation and Conversion - 15 percent of CDBG project funds requested, up to a maximum of \$15,000
- Public Facilities Construction, Public Facilities in support of new Housing, Economic Development Purchase of Inventory, Economic Development Purchase of Equipment, Economic Development Acquisition of Buildings - 10 percent of CDBG project funds requested, up to a maximum of \$10,000 and a minimum of \$1,000.
- Public Facilities Special Assessment - 15 percent of CDBG project funds requested, up to a maximum of \$15,000
- Public Facilities Non-Construction - 5 percent of CDBG project funds requested, up to a maximum of \$5,000 and a minimum of \$1,000
- Economic Development Construction - 15 percent of CDBG project funds requested, up to a maximum of \$15,000 and a minimum of \$1,000.

DCS will evaluate each project individually and determine whether an adjustment in administration dollars is required.

Administrative dollars will be paid to the Recipient on a reimbursement basis. Supporting documentation for administrative expenses must be available in the Recipient file and may be a required submission with the Recipient's administrative Request for Funds (SFN 4630). Should the Recipient have more than one source of administrative funds, CDBG funds will reimburse the Recipient proportionally to the other funding.

The DCS will hold ten (10) percent of the authorized administrative funds until the

project final report has been received and approved.

Administration dollars will be allowed on projects that do not come to fruition, based on documented expenses. The amount allowed will be determined on a case-by-case basis.

If the unit of general local government chooses not to administer the project itself, Procurement Methods in the CDBG Admin Manual must be followed. Please reference Section 6.

12. Income verification must be completed on 100 percent of the households receiving direct benefit from CDBG activities. Acceptable verification consists of: income tax forms for the last 12-month period or income tax forms closest to verification date; SSA 1099 forms; and State of North Dakota Department of Human Services/Social Service Income Statement. Other sources of documentation must be first approved by the DCS.

B. Statement of Assurances

The applicant hereby assures and certifies that:

1. Resolution of Authority

Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the submission of the application, including all understandings and assurances contained herein, and directing and authorizing the signatory to additional information as may be required.

2. Access to Records

It will give the State of North Dakota, DCS, State Auditor's Office, and the Comptroller General of the United States, through any authorized representatives, access to and the right to examine all records, books, papers, or documents related to the grant.

3. Legal Authority

It possesses legal authority to apply for the grant and to execute the proposed project under North Dakota law and, if selected to receive a CDBG, will make all efforts necessary to assure timely and effective implementation of the project activities described in the attached application.

4. Financial Management

It will comply with the applicable requirements of Office of Management and Budget (OMB) 2 CFR Part 200 Uniform Guidance or any equivalent procedures and requirements that the DCS may prescribe. The circular is the basis for a number of specific requirements on the financial management cost principles and recordkeeping of CDBG funds. The directive applies to cash depositories, bonding insurance, recordkeeping, program income, property management, procurement, allowability of costs closeout, audit, and other requirements.

5. HUD Disclosure

It will comply with HUD Disclosure Requirements (Subpart C of 24 CFR Part 12) prior to receiving a financial award from the Division of Community Services.

6. Assessments for Public Improvements

It will not attempt to recover any capital costs of public improvements assisted in whole or part with CDBG funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

- a. CDBG funds are used to pay the portion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than CDBG funds; or
- b. For purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the applicant certifies that it lacks sufficient CDBG funds to comply with the requirements of clause (a), above.

7. Citizen Participation

The applicant will:

- a. Provide for and encourage citizen participation, particularly by low and moderate income persons who reside in slum or blighted areas and areas in which CDBG/CDLF funds are proposed to be used;
- b. Ensure that citizens will be given reasonable and timely access to local meetings, information, and records relating to the unit of local government's proposed and actual use of CDBG/CDLF funds;
- c. Furnish citizens information, including but not limited to:
 - (1) The amount of CDBG/CDLF funds expected to be made available for the current fiscal year (including the grant and anticipated program income);
 - (2) The range of activities that may be undertaken with the CDBG funds;
 - (3) The estimated amount of the CDBG/CDLF funds proposed to be used for activities that will meet the national objective of benefit to LMI persons; and
 - (4) The proposed CDBG/CDLF activities likely to result in displacement and the unit of general local government's anti-displacement and relocation plans required under 24 CFR 570.606(c) and 24 CFR 42.325
- d. Provide technical assistance to groups representative of persons of low and moderate income that request assistance in developing proposals in accordance with the procedures developed by the state. Such assistance need not include providing funds to such groups;
- e. Provide for a minimum of two public hearings, each at a different stage of the pro-

gram, for the purpose of obtaining citizens' views and responding to proposals and questions. Together the hearings must cover community development and housing needs, development of proposed activities and a review of program performance. The first public hearing is to cover community development and housing needs and must be held prior to submitting a full application to the state. The second public hearing is to cover a review of program performance. There must be reasonable notice of hearings and they must be held at times and locations convenient to potential or actual beneficiaries, with accommodations for the handicapped. Public hearings shall be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate. The Citizen Participation Plan and Public Notice and Notice of Public Hearing format found in the CDBG Supplement to the Action Plan is required to be adopted by each city and county;

- f. Provide citizens with reasonable advance notice of, and opportunity to comment on, proposed activities in an application to the state and, for grants already made, activities which are proposed to be added, deleted or substantially changed from the unit of general local government's application to the state. Substantially changed means changes made in terms of purpose, scope, location or beneficiaries as defined by criteria established by the state; and
- g. Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days where practicable.

8. Building Standards

The grantee must assure that activities involving new building construction, alterations, or rehabilitation comply with the State Building Code (NDCC Chapter 54-21.3). Uniform Building Code and Uniform Mechanical Code and Section 54-21.3-04.1 requires compliance with the Americans with Disabilities Act Guidelines (ADAAG). For new construction of multi-family dwellings containing four or more units, the grantee must assure compliance with the Fair Housing Accessibility Guidelines for implementation of the accessibility requirements of the Fair Housing Act.

9. Conflict of Interest

- a. Conflicts prohibited. Except for eligible administrative or personnel costs, the general rule is that no persons described in paragraph (b) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this subpart or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure and for one year thereafter.
- b. Persons covered. The conflict of interest provisions for paragraph (a) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving CDBG funds.

- c. Exceptions: Thresholds requirements. Upon written request by the State, an exception to the provisions of paragraph (a) of this section involving an employee, agent, consultant, officer, or elected official or appointed official of the state may be granted by HUD on a case-by-case basis. In all other cases, the state may grant such an exception upon written request of the unit of general local government provided the state shall fully document its determination in compliance with all requirements of this paragraph including the state's position with respect to each factor to be considered for exceptions and such documentation shall be available for review by the public and by HUD. An exception may be granted after it is determined that such an exception will serve to further the purpose of the Act and the effective and efficient administration of the program or project of the state or unit of general local government as appropriate. An exception may be considered only after the unit of general local government has provided the following and the state has considered all factors for the exception found in 570.489 (h)(5):
- (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
 - (2) An opinion of the attorney for the state or the unit of general local government, as appropriate, that the interest for which the exception is sought would not violate state or local law.
- d. Factors to be considered for exceptions. In determining whether to grant a requested exception after the requirements of paragraph (c) of this section have been satisfactorily met, the cumulative effect of the following factors, where applicable, shall be considered:
- (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
 - (2) Whether an opportunity was provided for open competitive bidding or negotiation;
 - (3) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
 - (4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
 - (5) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;
 - (6) Whether undue hardship will result either to the State or the unit of general local government or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
 - (7) Any other relevant considerations.

10. Anti-Displacement

In the event an applicant is awarded CDBG funds by the State, it will:

a. Follow a residential anti-displacement and relocation assistance plan which shall:

(1) In the event of such displacement, provide that:

(a) Governmental agencies or private developers shall provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units 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 States Housing Act of 1937;

(b) 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;

(c) Relocation benefits 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:

(i) 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

(ii) If elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (i) to permit the household to secure participation in a housing cooperative or mutual housing association.

(d) Persons displaced shall be relocated into comparable replacement housing that is:

(i) Decent, safe, and sanitary;

(ii) Adequate in size to accommodate the occupants;

(iii) Functionally equivalent; and

(iv) In an area not subject to unreasonably adverse environmental conditions.

(2) Persons displaced shall have the right to elect, as an alternative to the benefits under this subsection to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 if such persons determine that it is in their best interest to do so; and

- (3) Where a claim for assistance under subparagraph (1)(d) is denied by grantee, the claimant may appeal to the State, and that the decision of the State shall be final unless a court determines the decision was arbitrary and capricious.

11. Displacement and Relocation

It will minimize displacement as a result of activities assisted with CDBG funds.

It will comply with:

- a. All sections of URA (Uniform Relocation Assistance) 49 CFR Part 24.
- b. URA (Uniform Relocation Assistance) 49 CFR Part 24 Subpart B.
- c. Will comply with section 104(d) of the Housing and Community Development Act of 1974, as amended, which requires the replacement of low and moderate income housing units that are demolished or converted to another use in connection with an assisted activity and the provision of specified relocation assistance to certain low and moderate income persons.
- d. Refer to the URA Policy Manual for further guidance.

12. Civil Rights

It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 200d et seq.), and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied in the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant received Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

13. Excessive Force Policy

The grantee adopts and will enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil right demonstrations and the grantee will enforce applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

14. Equal Opportunity

It will comply with:

- a. Section 109 of the Housing and Community Development Act of 1974 (ACT), as amended, and the regulations issued pursuant thereto (24 CFR 570.601), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of,

or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under the act;

- b. The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.) The act provides 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 funding assistance;
- c. Section 504 of the Rehabilitation Act of 1973, amended (29 U.S. C. 794). The act provides that no otherwise qualified individual shall, solely, by reason of his or her handicap be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance.

The grant recipient must complete or update a Self-Evaluation, in accordance with 24 CFR Part B of the Federal Register. An example of a Self-Evaluation guidebook will be provided upon request;

- e. Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 170/u) (24 CFR Part 135). Section 3 of the Housing and Urban Development Act of 1968 requires, in connection with the planning and carrying out of any project assisted under the Act, to the greatest extent feasible, that opportunities for training and employment be given to lower-income persons residing within the unit of local government or the non-metropolitan county in which the project is located, and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part, by persons residing in the project area. The grantee must assure good faith efforts toward compliance with the statutory directive of Section 3; and
- f. Executive Order 11246, as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60) prohibit a CDBG recipient and subcontractors, if any, from discriminating against any employee or applicant for employment because of race, color, religion, sex or national origin. The grantee and subcontractors, if any, must take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action must include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The grantee and subcontractors must post in conspicuous places, available to employees and applicants for employment, notices to be provided setting for the provisions of this nondiscrimination clause. For contracts over \$10,000, the grantee or subcontractors will send to each applicable labor union a notice of the above requirements, the grantee and subcontractors will comply with relevant rules, regulations and orders of the U.S. Secretary of Labor. The grantee or subcontractors must make their books and records available to State and federal officials for purposes of investigation to ascertain compliance.
- g. Executive Order 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally assisted and federally conducted programs and activities.

15. Fair Housing

It will affirmatively further fair housing and will comply with:

- a. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended. The law states that it is the policy of the United States to provide for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, familial status or disability. CDBG grantees must also administer programs and activities relating to housing and community development in a manner that affirmatively promotes fair housing and furthers the purposes of Title VIII; and
- b. Executive Order 11063, as amended by Executive Order 12259, requires CDBG recipients to take all actions necessary and appropriate to prevent discrimination because of race, color, religion, creed, sex or national origin; in the sale, leasing, rental and other disposition of residential property and related facilities (including land to be developed for residential use); or in the use of occupancy thereof if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants or contributions from the federal government.

16. Labor Standards

It will comply with:

- a. Section 110 of the Housing and Community Development Act of 1975, as amended, 24 CFR 570.605, and State regulations regarding the administration and enforcement of labor standards. Section 110 requires that all laborers and mechanics employed by contractors or subcontractors on construction work assisted under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276-a-276a-5). By reason of the foregoing requirement the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) also applies. However, these requirements apply to rehabilitation of residential property only if such property is designed for residential use for eight or more families;
- b. Davis-Bacon Act, as amended (40 U.S.C. a- et seq.), Section 2; June 13, 1934, as amended (48 Stat. 948.40 U.S.C. 276(C), popularly known as The Copeland Anti-Kickback Act. The Act mandates that all laborers and mechanics be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account except "permissible" salary deductions, the full amounts due at the time of payments, computed at wage rates not less than those contained in the wage determination issued by the U.S. Department of Labor. Weekly compliance statements and payrolls are required to be submitted to the federally-funded recipient by the contractor;
- c. Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) According to the Act, no contract work may involve or require laborers or mechanics to work in excess of eight hours in a calendar day, or in excess of 40 hours in a work week, unless compensation of not less than one and one-half times the basic rate is paid for the overtime hours. If this Act is violated, the contract or subcontractor is liable to any affected employee for unpaid damages as well as to the United State for liquidated damages; and

- d. Federal Fair Labor Standards Act, (29 U.S.C.S. 201 et seq.). The act requires that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed work-week.

17. EPA Listing of Violating Facilities

It will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the program are not listed on the U.S. Environmental Protection Agency's (EPA) List of Violating Facilities and that it will notify the Department of Commerce of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by EPA.

18. Environmental Impact

It will comply with:

- a. Section 104(f) of the Housing and Community Development Act of 1974, as amended through 1981. This section expresses the intent that "the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act be most effectively implemented in connection with the expenditure of funds under" the Act. Such other provisions of law which further the purpose of the National Environmental Policy Act of 1969 are specified in regulations issued pursuant to Section 104(f) of the Act and contained in 24 CFR Part 58; and
- b. The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et seq. and 24 CFR Part 58). The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety or other undesirable and unintended consequences. Environmental review procedures are a necessary part of this process. The grantee must certify that the proposed project will not significantly impact the environment and that the grantee has complied with environmental regulations and fulfilled its obligations to give public notice of the funding request, environmental findings and compliance performance.

Its chief executive officer or other officer of applicant approved by the State:

- (1) Consents to assume the status of responsible federal official under the National Environmental Policy Act of 1969 (NEPA) and other provisions of federal law, as specified in 24 CFR Part 58, which further the purposes of NEPA, insofar as the provisions of such federal law apply to the North Dakota Community Development Block Grant Program; and
- (2) Is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the federal courts for the purpose of enforcement of his responsibilities as such an official.

19. Floodplain Management and Wetlands Protection

It will comply with:

- a. The Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1973. Section 102(a) required, on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of HUD as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance;
- b. Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et seq.) The intent of this Executive Order is to (1) avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplains and (2) avoid direct or indirect support of floodplain development wherever there is a practical alternative. If the grantee proposes to conduct, support or allow an action to be located in the floodplain, the grantee must consider alternatives to avoid adverse effects and incompatible involvement in the floodplains. If siting in a floodplain is the only practical alternative, the grantee must, prior to taking an action: (1) design or modify its actions in order to minimize a potential harm to the floodplain; and (2) prepare and circulate a notice containing an explanation of why the action is proposed to be located in a floodplain; and
- b. Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et seq.). The intent of this Executive Order is to avoid adverse impacts associated with the destruction or modification of wetlands and direct or indirect support of new construction in wetlands, wherever there is a practical alternative. The grantee must avoid undertaking or providing assistance for new construction located in wetlands unless there is no practical alternative to such construction and the proposed action includes all practical measures to minimize harm to wetlands which may result from such use.

20. Historic Preservation

It will comply with:

- a. Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, as amended) through completion of the procedures outlined in 36 CFR 800 and 36 CFR 63. Compliance with these procedures should include:
 - (1) Consulting with the State Historic Preservation Office (SHPO) to identify properties listed in or eligible for inclusion in the National Register of Historic Places that exist with a proposed CDBG project's area of potential environmental impact; and
 - (2) Consulting, as needed with the SHPO, Keeper of the National Register of Historic Places, and the Advisory Council on Historic Preservation to evaluate the significance of historic or prehistoric properties which could be affected by CDBG work and to determine how to avoid or mitigate adverse effects to significant properties from project work.

21. Farmlands Protection

It will comply with the Farmland Protection Policy Act (1981) (PL 97-98, Dec. 22, 1981) (Subtitle I Sec. 1539-1554) which requires recipients of federal assistance to minimize the extent to which their projects contribute to the unnecessary and irreversible commitment of farmland to nonagricultural uses.

22. Lead-Based Paint

It will comply with Sections 1012 and 1013 of Title X of the Housing and Community Development Act of 1992. The new regulation appears within Title 24 of the Code of Federal Regulations as part 35. (24 CFR 35). The purpose of this regulation is to protect young children from lead-based paint hazards in housing that is financially assisted by the Federal government or sold by the government. This regulation applies only to structures built prior to 1978.

23. Solid Waste

It will comply with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.). The purpose of this Act is to promote the protection of health and the environment and to conserve valuable material and energy resources.

24. Air Quality

It will comply with the Clean Air Act (42 U.S.C. 7401, et seq.) which prohibits engaging in, supporting in any way or providing financial assistance for licensing or permitting, or approving any activity which does not conform to the North Dakota Air Pollution Control Rules (NDCC Article 33-15), which includes standards for asbestos and other hazardous air pollutants, and the State implementation plan for the control of air pollution.

25. Water Quality

It will comply with:

- a. The Safe Drinking Water Act of 1974 (42 U.S.C. Section 201, 300(f) et seq. and U.S.C. Section 349), as amended, particularly Section 1424(e)(42 U.S.C. Section 300H-303(e)) which is intended to protect underground sources of water. No commitment for federal financial assistance can be entered into for any project which the U.S. Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal draining water source for an area; and
- b. The Federal Water Pollution Control Act of 1972, as amended, including The Clear Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et seq.) which provides for the restoration and maintenance of the chemical, physical and biological integrity of the nation's water.

26. Noise, Facility Siting

It will comply with HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979) which prohibit HUD support for most new construction of noise-sensitive uses on sites having unacceptable noise exposure. HUD assistance for the construction of new noise-sensitive uses is

prohibited in general for projects with unacceptable noise exposures and is discouraged for projects with normally unacceptable noise exposure. Additionally, projects may not be located near facilities handling materials of an explosive or hazardous nature, or in airport clear zones.

27. Wildlife

It will comply with:

- a. The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). The intent of this Act is to ensure that all federally assisted projects seek to preserve endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or result in the destruction of or modification of habitat of such species which is determined by the U.S. Department of the Interior, after consultation with the state, to be critical; and
- b. The Fish and Wildlife Coordination Act of 1958, as amended, (U.S.C. 661 et seq.) which requires that wildlife conservation receives equal consideration and is coordinated with other features of water resource development programs.

SECTION VI

Pre-Application Submission Requirements, Scoring and Ranking

A. Pre-Application Requirements

This section describes the pre-application submission requirements applicable to all Public Facilities, Housing, Public Services. Economic Development pre-application requirements are different and can be referenced in Part E of this section.

1. To be considered for scoring, the minimum requirements of a pre-application must be met.
2. Although specific match amounts are not required, if project costs are more than the CDBG allocated amount by the committee, at a minimum local match is required to fully cover the remainder of the project costs.

Notwithstanding the above, the match amount proposed by the applicant should be determined by what is reasonable considering the resources available to the applicant. Points will be awarded for match based on high, moderate and low commitment. Proposals requesting grant assistance for administration will be required to submit additional budget and financial information.

3. Cities and counties have the option to administer their own projects. Refer to Section V of this program distribution statement for administrative funds guidance.
4. All projects will require a preliminary engineering/architectural report.
5. All projects (excluding Economic Development) must submit the CDBG Pre-Application form.

B. Public Facilities

1. An open funding round for public facilities will be held. Dates will be published through a public announcement.
2. The CDBG Committee will be responsible for reviewing, scoring, ranking and making grant award recommendations. This committee will include state or federal agencies such as the ND Department of Commerce Division of Community Services (DCS), State Water Commission, USDA/Rural Development, ND Department of Environmental Quality, ND Department of Transportation, North Dakota Housing Finance Agency, and Bank of North Dakota. The score sheet will identify the committee member scoring the application.
3. A copy of the State Department of Environmental Quality's letter of design approval must be submitted for all water and sewer projects prior to the first draw down of project funds.

4. Public Facilities projects are eligible for CDBG funds to pay for construction costs of the project if the population in the project area is 51% or greater low to moderate income (LMI). If the population is less than 51% LMI the community is not eligible to receive CDBG funds.
5. 10 percent of CDBG project funds can be requested for administration, up to a maximum of \$10,000 and a minimum of \$1,000.

SCORING AND RANKING CRITERIA

PUBLIC FACILITIES PROJECTS – Maximum 475 points

1. NEED - Maximum 150 points

The CDBG Committee will score each pre-application on the basis of perceived need.

a. High Need: 120 to 150 points will be awarded to applications which:

- 150 points address an already demonstrated significant problem which clearly affects health, and/or safety of the community or a targeted LMI group within the community;
- 135 points address a significant problem which in the immediate future is likely to affect health and/or safety; or
- 120 points address a situation in which all or the most critical services otherwise available cannot be provided.

b. Moderate Need: 90 to 120 points will be awarded to applications which:

- 120 points address a potentially significant problem which could clearly and significantly affect health and/or safety, but the likelihood or immediacy is not clear or apparent;
- 105 points address an immediate problem of health and/or safety but where no life-threatening or serious health/safety problems can be anticipated; or
- 90 points address a situation in which services can be provided, but not fully, or only with major inconvenience and/or additional costs.

c. Low Need: 60 to 90 points will be awarded to applications which:

- 90 Points address a problem which could significantly affect health and/or safety of the community, but the likelihood or immediacy is not clearly documented or apparent.
- 75 Points have not shown that services cannot be provided with any more than minor inconvenience and/or costs.

60 Points have not clearly shown that immediate or serious health and/or safety problems exist.

2. COMMITMENT - Maximum 125 points

The CDBG Committee will score each Application on the basis of perceived commitment. 90 to 125 points will be awarded for high commitment, 65 to 89 points for moderate commitment, and 0 to 64 points for low commitment. The following criteria will be considered:

- a. High Commitment: 90 to 125 points will be awarded to projects that demonstrate the applicant is asking for the minimum amount of grant funds and is, therefore, providing the maximum amount of local match funds. This can be shown by documenting all of the following:

125 points project cannot proceed without the requested funds;

115 points applicant can show it is without additional existing funds to fully fund or increase the local match to the project;

100 points other potential sources of funding assistance have been explored but no other sources of grants or affordable loans are likely or available to meet the immediate need.

90 Points the problem is long standing or existing but the applicant has not made all reasonable efforts to obtain local or other financing to address the problem;

- b. Moderate Commitment: 65 to 89 points will be awarded to Applications which show grant funds are needed to proceed with the project and which meet most, but not all, of the criteria in 2.a. (above).

- c. Low Commitment: 0 to 64 points will be awarded to Applications that do not show grant funds are needed to proceed with the project, for which other funds are available, or which meet few of the criteria in 2.a. (above).

4. PERCENTAGE OF MINORITY LIVING IN PROJECT AREA – (Taken from 2015 American Community Survey) – Maximum 100 points

Communities with above 76% minority population 100 points

Communities with 51% to 75% minority population 75 points

Communities with 26% to 50% minority population 50 points

Communities with below 26% minority population 25 points

5. PERCENTAGE OF LMI IN THE PROJECT AREA - Maximum 100 points

One point for every percentage point of LMI population will be awarded.

C. Housing

1. An open funding round for housing will be held. Dates will be published through a public announcement.
2. The CDBG Committee will be responsible for reviewing, scoring, ranking and making grant award recommendations. This committee will include state or federal agencies such as the ND Department of Commerce Division of Community Services (DCS), State Water Commission, USDA/Rural Development, ND Department of Environmental Quality, ND Department of Transportation, North Dakota Housing Finance Agency, and Bank of North Dakota. The score sheet will identify the committee member scoring the application.
3. 15 percent of CDBG project funds can be requested for administration, up to a maximum of \$15,000 and a minimum of \$1,000.

SCORING AND RANKING CRITERIA

HOUSING – Maximum 550 points

1 PROJECT NEED -Maximum 150 Points

- a. 101-150 points will be applied to proposals that demonstrate the project will address **all** the following criteria:
 - (1) Thorough documentation is provided for the type of housing or work proposed, utilizing assessments, census, survey, market study, occupancy rates or other reliable and pertinent statistical data; and,
 - (2) Meets both current and long-term benefit in addressing existing and future needs; and,
 - (3) Addresses, directly or indirectly, health and safety issues; and,
 - (4) The project will have significant impact on meeting the needs as documented.
- b. 51-100 points will be awarded to proposals that substantially meet most of the above criteria and no major concerns are apparent with criteria it does not clearly meet.
- c. 0-50 points will be awarded to proposals which meet few of the above criteria, or which significantly fail to meet one or more of the criteria.

2 FINANCIAL NEED -Maximum 150 points

- a. 101-150 points will be applied to projects that can document **all** the following:
 - (1) The project cannot proceed without CDBG assistance, or failure to receive CDBG funds would significantly reduce the benefit, viability or impact, because the applicant or recipient does not have available the necessary financial resources, nor are future revenue sources likely to become available; and,
 - (2) The amount and the terms proposed or as may be offered, are reasonable and appropriate; and,

- (3) Other potential sources of assistance have been explored and cannot provide the assistance necessary.
 - b. 51-100 points will be awarded to proposals that substantially meet most of the above criteria and no major concerns are apparent with criteria it does not clearly meet.
 - c. 0-50 points will be awarded to proposals that meet few of the above criteria, or which meet most criteria, but one or more major concerns are apparent which affect the demonstrated financial need.
- 3 PERCENTAGE OF MINORITY LIVING IN PROJECT AREA – (Taken from 2015 American Community Survey– Maximum 100 points
- | | |
|--|-----|
| Communities with above 76% minority population points | 100 |
| Communities with 51% to 75% minority population points | 75 |
| Communities with 26% to 50% minority population points | 50 |
| Communities with below 26% minority population points | 25 |
- 4 PERCENTAGE OF LMI IN THE PROJECT AREA - Maximum 100 points One point for every percentage point of VL and LI population will be awarded.
- 5 PROJECT READINESS – Maximum 50 points
- | | |
|--|-----------|
| Homes identified and other funding committed | 50 points |
| Homes identified and other funding located – not committed | 40 points |
| Homes identified and other funding not located | 30 points |
| Other | 0 points |

D. Public Services

- 1. An open funding round for public services will be held. Dates will be published through a public announcement.
- 2. The CDBG Committee will be responsible for reviewing, scoring, ranking and making grant award recommendations. This committee will include state or federal agencies such as the ND Department of Commerce Division of Community Services (DCS), State Water Commission, USDA/Rural Development, ND Department of Environmental Quality, ND Department of Transportation, North Dakota Housing Finance Agency, and Bank of North Dakota. The score sheet will identify the committee member scoring the application.

SCORING CRITERIA

PUBLIC SERVICES PROJECTS – Maximum 575 points

1. NEED - Maximum 150 points

The committee will score each pre-application on the basis of perceived need.

- a. High Need: 120 to 150 points will be awarded to applications which:
 - 150 points address an already demonstrated significant problem which clearly affects health, and/or safety of the community or a targeted VL&LI group within the community;
 - 135 points address a significant problem which in the immediate future is likely to affect health and/or safety; or
 - 120 Points address a situation in which all or the most critical services otherwise available cannot be provided because of architectural barriers or other physical impediments to persons with handicaps.
- b. Moderate Need: 90 to 120 points will be awarded to applications which:
 - 120 Points address a potentially significant problem which could clearly and significantly affect health and/or safety, but the likelihood or immediacy is not clear or apparent;
 - 105 Points address an immediate problem of health and/or safety but where no life-threatening or serious health/safety problems can be anticipated; or
 - 90 Points address a situation in which services to the handicapped can be provided, but not fully, or only with major inconvenience and/or additional costs.
- c. Low Need: 60 to 90 points will be awarded to applications which:
 - 90 Points address a problem which could significantly affect health and/or safety of the community, or a targeted VL&LI group within the community, but the likelihood or immediacy is not clearly documented or apparent.
 - 75 Points have not shown that services to the disabled cannot be provided with any more than minor inconvenience and/or costs.
 - 60 Points have not clearly shown that immediate or serious health and/or safety problems exist.

2. COMMITMENT - Maximum 125 points

The committee will score each Application on the basis of perceived commitment. 90 to 125 points will be awarded for high commitment, 65 to 89 points for moderate commitment, and 0 to 64 points for low commitment. The following criteria will be considered:

- a. High Commitment: 90 to 125 points will be awarded to projects that demonstrate the applicant is asking for the minimum amount of grant funds and is, therefore, providing the maximum amount of local match funds. This can be shown by documenting all of the following:

- 125 points project cannot proceed without the requested funds;
- 115 points applicant can show it is without additional existing funds to fully fund or increase the local match to the project;
- 100 points other potential sources of funding assistance have been explored but no other sources of grants or affordable loans are likely or available to meet the immediate need.

- 90 Points the problem is:
 - i. long standing or existing but the applicant has made all reasonable efforts to obtain local or other financing to address the problem; or
 - ii. immediate and unexpected, not reasonably foreseen by the applicant.

- b. Moderate Commitment: 65 to 89 points will be awarded to Applications which show grant funds are needed to proceed with the project and which meet most, but not all, of the criteria in 2.a. (above).
- c. Low Commitment: 0 to 64 points will be awarded to Applications that do not show grant funds are needed to proceed with the project, for which other funds are available, or which meet few of the criteria in 2.a. (above).

4. PERCENTAGE OF MINORITY LIVING IN PROJECT AREA – (Taken from 2015 American Community Survey) – Maximum 100 points

Communities with above 76% minority population	100 points
Communities with 51% to 75% minority population	75 points
Communities with 26% to 50% minority population	50 points
Communities with below 26% minority population	25 points

5. PERCENTAGE OF LMI IN THE PROJECT AREA - Maximum 100 points
One point for every percentage point of VL and LI population will be awarded.

6. PROJECT READINESS – Maximum 100 points

Complete plans and proof of other funding committed	100 points
Complete plans and other funding located – not committed	50 points
Complete plans, other funding not located	20 points

E. Economic Development

1. Pre-applications can be received at any time.
2. The DCS staff will be responsible for reviewing, scoring, and making awards.
3. Pre-Application
 - a. The pre-application includes submitting a pre-application and a business plan to DCS which will be accepted any time during the program year. It shall contain all information required by the current State

Action Plan.

- a. DCS staff will review each pre-application for compliance with Program Distribution Statement-Economic Development guidelines.
- b. Pre-Application Requirements
 2. Business plan as stated in Section VIII of the PDS
 3. Staff review (SFN 52340)
 4. Job creation commitment (SFN 59509)
 5. Letter of commitment for funding for all other source
 6. Financial documents
 - a. Historical numbers
 - Three years of historical financials
 - Three years of tax returns
 - Personal financial statement of owners (over 20% ownership)
 - Three years of personal tax returns on owners (over 20% ownership)
 - b. Monthly projects for 3 years with assumptions (including new financing structure)
 - Balance sheet
 - Income statement
 - Cash flow statement

The results of the DCS pre-application review may consist of any of the following:

- The applicant and/or business may be asked to provide more information.
- The business may be asked to pursue other sources of funding before giving further consideration.
- The business may be asked to restructure the financial package.
- The business may be asked to rework/revise its business plan.
- The DCS staff may request a visit to the business locale and/or a meeting with the business.
- The DCS staff may decide that the business is not feasible as structured with the negative recommendation provided in writing.
- The DCS staff may decide to develop a positive funding recommendation with conditions.
- The DCS staff may recommend that the business not be funded and not be permitted to restructure its proposal, and
- The DCS staff may recommend funding as requested. The above list or potential actions are not all-inclusive and other actions may be taken as the situation may dictate.

SCORING CRITERIA

ECONOMIC DEVELOPMENT – Maximum 100 points

1. Point System utilized for economic development (CDLF) requests;
 - a. Need for funds and terms (20 pts max)
 - b. Financial strength and reasonableness (20 pts max)
 - c. Management expertise and past performance (20 pts max)
 - d. Marketing (10 pts max)
 - e. Degree of likely benefit to the economy (20 pts max)

- Community/region does not have a comparable business (10 pts max)
 - Workforce training/development (10 pts max)
- f. Anticipated impact of addressing national objectives as defined in the state program statement (10 pts max)
- Ability to meet job creation requirements (5 pts max)
 - Availability of jobs to LMI persons (5 pts max)

SECTION VII

Final Grant Application Submission Requirements

A. Full Application Requirements

All applicants that are awarded funds based off the pre-application requirements, is then required to submit a full application in order to receive a financial award. This section describes the application submission requirements applicable to all Public Facilities, Housing, and Public Services. Economic development projects have its own requirements and can be found in Part B of this section.

Each applicant must:

1. Provide a map which delineates the boundaries of the entire jurisdiction and identifies the location of the proposed activity. In most cases a map is not included in the business plan for economic development projects.
2. Conduct a local Community Needs Assessment in accordance with the requirements described in the application package.
3. Provide evidence that a minimum of one public hearing was conducted prior to submitting the application to the state. A second public hearing will be required prior to grant closeout. The format is on the DCS website <https://www.communityservices.nd.gov/uploads/17/SFN52663PublicNoticeandNoticeofPublicHearing.pdf> and required to be adopted by each city and county. The evidence of public hearing must include an affidavit of publication, a list of the persons attending and minutes of the public hearing.
4. Complete the Resolution of Sponsorship.
5. Acknowledge by signature the Applicant Assurance Certifications.
6. Indicate the activity(s) it will undertake to "affirmatively further fair housing" in accordance with Title VIII of the Civil Rights Act of 1968, as amended. This activity will be made a part of the Financial Award.
7. Justify which national objective is to be achieved for each proposed activity in accordance with the definitions in Section I. Income surveys will be accepted only if they meet the following criteria:

Surveys must be completed prior to the submission of pre-applications and must be completed according to the guidelines included on the DCS website, <https://www.communityservices.nd.gov/communitydevelopment/> under additional resources. This guidance contains complete guidelines to be used in completing income surveys.

8. Complete the requirements of Subpart C of 24 CFR Part 12 "Accountability in the Provisions of HUD Assistance." (HUD Disclosure Report on the DCS website at <https://www.communityservices.nd.gov/uploads/17/SFN52659FinalApplication.pdf>

9. All final applications must be submitted by the deadline date identified in Section IV H. with the original signatures to the DCS.
10. A Housing Rehabilitation Program Application or a form containing equivalent information for each potential household must be submitted with the application. A Housing Rehabilitation Program Application Summary Sheet must also be submitted.
11. All multi-family housing rehabilitation applicants that participate in Project Based Assistance Programs must complete a release of information form and include it in their application.
12. Each application must contain documentation of who prepared the application, and if they will administer themselves or procure out for administration. This includes Economic Development if applicable.
13. Each applicant, requesting the Removal of Architectural Barrier(s), that has not completed a Section 504 Self Evaluation/Transition Plan will be required to submit a completed plan prior to the DCS issuing a financial award.
14. Each applicant for removal of architectural barriers will be required to update their Transition Plan if the project applied for is not reflected in their Section 504 Self Evaluation/Transition Plan on file with the DCS.
15. For area benefit activities (i.e., Lift Station, Water Tower Repair) a copy of the United States Census Bureau (<https://www.census.gov/>) results that contain the information required to complete the Direct/Indirect Benefit Activities form must be submitted with the application.
16. An environmental review will be required but does not need to be submitted at time of full application.

B. Economic Development Full Application Requirements

1. Financial information checklist (SFN 61491)
2. CDBG final application (SFN 52659)
3. Public notice and notice of public hearing (SFN 52663)
4. Citizen Participation Plan (SFN 52662)
5. Code of conduct (SFN 52357)
6. Business plan (requirements listed in Section VIII)
7. Economic development staff review (SFN 52340)
8. Job creation commitment (SFN 59509)
9. An environmental review will be required but does not need to be submitted at time of full application.

SECTION VIII

Program Design – Economic Development

This program is targeted to the Primary Sector business proposals which will operate within North Dakota. CDLF assistance is intended to be used in situations where a funding gap exists and alternative sources of public and private financing are not adequate.

On a case-by-case basis, a request to waive any of the policy and procedures must be approved and granted by the Division of Community Services. The Division of Community Services will have the authority to deny any economic development project that is not well conceived and fully developed. All CDLF projects will be funded with Revolving Loan funds prior to CDBG allocation of funds.

Economic Development

A. General Economic Development Policies & Procedures

1. Request for economic development are accepted anytime throughout the year. All requests must go through the Division of Community Services. The Pre-Application must be reviewed and approved by the Division of Community Services. The Division of Community Services will make their recommendation based on the scoring criteria.
2. The decision to fund Economic Development related project(s) will be based on the significant impact to the state's economy and must meet one of the following criteria: (1) does the project create jobs; (2) is the business viable; (3) will the project have a positive impact on the community and state; and (4) will the business create new wealth in the community and state.
3. The proposed activity must be CDBG eligible and meet a national objective. The State is not allowing urgent need projects for the current fiscal year and therefore will not qualify as meeting a national objective. The Program Design for Economic Development must be followed.
4. Administrative funds will be awarded based on the same formula as other CDBG projects.
5. Any program income returned will be redistributed to the statewide fund in which the funds originated or to the Governor's Revolving Loan Fund. The program income funds will be used for economic development activities in the state.
6. For loans before FY2022 the city/county may retain 50 percent of the interest on the loan repayment after all jobs have been created and an Administrative or Final Closeout has been issued by the DCS. Until this occurs 100 percent of the interest must be returned to the State.
7. A bank must be involved in financing of an economic development project unless in a disaster situation.
8. Applicants may apply for 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 1) public facilities (except for building for the general conduct of government), site improvements (water, sewer, roads, railroad spurs), and utilities; 2) commercial or industrial buildings or structures and other commercial or industrial real property improvements

9. The North Dakota Economic Development Program will not assist projects that facilitate the relocation of industrial or commercial facilities within the state, unless the region finds such relocation does not adversely affect the level of unemployment, available jobs or the economic base of the area from which the industrial or commercial plant or facility is to be re-located. In order to satisfy this requirement, the grant applicant must submit sufficient evidence that:
 - a. The relocation will not have a significant economic effect on the community of original site location, and/or
 - b. The city/county of original site location cannot provide similar facilities and/or conditions as offered by the city/county where the business is proposing to relocate.
10. The cost per job for CDLF should be at or below \$35,000. Please consult with DCS.
11. Only those jobs proposed to be created within the first two years will receive consideration during the review process. The two-year period begins with the date of the financial award.
12. At least 51 percent of the jobs to be created or retained must be held or made available to low and moderate income persons or the employee resides in a census tract where no less than 70 percent of the residents are low and moderate income persons. LMI status is based on family gross income at the time of hiring. It is not based on the salary to be paid.

Each applicant is required to provide evidence that the business has contacted Job Service of North Dakota if 51% of the jobs created are not filled by low and moderate income individuals.

Where the public facility or improvement is undertaken principally for the benefit of one or more particular businesses, but where other businesses might also benefit from the assisted activity, the requirement may be met by aggregating only the jobs created or retained by those businesses for which the facility/improvement is principally undertaken, provided that the cost (in CDLF funds) for the facility/improvement is less than \$10,000 per permanent full-time equivalent job to be created or retained by those businesses.

In any case where the cost per job to be created or retained is \$10,000 or more, the requirement must be met by aggregating the jobs created or retained as a result of the public facility or improvement by all businesses in the service area of the facility/improvement. This aggregation must include businesses which, as a result of the public facility/improvement, locate or expand in the service area of the facility/improvement between the date the recipient identifies the activity in its final statement and the date one year after the physical completion of the facility/improvement.

13. Only permanent jobs may be considered in determining proposed jobs to be created or retained. All jobs must be on a "full time equivalent (FTE)" basis. Full time is based on 32 hours per week. In converting part time jobs to full time, the applicant must indicate the hours of employment for each part time position. **Jobs created prior to a Financial Award will not be counted as new jobs.**

Seasonal jobs may be considered only if the business can demonstrate that the duration of the season will be long enough for the job to be considered as a person's principal occupation. Jobs taken by students who are legal dependents or by persons such as farmers and school teachers employed during their off season, cannot be considered as a principal occupation. The applicant must also demonstrate that the job itself is a permanent position. Eligible seasonal jobs must also be converted to full time equivalents. FTE must be based on hours worked and length of the season. For instance, four persons working full time for three months would equal one FTE.

14. For an activity that retains jobs, the unit of general local government must document that the jobs would actually be lost without the CDLF assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDLF assistance is provided: The job is known to be held by a low or moderate income person; or the job can reasonably be expected to turn over within the following two years and that it will be filled by or that steps will be taken to ensure that it is made available to a low or moderate income person upon turnover.

Applicants proposing job retention must undertake a survey of those retained individuals to determine their household income and status as a full or part time employee. A copy of each survey must be submitted with the original application. A sample survey form is included on the DCS website.

15. An applicant may apply for economic development funds for a project that proposes to provide area benefit. This is an activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low and moderate income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries, but must be the entire area served by the activity. Units of general local government may, at the discretion of the state, use either HUD provided data comparing census data with appropriate low and moderate income levels or survey data that is methodologically sound. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion.

The project must provide goods or services to residents of an area, such that the number of low and moderate income person residing in the areas served by the assisted businesses amounts to at least one low and moderate income person per \$350 of CDLF funds used.

Where CDLF assistance for an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, the grantee may elect to count the activity under either the jobs standard or the area resident's standard, but not both.

16. Refinancing of existing debt and interest buydown will not be accepted.

17. Each applicant must identify the sources and uses of matching funds. Matching funds may come from a variety of sources, such as new investments by a firm to be assisted, bank loans, loans to be repaid to a state or federal loan program, or grants. Applicants must include documentation committing matching dollars that at least indicates funds are available contingent upon the receipt of CDLF. Applicants must meet a minimum leverage requirement of 1:1. To ensure compliance with the federal environmental regulations, consultation with the DCS should commence prior to any commitment of funds. For economic development infrastructure projects, a waiver of the 1:1 match will be considered on a case-by-case basis and must receive DCS approval.

The following will not be considered as match:

- a. In-kind services;
 - b. Refinancing of existing debt; and
 - c. An operating line of credit - unless it can be proved that it will be spent within the budget period.
18. An equity investment which equals a minimum of 10 percent of the total project cost must be made by the principal(s). Unless in the case of nonprofit corporations where equity requirements may be less, however, they will be determined on their own merits. This equity requirement may be met through a direct cash injection or through tangible balance sheet equity, as defined by generally acceptable accounting principles. The equity must be available upon receipt of the full application.

Equity is defined as capital that has no guaranteed or mandatory repayment or has no definite timetable for repayment of the capital investment, and cannot be withdrawn at the contributor's option without the permission of the superior debt holders. In the event a source of grant funds is proposed as equity, the funds must be firmly committed.

19. In the process of reviewing an application and developing a funding recommendation, the applicant may be required to secure a first, shared first, or second security position on the assets, or other forms of collateral for the project. A third position may be considered, on a case-by-case basis. Approval must be requested from DCS for this to occur.
20. Each applicant must provide a signed letter of commitment from the business that upon award of CDLF to the applicant, it will locate or expand its business in the applicant's jurisdiction.

B. Economic Development Funding

The focus of the fund will be to fund primary sector projects.

Primary Sector: "Primary sector business" means an individual, corporation, limited liability company, partnership, or association certified by the ND Department of Commerce Division of Economic Development and Finance, which through the employment of knowledge or labor adds value to a product, process, or service which results in the creation of new wealth. A North Dakota business that does not qualify under this definition may be

approved by the ND Department of Commerce Commissioner if the business provides a community an essential service. Reach out to DCS staff for further inquiry.

“Primary sector business” includes tourism but does not include production agriculture.

“Production agriculture” means the production of crops and livestock on or near a farm as part of the regular farm enterprise directed by a farm operator and the farm operator’s partners. The term does not include an investor-owned livestock feeding or milking operation located apart from a farm headquarters which is managed by employees.

1. Funding Cycle

Primary - Funding cycles will remain open year-round and in accordance with timely distribution of funds listed in Section IV.

2. Infrastructure Projects - All public improvement projects funded under the CDBG Economic Development category shall procure plans, drawings and specifications for the work from a licensed architect or registered professional engineer with an estimated project cost of \$200,000 or more.

A copy of the State Health Department’s letter of design approval must be submitted for all water and sewer projects prior to the first draw down of project funds.

C. Business Plan

NOTE: All business plan information and financial exhibits will be considered confidential, for evaluation purposes only, and will not, except as required by law, be provided to any third person, firm, corporation or public entity without the express written consent of the business.

Each applicant must submit a business plan for each business or entity to receive direct assistance, whether for-profit or nonprofit. Each business plan must contain sufficient information in order to obtain an adequate understanding of the business to be assisted, including the products or services offered, estimated market potential, management experience of principals, current financial posture, and details of the proposed venture. The business plan components contained in this section are required for CDLF economic development applications involving, grants, or public improvements directly assisting for-profit or nonprofit entities.

Applications involving more than one business will require a longer review period. Each business included in an application will be evaluated separately.

The business plan must include the following elements and must provide sufficient detail for adequate analysis:

1. Sample Business Plan Format

A well thought out business plan is important when requesting financial assistance from the DCS. This outline represents a general approach: business plans should be tailored to the specific business project.

Executive Summary – should concisely describe the key elements of the business plan.

- Business location and plan description.
- Discussion of the product, market and competition.
- Expertise of the management team (attach resumes).
- Summary of historical and financial projections.
- Amount of financial assistance requested.
- Form of and purpose for the financial assistance.
- Complete uses and sources of funds.
- Business goals and objectives.

2. The Company

A general description of the business, including the product or service.

- Tax identification number.
- Historic development of the business, including such items as:
 - Name, date and place (state) of formation, and legal structure (e.g., proprietorship, partnership, corporation).
 - Significant changes (include dates) in ownership, structure, new products or lines, acquisitions.
 - Subsidiaries and percentage of ownership, including minority interests.
 - Principals and the roles they played in the formation of the company.

3. The Product/Service/Jobs-describe the present product or service lines, including:

- Relative impact of each product or service to the sales projections.
- Product evaluation (use, quality, performance).
- Compare to competitors' product lines, and competitive advantages over other producers.
- Demand for the product(s).
- General description of the project, the purpose for which it is undertaken, projected job creation, and salary/wage rates for all employees.

4. Management

- Organizational chart.
 - Key individuals (include supervisory personnel having special value to the organization – Responsibilities).
- Personnel resumes (describing skills and experience as they relate to activities of the business).
- Present salaries (include other compensation such as stock options and bonuses).
- Other employees:
 - Number of employees at year end, total payroll expenses for each of previous three years (breakdown by wages, benefits).
 - Method of compensation
 - Departmental/divisional breakdown of work force.
 - Planned staff additions.

5. Ownership

- Names, addresses and business affiliations of principal holders of subject's common stock and other types of equity securities (include details on holdings).
- Degree to which principal holders are involved in management.
- Principal non-management holders.

- Names of board directors, areas of expertise, and the role of the board when business is operational.
- Amount of stock currently authorized and issued.

6. Marketing Plan

- Describe the industry and the industry outlook. Identify the principal markets (commercial/industrial, consumer, government, international). Include the current industry size as well as its anticipated size in the next two years. Explain the sources of the projections.
- Describe major characteristics of the industry.
- Describe the effects of major social, economic, technological or regulatory trends on the industry.
- Describe major customers, including: names, products or services sold to each; percentage of annual sales volume for each customer over previous three years; duration and condition of contracts in place.
- Describe the market and its major segments. Describe principal market participants and their performance. Identify the firm's target market. For each customer, include the requirements of each and the current ways of filling these requirements. Also include information on the buying habits of the customers and the impact on the customer using the product or service.
- Describe the companies with which the business competes and how the business compares with these competitive companies. This is a more detailed narrative than that contained in the description of the product or service, above.
- Describe prospective customers and their reaction to the firm and any of the firm's products or services they have seen or tested.
- Marketing strategies. Describe the firm's marketing strategy, including overall strategy; pricing policy; method of selling, distributing and servicing the product; geographic penetration; field/product support; advertising; public relations and promotion and prioritization.
- Selling activities. Describe how the firm will identify prospective customers and how and in what order the firm will contact the relevant decision-makers. Also describe the sales effort the firm will have (e.g., sales channels and terms, number of salespersons, number of sales contacts, anticipated time, initial order size) and estimated sales and market share.

7. Technology

- Describe the technical status of the product (idea stage, development stage, prototype stage) and the relevant activities, milestones, and other steps necessary to bring the product into production.
- Describe the present patent or copyright position. Include how much is patented and how much can be patented (e.g., how comprehensive and effective the patents or copyrights will be). Include a list of patents, copyrights, licenses or statements of proprietary interest in the product or product line.
- Describe new technologies that may become practical in the next two years which may affect the product.
- Describe new products (derived from first generation products) the firm plans to develop to meet changing market needs.
- Describe regulatory or approval requirements and status, and discuss any other technical and legal considerations that may be relevant to the technological development of the product.
- Describe current and future plans for research and development efforts.

8. Production/Operating Plan

Explain how the firm will perform production or delivery of service. Describe capacity and status in terms of:

- Physical facilities. Owned or leased, size and location, existing facilities (sales volume and unit capacity), expansion capabilities and capital equipment (types and quantities). Include a facilities plan and description of planned capital improvements and a timetable for those improvements.
- Suppliers. Name/location of principal suppliers, length of lead time required, usual terms of purchase, contracts (amounts, duration and conditions) and subcontractors.
- Labor supply (current and planned). Number of employees, unionization, stability (seasonal or cyclical), and fringe benefits (insurance, profit sharing, pension).
- Key patents (provide profile).
- Technologies/skills required to develop and manufacture the products (provide listing/description).
- Cost breakdown for material, labor and manufacturing overhead for each product, plus cost versus volume curves for each product.
- Manufacturing processes – block and work flow diagram, if helpful.
- Describe production or operating advantages. Discuss whether they are expected to continue.
- Specify standard product costs at different volume levels.
- Present a schedule of work for the next one to two years.

9. Financial

- Accountant – name, address
- Legal counsel – name, address
- Banker – name, location, telephone number, and contact officer.
- A funding request detailing the desired financing, including uses and sources of funds. If phased financing, describe phases, projected timing and detailed uses and sources of funds.
- Amount to be raised from debt and amount from equity.
- Plans to “go public”. (Relate this to future value and liquidity of investments.)
- Company historical financial statements and tax returns for the previous three years.
- Three years projected financial statements (years one and two should be monthly; year three quarterly). Projections should include profit and loss, balance sheet and cashflow statements. Include key assumptions made in the proformas and how these assumptions reflect industry performance. Three years projected capital expenditures including leases and acquisitions.
- An aging of accounts receivable and an aging of accounts payable.
- Personal financial statements and three years of tax returns of principal(s).

SECTION IX Program Design - Public Facilities

The Division of Community Services will have the authority to deny any public facility project that is not well conceived and fully developed.

A. Public Facilities Special Requirements

1. Requirement for Public Improvements

All public improvement projects funded under the CDBG Public Facilities category shall procure plans, drawings and specifications for the work from a licensed architect or registered professional engineer with an estimated project cost of \$200,000 or more.

A copy of the State Health Department's letter of design approval must be submitted for all water and sewer projects prior to the first draw down of project funds.

2. Requirement for Infrastructure

All infrastructure projects will require a preliminary engineering/architectural report. This requirement may be waived on a case-by-case basis.

3. Requirement for projects purchasing equipment

No engineering/architectural report is required; however cost estimates are required.

4. Contents of a preliminary engineering/architectural report are as follows:

- (a) Name, address, telephone of the person who prepared the report.
- (b) Date the report was prepared.
- (c) Age of the existing facility (if a replacement project).
- (d) Description of the problem.
- (e) Detailed discussion of alternatives and the scope of work for the proposed activity.
- (f) Detailed cost estimate (by line item) for the proposed project. (If scope of work includes more activities than proposed for the CDBG part of the project, please separate these activities and costs.)
- (g) Discuss the long-term operation and maintenance plan for the proposed facility. Include in the discussion future operation and maintenance costs. The discussion must provide a description of the plan to technically and financially maintain the proposed public facility project, or the total system of which the project is a component, for the long term after construction.

It is highly recommended that each applicant proposing significant water, sewer or solid waste disposal activities discuss the proposed project with the State Health Department prior to submitting the preliminary engineering report in order to prevent any disagreements in the design of the solution.

B. Special Assessments for Public Improvements

1. Public improvements initially assisted with CDBG funds. Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be imposed as follows:
 - a. Special assessments to recover the CDBG funds may be made only against properties owned and occupied by persons not of low and moderate income. These assessments constitute program income.
 - (1) Special assessments to recover the non-CDBG portion may be made, provided that CDBG funds are used to pay the special assessment on behalf of all properties owned and occupied by low and moderate income persons; except that CDBG funds need not be used to pay the special assessments on behalf of properties owned and occupied by moderate income persons if, when permitted by the state, the unit of general local government certifies that it does not have sufficient CDBG funds to pay the assessments on behalf of all of the low and moderate income owner-occupant persons. Funds collected through such special assessments are not program income.
 - b. Public improvements not initially assisted with CDBG funds. CDBG funds may be used to pay special assessments levied against property when this form of assessment is used to recover the capital cost of eligible public improvements initially financed solely from sources other than CDBG funds. The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments, provided that:
 - (1) The installation of the public improvements was carried out in compliance with requirements applicable to activities assisted under this subpart, including labor, environmental and citizen participation requirements;
 - (2) The installation of the public improvement meets a criterion for national objectives.
 - (3) The requirements of § 570.482(a)(ii) are met.

C. Ineligible Activities

1. Urgent Need
 - a. The State is not allowing urgent need projects for the current fiscal year.

SECTION X

Program Design - Housing

This section describes specific requirements applicable to basic Rehabilitation and New Construction Housing activities. The Division of Community Services will have the authority to deny any housing project that is not well conceived and fully developed.

A. Housing Policy and Procedures

1. Applicants are encouraged to determine the eligibility of potential household recipients by considering total net worth in addition to gross income.
2. Applicants must include in their application evidence of the following:
 - a. All residents of the city/county were notified of the availability of CDBG funds.
 - b. All eligible residents were given the opportunity to apply for program assistance.
 - c. The applicant review process was conducted in a manner which eliminates conflict of interest. This is accomplished by removing from the decision-making process anyone who is a direct applicant, or related to an applicant.
3. The Section 8 Housing Quality Standards (HQS) Checklist must be used to identify housing rehabilitation needs. All inspectors must be Section 8 HQS Certified or be an individual who has demonstrated knowledge of the State Building Code. If the inspector is not HQS certified, the application must include the inspector's qualifications demonstrating knowledge of the State Building Code. The State requires that all rehabilitation work must meet Section 8 Housing Quality Standards or the State Building Code, whichever is more restrictive. DCS may grant a waiver of the required use of the Section 8 HQS Checklist on a case-by-case basis for emergency housing repairs. This request must be submitted to the DCS along with justification.
4. For the rehabilitation of manufactured homes, the units must conform to the following requirements in order to be eligible for rehabilitation with CDBG funds:
 - a. The unit and the land it rests on are in common ownerships;
 - b. Upon completion of rehabilitation activities, the unit will be attached to a foundation which cannot reasonably be relocated, and must be placed on the site in a stable manner and be free from hazards such as sliding or wind damage.
DCS may waive these requirements when it finds, based on information provided by the grantee, that no alternative affordable housing is available for residents of such units in the community.
5. North Dakota CDBG Affordable Rent Policy for Multi-Dwelling Units
 - a. Rental units rehabilitated totally or in part with CDBG funds must be occupied by low and moderate income persons at affordable rents. Affordable rent is defined as 30 percent of the gross household income as determined by Section 8 of Title I of the Housing and Community Development Act of 1974.

- b. A "majority" of the units in a building after rehabilitation must be occupied by low and moderate income persons at affordable rents.
6. In the event that financial assistance is provided to a non-low and moderate income property owner for the benefit of a low and moderate income renter, the grantee must secure a written agreement from the owner to:
 - a. Limit rent increases for five years to the rate of inflation; and
 - b. Continue to rent to low and moderate income persons for a period of five years.
7. In the event a city or county chooses to provide a loan for housing activities, any repayments will be retained by the State to be used to continue the same activity.

B. Creation of New Housing Units

1. CDBG funds cannot generally be used for the construction of new permanent residential structures or for any program to finance new construction, except for:
 - a. Last resort housing provisions in relocation;
 - b. Provision of assistance through Community Based Development Organization (CBDO); or
 - c. Activities which facilitate the development of housing, including clearance, site and public improvements, and property acquisition.

For further guidance refer to CPD Notice 07-08 dated November 21, 2007.

2. Detailed information must be provided concerning financial feasibility, management, tenant occupancy, start-up costs, preliminary architectural plans, cost estimates, and ownership or nonprofit data.
3. Any activity carried out with CDBG funds that involves the acquisition or rehabilitation of property to provide housing is considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons at affordable rents. In addition, a "majority" of the units in a multi-dwelling building must be occupied by low and moderate income persons at affordable rents.

A. Relocation (temporary or permanent):

For detailed guidance, reference the Residential Antidisplacement and Relocation Assistance Plan, the Uniform Relocation Act Policy Guide, and the HUD URA Handbook 1378.

D. Housing Revolving Loan Fund

1. CDBG funds may be used for Housing projects that will generate program income. **Single family housing rehabilitation activities will be on a grant basis only.**

2. All projects being considered as a revolving loan fund project must be presented to the DCS for approval prior to the State scoring and ranking the project.
3. One hundred percent (100%) of the program income generated through loan repayments will be repaid to the State.
4. Once program income is returned, it will be redistributed for Housing activities to the region in which the funds originated.

E. Ineligible Activities

1. Urgent Need
 - a. The State is not allowing urgent need projects for the current fiscal year.

SECTION XI

Program Design – Public Services

This section describes specific requirements applicable to basic public service activities. The Division of Community Services will have the authority to deny any public service that is not well conceived and fully developed.

A. General Public Services Policies and Procedures

1. Must meet a national objective. Urgent need does not qualify.
2. Statutory and regulatory limitation on the amount of CDBG funds that may be used for activities assisted under this category is 15% of the total award to the State. Some services that are assisted under this program may also be eligible under a category other than Public Services, and if properly classified under another category, would not be subject to the 15% public service cap.
3. Activities assisted under Section 105(a)(8) may include only:
 - a. 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, except that not more than 15 per centum of the amount of any assistance to a unit of general local government (or in the case of nonentitled communities not more than 15 per centum statewide).
4. Public services that are not subject to the cap:
 - a. Certain types of services fall under other categories of basic eligibility (such as Sections 105(a)(15) and 105(a)(23)) and are not subject to the limitation that applies to services carried out under Section 105(a)(8).

B. Eligible Activities

1. Under this category, CDBG funds may be used to provide public services (including labor, supplies, materials, and other costs), provided that each of the following criteria is met:
 - a. The public service must be either:
 - i. A new services; or
 - ii. A quantifiable increase in the level of a service above that which has been provided by or on behalf of 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 the 12 months prior to submission of the grant recipient's applicable Action Plan. (This requirement is intended to prevent the substitution of CDBG funds for recent support of public services by the grant recipient using local or state government funds.)

- b. No more than 15 percent of a state's yearly allocation of funds, plus program income distributed by the state as part of that year's method-of-distribution, may be expended for public service activities. Note that the 15 percent cap applies to the state, not to individual local governments receiving state CDBG funds. A state could make a grant to a town solely for public services activities. In the State CDBG program, compliance with the 15 percent cap is determined by expenditures over the life of a given fiscal year's allocation of funds (plus program income).
 2. Public services include, but are not limited to:
 - a. Child care, health care, job training (including training a qualified pool of candidates for unspecified jobs), recreation programs, education programs, public safety services, fair housing activities, services for senior citizens, services for homeless persons, and victims of domestic violence, drug abuse counseling and treatment, energy conservation counseling and testing, homebuyer down payment assistance, emergency assistance payments, legal services.
 - b. Paying the cost of operating and maintaining that portion of a facility in which the service is located is also considered to fall under the basic eligibility category of Public Services, even if such costs are the only CDBG-funded contributions for those services.

C. Ineligible Activities

1. Urgent need
 - a. The State is not allowing urgent need projects for the current fiscal year.
2. Political activities
3. Ongoing grants or non-emergency payments to individuals for their food, clothing, rent, and utilities or other income payments.
4. Payment of expenses in connection with litigation against the Department.

SECTION XII

Program Design – Governor’s Set Aside

This section describes specific requirements applicable to the Governor’s set aside. The Governor’s set aside will be approximately \$1,659,447.

A. General Policies and Procedures

1. Funds can be applied for any time during the fiscal year. The last day to submit an application must be received by DCS with all pre-application requirements and original signatures no later than June 15, 2023. If the pre-application is incomplete and the deadline date has passed, it will not be accepted for the current fiscal year.
2. All pre-applications must be sent to DCS first.
3. The Governor’s Fund form (SFN 53734) must be included the pre-application.
4. The applicant cannot be currently receiving CDBG funding for the project being requested. On a case-by-case basis, a waiver may be considered and must receive DCS approval.

B. Eligible Activities

1. The following activities must meet a CDBG National Objective. Urgent need has been excluded. These activities will follow all policies and procedures stated through the program distribution statement unless otherwise noted.
 - a. Economic Development
 - b. Housing
 - c. Public Facilities
 - d. Public Services

C. Ineligible Activities

1. Urgent Need
 - a. The State is not allowing urgent need projects for the current fiscal year.

D. Pre-Application Process

1. Refer to Section VI – Pre-Application Submission Requirements for what is required of the pre-application pertaining to the specific activity that is being applied for.
2. Governor’s Fund form (SFN 53734).

E. Scoring and Ranking Criteria

1. The Governor’s set aside will follow the same scoring and ranking as listed in Section VI, except for having a committee score and rank the application. DCS will be responsible for reviewing, scoring, and sending grant award recommendations to the Governor’s Office. The Governor’s Office will then review and use the same weighted criteria for

scoring. DCS' score plus the Governor's Office score will be combined for the overall total.

North Dakota Regional Map

