Community Development Block Grant and Section 108 Loan Guarantee Programs

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Administering Agency: HUD's Office of Community Planning and Development

Year Started: 1974

Population Targeted: Households with income less than 80% of the area median income (AMI)

Funding: Congress appropriated $3.3 billion in FY24, the same as FY23, FY22, FY19, and FY18, but less than $3.475 billion in FY21 and $3.4 billion in FY20. For FY25, the Administration proposed $2.9 billion, while the Senate and House each proposed $3.3 billion. As of the date this Advocates' Guide went to press, Congress has not made a final appropriation for CDBG.

See Also: For related information, refer to the *Consolidated Planning Process* section of this guide.

The "primary objective" of the Community Development Block Grant (CDBG) program is to have viable urban communities by providing funds to improve housing, living environments, and economic opportunities, "principally for persons with low- and moderate-income," which according to the CDBG statute, means at least 70% of CDBG funds received by a jurisdiction must be spent to benefit people with income equal to or less than 80% of the area median income, AMI.

The Section 108 Loan Guarantee program involves a jurisdiction pledging up to five years' worth of its entire CDBG entitlement as backup (collateral) for a larger loan. If estimated revenues are not sufficient at a project financed with a Section 108 guaranteed loan, then the jurisdiction's regular annual CDBG allocation must be used to make up the "short fall." If this happens, then housing rehabilitation, job creation projects, or other activities that low-income people want might be reduced — or even eliminated.

History

The CDBG program was established under Title I of the "Housing and Community Development Act of 1974," which combined several existing "categorical" programs, such as Urban Renewal and Model Cities, into one "block grant." This change was intended to provide greater local flexibility in the use of federal dollars.

Program Summary

The "primary objective" of the CDBG program is to have viable communities by providing funds to improve housing, living environments, and economic opportunities – "principally" for persons with low- and moderate-income. The regulations for entitlement jurisdictions are at 24 CFR Part 570: https://bit.ly/3ECjAzl, and the states and small cities regulations are at 24 CFR Part 570, Subpart I: https://bit.ly/44MhpUK. The Section 108 Loan Guarantee program is discussed further at the end of this article.

ELIGIBLE ACTIVITIES

CDBG funds can be used for a wide array of activities, including: rehabilitating housing (through loans and grants to homeowners, landlords, nonprofits, and developers); constructing new housing (but only by certain neighborhood-based nonprofits); providing down payment assistance and other help for first-time home buyers; detecting and removing lead-based paint hazards; purchasing land and buildings; constructing or rehabilitating public facilities such as childcare centers, health centers, and shelters domestic violence survivors, as well as street and sidewalk improvements, flood drainage improvements, water and sewer improvements, and parks and recreation facilities; making buildings accessible to those who are elderly or disabled; providing public services such as job training, transportation, healthcare, and childcare (public services are capped at 15% of a jurisdiction's CDBG funds); building the capacity of nonprofits; rehabilitating commercial or industrial buildings; and making loans or grants to businesses.

FORMULA ALLOCATION

The program's emphasis on people with low incomes is reinforced by the formulas that determine how much money local jurisdictions and states receive. The formulas are based on factors heavily weighted by the degree of poverty and indicators of poor housing conditions in a jurisdiction; the more poverty and the worse the housing conditions, the more CDBG a jurisdiction receives. Seventy percent of each annual congressional appropriation is automatically distributed to cities with a population of 50,000 or more people and counties with a population of 200,000 or more people; these are called "entitlement jurisdictions." The remaining 30% goes to states for distribution to small towns and rural counties.

BENEFICIARIES

At least 70% of CDBG funds received by a jurisdiction must be spent to benefit people with low and moderate incomes (often referred to as "lower-income"). The remaining 30% can also benefit people with lower incomes, or it can be used to aid in the prevention or elimination of slums and blight (often used by local governments to justify downtown beautification) or to meet an urgent need such as a hurricane, flood, or earthquake relief. Major hurricane, flood, wildfire, or earthquake needs are generally addressed by special congressional appropriations referred to as CDBG-Disaster Relief (DR) that usually have much less rigorous provisions regarding eligible uses and income targeting. See *Disaster Housing Programs* in Chapter 10.

Low- and moderate-income is defined as household income equal to or less than 80% of AMI, which can be quite high. In FY24, for instance, 80% of the AMI in Chicago was $89,700 for a four-person household. AMI in some jurisdictions is so high (like in the Lowell, MA, metropolitan area where the AMI was $132,900) that HUD caps the qualifying household income at the national median income, which in FY24 was $97,800 for a four-person household. However, HUD makes upward adjustments in high-cost areas such as the Boston metropolitan area that had an AMI of $148,900 in FY24, allowing CDBG to benefit four-person households with income up to $130,250.

A CDBG activity is counted as benefiting people with low and moderate income if it meets one of four tests:

1. **Housing Benefit.** If funds are spent to improve a single-family home, the home must be occupied by a low- or moderate-income household. In multifamily buildings, at least 51% of the units must be occupied by low- or moderate-income households. There is an exception to the 51% benefit test when it can be demonstrated that it is necessary to reduce the cost of developing a multifamily, non-elderly rental property: in that case at least 20% of the units must be occupied by low- and moderate-income households. In addition, the housing must be affordable, as defined by the jurisdiction.

   According to CPD's "CDBG Activity Expenditure Reports": https://bit.ly/4jMyZwa for FY23, only 27.6% of CDBG was allocated for some type of housing program, an increase from 26.6% for FY22, and from 24% which was more typical for many years. Key housing-related uses included 12.9% for single-unit rehabilitation, 4.4% for rehabilitation administration, 2.7% for multi-unit rehabilitation, 2.3% for code enforcement, 1.36% lead hazard abatement (up from a more typical 0.22%), 1.3% for homeowner assistance, 0.74% for public housing modernization, 0.7% for acquisition for rehabilitation, 0.64% for new construction, 0.12% for rehabilitation of other publicly owned residential buildings, and 0.1% for energy efficiency improvements.

On October 26, 2023, CPD released Notice CPD-23-10: Use of CDBG Funds in Support of Housing: https://bit.ly/3YPgWxl, *superseding* Notice CPD-07-08: https://bit.ly/4jNemjA. It is an updated reference guide regarding eligible CDBG housing or housing-related activities. Highlights include:

- How CDBG funding can assist with Consolidated Plan development and fair housing planning activities that relate to multiple HUD programs;
- Ways that CDBG may be used to support resilience planning, rehabilitation, optional relocation, and tornado-safe homes;
- Changes to the eligibility approach of manufactured housing, simplifying unit purchases and more closely aligning with the HOME program's approach.

2. **Area Benefit.** Some CDBG-eligible projects, such as road and park improvements, can be used by anyone. To judge whether such a project primarily benefits people with lower incomes, CPD looks at a project's "service area." If 51% of the residents in the activity's service area are people with lower income, then CPD assumes people with lower income will benefit. The regulations provide several ways to challenge that assumption. The primary challenge is to show that "the full range of direct effects" of an activity do not benefit people with lower incomes.
3. **Limited Clientele.** A service or facility assisted with CDBG funds must be designed so that at least 51% of its users have lower income. The three most common ways to meet this test are to: (a) limit participation to people with lower income; (b) show that at least 51% of the beneficiaries are lower income; or (c) serve a population that CPD presumes is lower income, including abused children, domestic violence survivors, people with disabilities, illiterate individuals, migrant farm workers, and seniors. Advocates can challenge a presumed benefit claim if an activity does not actually benefit people with lower incomes.
4. **Job Creation or Retention.** If job creation or retention is used to justify spending CDBG money, then at least 51% of the resulting jobs on a full-time-equivalent basis must be filled by or be available to people with lower income. "Available to" means either the job does not require special skills or a particular level of schooling, or the business agrees to hire and train people with lower income. Those with lower income must receive first consideration for the jobs.

PUBLIC PARTICIPATION

Every jurisdiction must have a public participation plan that describes how the jurisdiction will provide for and encourage involvement by people with lower income. Public hearings are required at all stages of the CDBG process. Hearings must give residents a chance to indicate community needs, review proposed uses of CDBG funds, and comment on past uses of these funds. There must be adequate public notice to people who are likely to be affected by CDBG-funded projects, and people must have reasonable and timely access to information. Since the creation of the Consolidated Plan (ConPlan) in 1995 (see *Consolidated Planning Process* in Chapter 8), the CDBG public participation process is the statutory basis for and is merged into the ConPlan public participation process. To effectively participate in this process, advocates should get a copy of the draft Annual Action Plan of the ConPlan and the latest Grantee Performance Report (GPR). Many jurisdictions will try to deny providing copies of the GPR to the public, but it must be made available. The GPR also goes by the name IDIS Report PR03. It is not part of the larger Consolidated Annual Performance and Evaluation Report (CAPER).

Section 108 Loan Guarantee "Legacy Challenge"

Although the Section 108 Loan Guarantee has been a part of the CDBG program since 1974, in 2024 CPD began promoting the "Legacy Challenge" to encourage greater use of Section 108 Loan Guarantees for housing-related activities. Section 108 has always allowed jurisdictions to borrow up to five times their annual CDBG allocation for low-cost, low-interest financing. What is different about the Legacy Challenge is that CPD is offering new flexibilities for up to $250 million of CPD's $400 million loan guarantee authority for affordable housing projects. This capital could be used for:

- Infrastructure to support housing production such as utility installation or upgrades.
- Adaptive reuse, including converting unused office space and other commercial space into housing.
- Preservation, rehabilitation, and repairs of existing units.
- Manufactured housing, including facilities to build new homes.
- Eligible housing uses within mixed-use or transit-oriented development.
- Loan pool to support local housing development.
- Other eligible housing activities.

The new flexibilities CPD promotes include:

- Waivers to streamline and ease program requirements.
- Certain repayment flexibilities.
- Unlimited targeted one-on-one support and guidance.
- New (unspecified) resources and step-by-step guides for faster approval.

The Legacy Challenge webpage is at: https://www.hud.gov/program_offices/comm_planning/section108/legacy-challenge.

BASIC INFORMATION ABOUT REGULAR SECTION 108 LOAN GUARANTEES

NLIHC has not followed this program for many years. However, in its earlier years the program was primarily used for "economic development" activities for large projects including a General Motors plant, hotels, and large-scale shopping malls. The regulations at the time required applicants to certify that "but for" the Section 108 loan guarantee, a project could not go forward. In some cases, projects failed – causing the local jurisdiction to use its regular CDBG allocation to cover a project's financial loss, instead of benefiting lower-income people.

Section 108 is not really a loan; it is a "guarantee" of a loan, which reduces the interest rate. While use of Section 108 does not have to be a problem, advocates should study proposed Section 108 applications carefully, because if something goes wrong, your CDBG money could be in jeopardy.

The Section 108 Loan Guarantee program involves your jurisdiction pledging up to five years' worth of your community's entire CDBG entitlement as backup (collateral) for a larger loan. If estimated revenues are not sufficient at a project financed with a Section 108 guaranteed loan, then your regular annual CDBG allocation must be used to make up the "short fall." If this happens, then housing rehab, job creation projects, or other activities that low-income people want might be reduced — or even eliminated.

Normally, when jurisdictions plan big projects such as arenas, parking garages, and downtown malls, they borrow money by issuing bonds. The money borrowed is paid back from future taxes generated by the project, or from revenues earned by the project built with the bond financing (for example, parking revenues at the garage).

Theoretically, Section 108 is only supposed to be used when a project cannot get adequate and affordable financing from more traditional sources. Section 108 attracts investors because the money they lend is guaranteed by the "full faith and credit of the United States government." The investors' financial risk is greatly reduced because HUD pledges to pay the investor back in full if the project runs into financial trouble. Consequently, investors are not only willing to loan money but also to accept lower interest payments in return (the interest rate on Section 108 guaranteed loans is generally just a little more than that of U.S. Treasury bonds). Lower interest payments also means that the loan does not cost the project as much as conventional financing.

Investors' risk really gets shifted to low-income people because it is low-income people's CDBG money -- for the next five years -- that is put on the line. This is because HUD pays the investors from your jurisdiction's CDBG entitlement amounts if project revenues are not adequate.

In some situations, the jurisdiction does not intend to use future taxes or project revenues to pay off the bond; instead, it plans to use CDBG funds directly. This is an eligible use of CDBG. Advocates should determine whether the downtown shopping mall's Section 108 Loan Guarantee holds either five years' worth of CDBG money hostage, or whether it will actually cause a direct and immediate drain on CDBG funds over a several-year period (it could do both). Years ago, Section 108 projects directly tapped CDBG for four large downtown projects in Nashville and two in Scranton, along with hotels in Roanoke and Bakersfield.

Beware – in the past, HUD materials boasted that there had never been a default under Section 108. That was misleading to the average reader. What it meant was that investors never lost any of their money. However, there have been Section 108 projects that encountered financial difficulties, causing low-income people's CDBG to be diverted from uses that might more directly and meaningfully benefit them. For example, a downtown mall in Richmond, Virginia did not generate the revenues planned, so each year CDBG money was taken off the top of Richmond's entitlement allocation before low-income people could even begin to attempt to direct CDBG money to their most pressing housing needs. A failed motel in Albany, New York harmed low-income people; not only was money drained away from housing, the "promised" jobs failed to be sustained.

All the CDBG Rules Apply

The law considers Section 108 as "CDBG money." That means it is counted when determining whether 70% of a jurisdiction's CDBG program benefits lower-income people. Further, an activity financed with a Section 108 guaranteed loan must meet one of the "national objectives" (that is, meet one of the four lower-income benefit tests, or meet the "slums and blight" test). Section 108 projects must be presented on a jurisdiction's Annual Action Plan and must be fully reported in the annual Grantee Performance Report. They are also subject to the anti-displacement law and regulations. However, unlike "regular" CDBG which automatically comes to cities, urban counties, and states, a jurisdiction must apply to HUD for a Section 108 Loan Guarantee.

Statutory and Regulatory Restrictions

The amount of the loan guaranteed by Section 108 is limited to five times a jurisdiction's annual CDBG allocation (its "entitlement amount"), minus any outstanding Section 108 commitments or loan balances. For a small town or rural county, the state must agree to use its CDBG as collateral; again, the maximum amount a state can guarantee is five times its annual CDBG allocation, minus the outstanding balance on all previously existing guaranteed loans. The repayment period is limited to 20 years. The jurisdiction must "certify" (pledge) that the jurisdiction has made efforts to finance the project without Section 108, and that the project cannot be completed without Section 108 (it must also certify that it will keep documents demonstrating the effort to secure adequate non-Section 108 financing).

In addition, the regulations require that an application must:

1) Describe how each of the activities assisted by Section 108 will meet one of the tests for complying with the "national objectives" (of benefiting lower income people or addressing slums and blight).

2) Have a schedule for repaying the loan, identifying the sources of repayment.

The law also allows HUD to get additional "security" from a jurisdiction and HUD materials indicate that it does require more backup to better assure that the federally backed loan can be repaid to investors. Of course, the primary security for the loan guarantee is the jurisdiction's use of its future CDBG as collateral, but HUD wants greater protection. The amount and nature of additional security is determined by HUD on a project-by-project basis. Security might be in the form of a lien on the assets financed by Section 108, or increments in local tax receipts, etc.

Tips for Local Success

Because only 70% of CDBG funds must benefit people with low or moderate income, and because all funding could benefit people with moderate income, many of the lowest-income households realize little benefit from the program. Locally, people can organize to get 100% of a jurisdiction's CDBG dollars to be used for activities that benefit people with low income and can strive to have more of the dollars used to benefit people with extremely low income (income less than 30% of AMI).

The public participation process can be used to organize and advocate for more CDBG dollars to be used for the types of projects people with low income really want in their neighborhoods and then to monitor how funds are actually spent. To do this, advocates should obtain and study a jurisdiction's Annual Action Plan, which lists how a jurisdiction intends to spend CDBG funds in the upcoming year. Advocates should also obtain the Grantee Performance Report (C04PR03), which should provide a detailed, activity-specific list of how CDBG money was spent the previous year. These documents must be available to the public from the staff in charge of CDBG in local jurisdictions, in departments with various titles such as "Community Development."

Funding

Congress appropriated $3.3 billion in FY24, the same as FY23, FY22, FY19, and FY18, but less than $3.475 billion in FY21 and $3.4 billion in FY20. For FY25, the Administration proposed $2.9 billion, while the Senate and House each proposed $3.3 billion. Funding for FY17, 16, and 15 was $3 billion, 25% reductions from FY10's $3.99 billion. As of the date this *Advocates' Guide* went to press, Congress has not made a final appropriation for CDBG.

Forecast for 2025

On January 10, 2024, CPD published proposed changes to the CDBG regulations. Regarding housing, CPD proposes two additional exceptions to the requirement that that 51% of the units in a multifamily property be occupied by low- or moderate-income households; allowing fewer than 51% of the units to benefit lower-income households if necessary to reduce the development cost for either substantially rehabilitating a property or converting a non-residential structure to a multifamily, non-elderly rental project. For these two exceptions, at least 20% of the units must be occupied by lower-income households.

Using CDBG to rehabilitate privately-owned buildings for housing has always been an eligible activity. In 1996, the statute added reconstruction as an eligible use. The proposed rule clearly identifies reconstruction as an eligible activity related to housing. Although not exclusively pertaining to housing, the current regulation allows jurisdictions to use CDBG to acquire real property using a long-term lease, but it does not specify how long the lease must be. CPD's 1998 guidance defined a long-term lease as one that was of 15 or more years. The proposed rule would clarify that a long-term lease is one that was at least 15 or more years.

CDBG regulation requires jurisdictions to use CDBG to meet any of the three "national objectives." However, the rule has not specified a time period for meeting a national objective. CPD proposes requiring CDBG activities to meet a national objective within six years from the date of a jurisdiction's initial drawdown of funds, or the length of the "period of performance," whichever is shorter. The proposed rule would define "period of performance" for the first time; a jurisdiction must expend all the CDBG it received for a program year within six years, beginning on the date CPD approves a jurisdiction's grant agreement and ending six years from that date.

According to the preamble, the primary reason for the proposed changes, the first major revisions in more than 20 years, is to make it easier for jurisdictions to promote the use of CDBG for economic development activities. CPD asserts that the existing regulations are obstacles that prevent the use of CDBG for economic development activities. As proposed, the economic development changes would lessen the rigor for meeting the LMI jobs test, potentially making it easier to use CDBG for economic development activities that might fail the statute's "primary objective" of principally benefiting low- and moderate-income people.

A final version of the proposed rule reached the Office of Information and Regulatory Affairs (OIRA), a part of the Office of Management and Budget (OMB) on October 18, 2024. On January 21, 2025, the OIRA website indicated that the second Trump Administration withdrew the proposed regulation.

For More Information

NLIHC, 202-662-1530, www.nlihc.org.

There are two HUD CDBG web platforms.

- One is the traditional site, https://www.hud.gov/program_offices/comm_planning/cdbg, which recently added an archive of CDBG policy memoranda: https://bit.ly/3RvuDh5 that might be useful.
- The other platform is at the HUD Exchange site: https://www.hudexchange.info/programs/cdbg.

There are two Entitlement program page platforms:

- One on the traditional site, https://www.hud.gov/program_offices/comm_planning/cdbg/entitlement-program.
- One on the HUD Exchange site, https://www.hudexchange.info/programs/cdbg-entitlement.

There are two State program platforms:

- One on the traditional site, https://www.hud.gov/program_offices/comm_planning/cdbg/state_program.
- One on the HUD Exchange site, https://www.hudexchange.info/programs/cdbg-state.

On the HUD Exchange pages, you can find the statute and regulations, FAQs, CPD Notices, and "Explore CDBG," which has a series of online guides (with brief transcripts). Of particular value might be "Basically CDBG Online": https://www.hudexchange.info/trainings/basically-cdbg/ and "How to Use CDBG for Housing Activities.": https://www.hudexchange.info/programs/cdbg/housing-activities/ No longer linked at HUD Exchange but still available are "Basically CDBG for Entitlements": https://bit.ly/3EBD3AB and "Basically CDBG for States,": https://bit.ly/3Ry1W36 which can be opened as PDFs and printed.

There are two Section 108 Loan Guarantee program platforms:

- One on the traditional site, https://www.hud.gov/program_offices/comm_planning/section108.
- One on HUD Exchange, https://www.hudexchange.info/programs/section-108.