



Community Development Division

**Community Development Block Grant Program (CDBG)**

**2020 Community and Public Facilities Application and Guidelines**

**Commerce will receive applications through September 15, 2020**

[DOCCDD@mt.gov](mailto:DOCCDD@mt.gov)

<http://comdev.mt.gov/programs/cdbg>

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Alternative accessible formats of this document will be provided upon request. If you need this document in an alternative format, such as large print, Braille, audio tape, or computer diskette, please contact the Montana Department of Commerce Community Development Division at (406) 841-2770, TDD (406) 841-2702, or the Relay Services number, 711.

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**PROJECT GRANT APPLICATION AND GUIDELINES FOR  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG) – COMMUNITY AND PUBLIC FACILITIES**

**I. Introduction**

The Community Development Block Grant Program (CDBG) is a U.S. Department of Housing and Urban Development (HUD) program designed to help communities provide decent housing, a suitable living environment, and expand economic opportunities for the state’s low- and moderate-income (LMI) residents. The State of Montana receives an annual allocation of federal funds from HUD for CDBG grants and program administration through the Montana Department of Commerce (Commerce). The CDBG program helps local governments complete activities such as drinking water systems, wastewater treatment facilities, community facilities (nursing homes or Head Start centers, for example), job creation and retention, and affordable housing development. CDBG Program application guidelines, the project grant administration manual, and other relevant information and resources are available on the Department of Commerce (Commerce) website <http://comdev.mt.gov/Programs/CDBG>. Interested persons may also e-mail CDD Program staff at DOCCDD@mt.gov or call staff at (406) 841-2770 or Montana Relay Service at (406) 841-2702 or 711 regarding any questions they may have about the CDBG Program.

The State of Montana administers the CDBG Program through five distinct grant opportunities – planning; community and public facilities; economic development; and affordable housing development and rehabilitation; and housing stabilization. These Community and Public Facilities application guidelines establish the process for obtaining CDBG financial assistance for public infrastructure and community facility activities. The application form for these activities and required application materials are contained within this guide. The outline of the preliminary architectural report (PAR) and preliminary engineering report (PER) can be found on the Commerce website at: <http://comdev.mt.gov/Programs/CTAP/Toolkit/Publications>. The PER or PAR will be required depending on your project type. Please note that Montana’s Uniform Application for Montana Public Facility Projects is found in a separate publication, available online at: <http://comdev.mt.gov/Programs/CDBG/Facilities/ApplicationForms>.

Separate application guidelines for CDBG planning, affordable housing development and preservation, economic development, and housing stabilization can found on Commerce’s website <http://comdev.mt.gov/Programs/CDBG>.

**II. Eligible Applicants**

Eligible applicants for CDBG assistance include Montana cities, towns, and counties with populations under 50,000. The cities of Billings, Great Falls, and Missoula, entitlement communities, are not eligible for state CDBG funds as they receive a separate CDBG allocation directly from HUD. State CDBG funds may be used to fund an activity located within the boundaries of an entitlement community if the project primarily benefits residents of a larger area or region beyond the jurisdictional limits of the entitlement community. Tribal governments are not eligible applicants for state CDBG funds but are eligible for Indian CDBG funds directly from HUD. Local governments may also apply for and use CDBG funds for project activities predominantly benefitting residents of Indian reservations.

Local governments may apply for CDBG grants for community or public facility projects owned and operated by non-profit organizations, so long as such facilities are available for use by the general public or eligible clientele. In such cases, the local government is the applicant and grantee and decides the nature and extent of involvement in CDBG-assisted projects and establishes project roles and responsibilities in a project management plan. Non-profit organizations must have an Internal Revenue Service 501(c)(3) or 501(c)(4) non-profit designation to be an eligible subrecipient of CDBG funds. Potential partner organizations may include but are not limited to:

For-profit entities  
Non-profit organizations  
Human Resource Development Councils

Development corporations  
Quasi-governmental organizations  
Water and/or Sewer Districts

## Counties

The county governing body is the appropriate, eligible applicant for CDBG projects intended to:

- resolve problems within the unincorporated jurisdiction of a county;
- resolve problems that are truly countywide, regardless of jurisdiction;
- assist a non-profit entity which serves county residents; or
- resolve problems within the boundaries of county water and sewer districts.

When a county government is the applicant, the CDBG needs assessment process requirement applies to the entire county and not just the specific sub-recipient or unincorporated community sponsored. In addition, the Resolution to Authorize Submission of a CDBG Application contained in these guidelines (Appendix D) must be signed by an elected official of the unit of general local government.

Any CDBG application submitted by a county on behalf of a sub-recipient or unincorporated community should describe:

- the county's overall, countywide community development needs (including the unincorporated geographic area of the county); and
- the particular needs of the entity on whose behalf the county is applying.

The description of the need's assessment process should cover, at a minimum, all of the basic CDBG project categories:

- economic development,
- housing, and
- public facilities.

Counties may apply on behalf of a legally created rural improvement district (RID) that is part of a county or multi-county water and sewer district. Private water or sewer user associations must be legally created as a county or multi-county water and sewer district (Sections 7-13-22 and 23, MCA) before a local government may submit a CDBG application on its behalf. In addition, the municipality or county water and sewer district must provide a written commitment that it will assume responsibility for the long-term operation and maintenance of the proposed improvements upon completion of the project.

Each eligible local government jurisdiction may apply once per application cycle for each of the categories of CDBG grants if the applicant does not have an open CDBG project in the same category. Community Facilities and Public Facilities are considered one grant funding category. The categories of CDBG grant are 1. Community and Public Facilities, 2. Affordable Housing Development and Preservation, 3. Economic Development, and 4. Planning. If an applicant has an open CDBG project in a CDBG project category, that is not substantially complete, a new project application is ineligible. The applicant's capacity and progress on previous CDBG projects will be taken into consideration during application review (see Ranking Criterion 7 in Appendix A for more information on documenting capacity to implement and manage the project).

### III. Eligible Projects

The CDBG program requires projects to meet HUD's national objective to benefit persons of low- and moderate-income (LMI). As indicated in the current Consolidated Plan, Montana's state objectives seek to provide these benefits by improving the safety and livability of neighborhoods and improving access to quality facilities, infrastructure, and services. Accordingly, Montana's CDBG funding is prioritized to projects that best meet these national and state objectives. Please visit the Commerce website for the most current Consolidated Plan and

Montana's state objectives: <https://commerce.mt.gov/conplan/documents>. See Appendix B for more details about the national and state objectives.

Recommendations of CDBG funding are based, in part, upon an analysis of the applicant's proposed level of local financial participation. The maximum grant award will not exceed \$450,000, and applicants must contribute matching funds equal to at least 25% of the total CDBG funds requested for administrative and public facilities activities unless a waiver request is approved.

#### **A. Public Infrastructure**

Public infrastructure projects include, but are not limited to:

- Water or wastewater;
- Sidewalks, curbs, and gutters;
- Flood, drainage, and storm water improvements;
- Parks and playgrounds;
- Police, fire, library, or public school facilities;
- Broadband installation infrastructure and service delivery (area-wide benefit only);
- Solid waste; or
- Removal of architectural barriers to accessibility in any of the above systems, as well as in facilities for the general conduct of government.

For public infrastructure projects, the applicant must demonstrate that 51% or more of the persons residing in the area to be served are low-to-moderate income, either through census data or an income survey. CDBG funds may be used to directly benefit Low-to-Moderate (LMI) persons residing in an area that is ineligible or doesn't meet the '51% or greater' area-wide benefit requirement. Direct benefit assistance may be used to pay directly for activities such as septic tank abandonment, construction necessary to hook to a main, or the LMI individual's assessment to pay for connections to infrastructure improvements. CDBG funds must be prioritized to assist 100% of low-income residents (at or below 50% of Area Median Income) before assisting persons of moderate income (51-80% of Area Median Income).

An applicant applying on behalf of a public school must demonstrate that the proposed project will meet the CDBG National Low- and Moderate-Income Objective.

#### **B. Community Facilities**

For community facility projects, the applicant must demonstrate and document that 51% or more of the persons to be served are low-to-moderate income, either through census data or an income survey (see Ranking Criterion 6 in Appendix A for more information on documenting LMI benefit). If this LMI threshold is not met, CDBG funds can still be used for a community facility which serves a limited clientele that is presumed by HUD to be income eligible, such as people with disabilities, the elderly, homeless persons, or victims of domestic violence. Community facility projects include, but are not limited to:

- Nursing homes;
- Senior centers;
- Food banks;
- Head Start centers or childcare facilities that can document benefit to LMI
- Mental health centers; or
- Transitional housing facilities.

### **C. Eligible and Ineligible Project Expenses**

Project activities eligible for reimbursement with CDBG funding include, but are not limited to:

- Expenses that directly relate to construction activities that implement the scope of work identified in the CDBG grant contract, including materials, labor, land acquisition, and permanent furnishings, equipment, and fixtures;
- Professional services that directly related to design activities that implement the scope of work identified in the CDBG grant contract;
- Repayment of interim financing directly related to project activities that implement the scope of work identified in the CDBG grant contract;
- Special assessments, connection charges, and hook-up fees for LMI residents;
- Legal costs and fees, including bond counsel;
- Direct grant administration expenses, up to a maximum 10% of the total CDBG budget for the project.

Expenses that are not eligible for CDBG funding include, but are not limited to:

- Operation and maintenance costs;
- Temporary furnishings, fixtures, or equipment;
- Any unauthorized costs incurred prior to the date identified in the Notice of Award letter.

Applicants that plan to commence a project before it has been awarded CDBG grant funding should discuss their plans with program staff to ensure they do not take any steps that could violate the various federal, state, and programmatic laws and requirements that apply to projects involving CDBG funds. Some project activities, such as land acquisition, are subject to CDBG regulations even if performed prior to CDBG funding award. After the applicant submits an application, Commerce reserves the right to request or seek out additional information to ensure that all projects meet CDBG regulatory requirements.

### **D. Match Requirements**

Applicants must contribute matching funds equal to at least 25% of the total CDBG funds requested for administrative and public facilities activities unless a waiver request is approved. Sources of eligible matching funds may include:

- a. local general funds or other cash, including loans from traditional lenders;
- b. proceeds from the sale of general obligation, revenue, special assessment or other bonds;
- c. entitlement or formula-based federal or state funds such as federal highway funds or payments in lieu of taxes;
- d. loan or grant funds from a state or federal program;
- e. funds expended for engineering studies, reports, and plans, directly related to the proposed project during the period 24 months prior to the CDBG application deadline.
- f. funds expended after the CDBG application deadline for project management, final architectural or engineering design, and other reasonable expenses necessary to prepare the project as proposed in the CDBG application for the construction phase;
- g. the value of land or materials provided by the applicant to the project, if appraised within a two-year period preceding the application deadline. The appraisal must be conducted by a licensed appraiser.
- h. the value of labor performed by the applicant's employees on the proposed project, after the CDBG project has been approved for funding and a CDBG contract has been signed, as long as the employee is paid at his or her standard hourly rate of pay and the time worked is adequately documented; and
- i. the value of machinery used in the process of constructing the project that is owned (or leased) and operated by the applicant. The value of the use of the machinery will be determined using the Federal Emergency Management Agency (FEMA) equipment rate schedules.

## **Match Waiver**

In cases of extreme financial hardship and where the public's health or safety is affected, applicants may request Commerce to waive the 25% match requirement. In its waiver request letter, the applicant must document that due to financial hardship, without additional grant assistance, the financial burden would be unreasonable. The letter must address all three CDBG waiver conditions listed below:

1. A serious deficiency exists in a basic or necessary community facility or service or the community lacks the facility or service entirely and adverse consequences clearly attributable to the deficiency, have occurred, or are likely to occur.
2. The financial analysis clearly indicates that higher local financial participation is not feasible or appropriate. For water, wastewater, storm sewer, or solid waste projects, user rates would be more than 150% of the target rate (based upon the projected monthly rates with CDBG assistance).
3. Other sources of funding are not reasonably available.

## **E. Public Notice and Participation**

Before application for CDBG funds, both Commerce and applicants for grants must carry out citizen participation in a manner that complies with the current Montana Consolidated Plan. For a proposed project to be eligible for CDBG funds, the applicant must hold a minimum of two public hearings prior to submission of the CDBG application.

The first public hearing provides a forum for considering overall community needs and potentially competing or alternative proposals for CDBG funding within the local government's jurisdiction. In order to ensure the public participation is relevant and timely, the overall community needs hearing should be held within 18 months prior to the date of application.

The second public hearing must be held once the applicant has selected the specific proposed project for CDBG funding. The purpose of the second public hearing is to give citizens and potential beneficiaries of the proposed CDBG project (especially LMI persons) or residents of the project area adequate opportunity to consider the potential impacts and benefits of the community's proposed project and to comment on it, before the community submits the application.

All hearings must provide reasonable and timely access to the hearing, information and records about proposed projects. Local government hearing advertisements should include information such as clear location that is convenient and accessible to potential or actual beneficiaries and accommodations for individuals or groups with disabilities.

For hearings where a significant number of non-English speaking residents might be reasonably expected to participate, federal law requires that arrangements be made to have an interpreter present. Accommodations non-English speaking residents also includes advertisements in language(s) other than English.

Documentation of the required hearings must be submitted with the application for CDBG funds, along with copies of the public notices for the hearings or affidavits of publication for the notices. A verbatim record is not necessary; applicants should provide a list of the names of persons who attended and a summary of comments by local officials and citizens which is sufficient to reflect the comments made by those attending the hearing as well as official responses to concerns or complaints. Hearings should follow local government practice, although not at the exclusion of anything stated above.

For more detailed information regarding the public notice and participation requirements of the CDBG Program, see Ranking Criterion 4 in Appendix A and the sample Public Notices in Appendix C.

#### **F. Additional Considerations**

For CDBG projects, some choice limiting actions may be triggered and could affect project eligibility. A choice limiting action could be triggered when there is acquisition or environmental review. In general, program requirements around the environmental review process are triggered when the public is first made aware of an entity's intent to use federal funds administered by Commerce's Community Development Division (CDD) or at the time the entity conducts the second CDBG public hearing to consider application for federal funds, whichever occurs first. Questions about triggering a choice limiting action, please contact [DOCCDD@mt.gov](mailto:DOCCDD@mt.gov), before applying. For additional information about the Uniform Relocation Act (URA), see Section IV, B, 8.

### **IV. Application Submission**

#### **A. Application Deadline and How to Submit**

Applicants for CDBG funding must submit one (1) hard copy and one (1) electronic copy of the full CDBG application submittal as described below. The hard copy of the full CDBG application submittal must be postmarked or delivered to the Department of Commerce on or before the date in these guidelines:

Community Development Division  
Montana Department of Commerce  
301 South Park Ave  
P.O. Box 200523  
Helena, MT 59620-0523

Applicants will preferably submit the electronic copy of the full CDBG application through the State File Transfer Service at <https://transfer.mt.gov>. To use the file transfer service, create an account in the transfer service, upload the files, and email the transfer to [DOCCDD@mt.gov](mailto:DOCCDD@mt.gov) no later than 5:00 pm on the due date listed above. Please include the name of the applicant and 'CDBG Public Facilities' in files uploaded to the transfer service. Please combine application materials into as few files as possible, this will improve the application receipt process for CDD staff.

#### **B. Application Submittal Contents**

The completed CDBG application submittal should be organized as follows:

- 1. Table of Contents**
- 2. Uniform Application for Montana Public Facility Projects**

Each applicant must provide a completed copy of the current *Uniform Application for Montana Public Facility Projects*, in the CDBG project application <http://comdev.mt.gov/Programs/CDBG/Facilities/ApplicationForms>. For applicants seeking funds for a public infrastructure project, the entire Uniform Application must be completed. For applicants seeking funds for a community facility project, Sections A through D of the Uniform Application must be completed.

If a local government is applying on behalf of a non-profit or for-profit organization that owns and operates, or

will own and operate, a proposed facility or project, the financial information on the Uniform Application must include the information for the organization as well as an electronic only copy of the organization's IRS Form 990 (if non-profit organization) or tax returns (for-profit corporation) for the three most recent years of operation.

### **3. Responses to CDBG Ranking Criteria**

CDBG applicants are required to submit narrative responses that describe the relationship of their proposed CDBG project to each of the ranking criteria detailed in Appendix A, except where otherwise noted. The ranking criteria described in Appendix A are Community Planning, Need for Project, Project Concept and Technical Design, Community Efforts and Citizen Participation, Need for Financial Assistance, Benefit to low and moderate income persons, and Implementation and Management. Each applicant should identify the source of supporting data for any statements made in the application and provide documentation when applicable.

### **4. Preliminary Engineering Report or Preliminary Architectural Report**

The applicant must provide a copy of a Preliminary Engineering Report (PER) or Preliminary Architectural Report (PAR) with the CDBG application, depending on the type of project proposed. These reports describe the technical scope of the problem to be addressed by the project, as well as the components and estimated costs of the proposed improvements or facility, the condition of the existing system, and the alternatives available to resolve the identified problems. These reports must meet the outlines adopted by the Department, which are available online at: <https://comdev.mt.gov/Portals/95/shared/UNIAPPPEROutline.pdf> and <http://comdev.mt.gov/Portals/95/shared/TSEP/docs/Planning/Forms/CDBGPARGuide.pdf>

If a PAR or PER was submitted as part of a previously unsuccessful application and has been modified for the current proposed project, the CDBG applicant must identify new or revised information and any other modifications to the PAR or PER.

### **5. Resolution to Authorize Submission of a CDBG Application**

Each application for CDBG funds must be accompanied by a copy of a resolution formally adopted by the applicant, authorizing the submission of the CDBG application and authorizing the applicant's chief elected official or chief executive officer to act on its behalf to provide additional information as may be requested. The resolution must also indicate the governing body's intent to commit to any funding for the project that will be provided by the applicant. See Appendix D for more information and a sample Resolution.

### **6. Certification for Application to the CDBG Program**

Each applicant must agree to comply with all applicable state and federal laws and regulations in implementing the project using CDBG funds. The application must be accompanied by a copy of a Certification for Application in Appendix E, signed by the chief elected official or chief executive officer, which will be incorporated into the full project and contract if awarded.

### **7. 5-Year Pro Forma for Community Facility Projects**

When a local government is applying on behalf of non-profit or for-profit organization that owns and operates, or will own and operate, a community facility project, the application must be accompanied by a 5-year pro forma income and expense statement. See Appendix F for more information and a sample 5-Year Pro Forma Statement.

## **8. Anti-displacement and Relocation Assistance Plan**

The Uniform Relocation Act (URA) requirements apply if the applicant proposes to use CDBG funds to acquire, rehabilitate, construct, or demolish structures or property. Applicants must demonstrate that the project will comply with requirements of the URA. If proposing acquisition, applicants must provide documentation that the property can be purchased or leased within six (6) months of the date of tentative grant award.

In addition, applicants should consult the CDBG Grant Administration Manual for additional information. In particular, if applicants are contemplating CDBG assistance to properties already occupied by residential households, a General Information Notice (GIN) should be sent as soon as possible to all occupants informing them that the land on which they reside or building which they occupy is being considered to receive CDBG assistance and informing them that there is no intent to evict the occupants or involuntarily relocate them as a result of the proposed CDBG activity.

Land or easements must also not be firmly committed for purchase with CDBG funds or with any other proposed project funds until all CDBG-required URA and environmental review procedures, including a release of funds by Commerce, has been completed. If formal agreements to purchase either land or easements with CDBG or other project funds are executed prior to conduct of the required CDBG environmental review, the integrity of the URA and environmental review process is jeopardized and CDBG funding may be lost. Each application for CDBG funds must be accompanied by a Residential Anti-displacement and Relocation Assistance Plan, which provides the policy that the applicant will follow if project activities trigger the federal Uniform Relocation Act. See Appendix G for more information and a sample Anti-displacement and Relocation Assistance Plan.

## **9. Draft Project Implementation Schedule**

Each application for CDBG funds must be accompanied by a project implementation schedule that describes the overall schedule for project completion, including engineering or architectural and construction. See Appendix H for more information and a sample Project Implementation Schedule.

## **10. Draft Project Management Plan**

Each application for CDBG funds must be accompanied by a draft project management plan that identifies all the project partners, capacity, responsibilities, and roles. See Appendix I for a Project Management Plan template.

## **11. Registration with SAM.gov and DUNS Number requirements:**

The requirement that the local government's DUNS (Data Universal Numbering System) Number must be provided by all applicants is a compliance requirement of the Federal Funding Accountability and Transparency Act of 2006.

Applicants must apply for a DUNS number from the Dun & Bradstreet (D&B) Government Customer Response Center. The application may take place online or over the phone, at 1-866-705-5711. Applicants must also register with SAM.gov (the federal government's contractor registration system) if not already completed. Eligibility to contract for CDBG funds will be checked upon receipt of any application. Please contact Commerce if you have questions.

## **V. Application Review Process**

Community Development Division staff reviews CDBG applications for both technical feasibility and the extent to which the proposed project relates to each of the CDBG ranking criteria. Commerce may request additional information when reviewing an application in order to clarify responses or ensure the project meets national and state CDBG objectives. The Director of the Montana Department of Commerce makes all final decisions on grant awards.

## **VI. Administrative Procedures and Requirements**

Please see the CDBG Grant Administration Manual on the Commerce website for information on how to administer a CDBG project (<http://comdev.mt.gov/Programs/CDBG/Facilities/GrantAdministration>). Successful applicants must submit documentation of meeting start up conditions and any special contract conditions before executing a contract with Commerce. A list of startup conditions and special contract conditions are found in Chapter 1 of the CDBG/NSP Grant Administration Manual on the Commerce website.

In accordance with the national and state CDBG objectives, Commerce may not be able to approve amendments to the scope of a project or budget affecting priority activities that would materially affect the intent or circumstances under which the application was originally ranked by Commerce staff and awarded by the Director. If a grantee requests a modification that significantly affects the scope of work, budget, or implementation schedule, Commerce may temporarily suspend project reimbursements while reviewing the modification request.

**APPENDIX A  
CDBG Ranking Criteria**

**A. Introduction**

CDBG applicants are required to submit narrative responses that describe the relationship of their proposed CDBG project to each of the ranking criteria, except where otherwise noted. Some priorities may be scored using the information provided in the *Preliminary Engineering Report (PER)* or the *Preliminary Architectural Report (PAR)*. For ranking criteria #2 and #3, applicants are not required to provide a narrative response if the PER or PAR addresses the questions, unless there is a need to provide additional information. Applicants must provide a response to each question and may use as many pages as necessary to adequately explain the proposed project.

In order to avoid unnecessary duplication, the applicant may reference other pertinent portions of the application or appendices in the narrative responses to the priorities. However, the applicant should not reference another portion of the application, such as the PER or PAR, without including a narrative statement that provides at least a summary of what is being referenced. For example, an applicant should not simply state, “See page 4 of the Master Plan” as a response to a ranking criterion.

**B. Ranking Criteria**

Each application will be evaluated under the CDBG ranking criteria and will receive points depending upon its overall response to each criterion, relative to local capacity and resources and in comparison, with the other applications submitted. Each applicant should identify the source of supporting data for any statements made in the application and provide documentation when applicable.

The CDBG ranking criteria are listed below and indicate the maximum score that can be obtained for each.

	<u><b>Maximum Possible Points</b></u>
<b>Ranking Criterion # 1</b> (Community Planning)	<b>175 Points</b>
<b>Ranking Criterion # 2</b> (Need for Project)	<b>175 Points</b>
<b>Ranking Criterion # 3</b> (Project Concept and Technical Design)	<b>150 Points</b>
<b>Ranking Criterion # 4</b> (Community Efforts and Citizen Participation)	<b>100 Points</b>
<b>Ranking Criterion # 5</b> (Need for Financial Assistance)	<b>200 Points</b>
<b>Ranking Criterion # 6</b> (Benefit to Low and Moderate Income Persons)	<b>150 Points</b>
<b>Ranking Criterion # 7</b> (Implementation and Management)	<b><u>175 Points</u></b>

## **TOTAL MAXIMUM POSSIBLE POINTS**

**1,125 Points**

A Public Facilities application must receive a minimum score of 700 points in order to be eligible to receive CDBG funds. Failure to respond to a criterion or to comply with a pertinent and important application requirement will result in no points being awarded for that criterion. For ease of reference, any documentation or exhibits related to the applicant's response to a CDBG ranking criterion should be placed in the application immediately following the applicant's narrative response to that criterion.

### **C. Scoring Level Definitions**

#### **Criteria 1, 4, 5, and 7**

The following general definitions are applied to all non-quantitative ranking criteria relative to the overall quality of the applicant's response or situation and relative to the ranking criteria and applicable special requirements. The level assigned will also depend upon the applicant's specific responses to the overall ranking criterion and the applicable ranking issues listed under each criterion.

**LEVEL 5:** In order for an application to receive a "LEVEL 5" it must provide a very complete narration that thoroughly addresses the overall criterion, applicable questions, and meets minimum requirements, including very complete substantive supporting documentation to support its claims. The project demonstrates alignment with the National and State objectives for CDBG as well as the Growth Policy or other planning documents for the jurisdiction. The Applicant's responses would be considered exemplary, particularly innovative, or to be extremely consistent with the intent of the ranking criterion. There are no deficiencies of any significance that were not completely addressed.

**LEVEL 4:** In order for an application to receive a "LEVEL 4" it would have to provide a solid narration addressing the overall criterion, applicable questions, and meets minimum requirements, with strong documentation to support its claims. The Applicant's responses would be considered above average, very thorough, or to be very consistent with the intent of the ranking criterion. A "LEVEL 4" score would not reflect the level of excellence or be as consistent with the intent of the ranking criterion as a "LEVEL 5" would be. The application may not have completely addressed some questions, but these were considered to be minor concerns.

**LEVEL 3:** In order for an application to receive a "LEVEL 3" it would have provided an adequate narrative addressing the overall criterion, applicable questions, and meets minimum requirements, with acceptable documentation to support its claims. The Applicant's responses would be considered average, adequate, or to be generally consistent with the intent of the ranking criterion. The application meets the minimum requirements for responding to the criterion and has documented compliance with the special requirements that are pertinent to the ranking criterion; however, the application may not have adequately considered some questions that may be potentially important.

**LEVEL 2:** In order for an application to receive a "LEVEL 2" it would have provided some narration addressing the overall criterion, applicable questions, and meets minimum requirements, but may have provided weak or inadequate responses and/or documentation to clearly or completely support its claims or compliance with a requirement. The Applicant's responses would be considered below average, inadequate, or not entirely consistent with the intent of the ranking criterion. The application has not met all the minimum requirements for responding to the ranking criterion or has not complied with all the special requirements that are pertinent to the ranking criterion. The application may not have been complete or did not consider or adequately address some questions that are considered to be important.

**LEVEL 1:** In order for an application to receive a "LEVEL 1" it would have serious weaknesses in its narrative responses to the ranking criterion, applicable questions, and lack critical supporting documentation, or would fail to adequately document compliance with one or more of the general, threshold CDBG requirements or a critical special requirement for the category applied for. The Applicant's responses would be considered very weak, seriously inadequate or inconsistent with the intent of the ranking criterion. The application either did not address or did not provide sufficient information regarding several critical questions.

**LEVEL 0:** In order for an application to receive a "LEVEL 0" it would have failed to provide a response of any kind or would not meet a general statutory threshold requirement for the CDBG program that is related to the ranking criterion.

### **Criteria 2 and 3**

Applicants that did not apply to TSEP, but are proposing water, wastewater, storm water, or solid waste projects will be reviewed similarly to the TSEP projects for scoring. If the applicant applied for TSEP, the project will most likely receive the same scores for CDBG Criteria 2 and 3 that were scored for TSEP Statutory Priorities #1 and #3.

### **Criteria 6**

Applicants will be given a score of 0, 100, or 150 points, based on the responses to the percentage of LMI persons served or whether limited clientele is being served in the proposed project. A score of 0 points in Criterion 6 means that the project is ineligible for CDBG funds. See more information under Criterion 6.

The Community Planning criterion considers the following, relative to the capacity of the applicant and other applications:

- The adequacy and thoroughness of the planning process used by the applicant to identify overall community development and housing needs, including the needs of LMI persons, and the activities or actions it plans to meet the identified needs;
- The extent to which the proposed project is consistent with the applicant's community development objectives, as well as the National and State Objectives (Appendix B) for the CDBG Program;
- Whether the applicant has provided a reasonable rationale for selecting the proposed CDBG project over other community development and housing needs that were identified.
- The degree to which the applicant has considered the needs of LMI and other special needs residents and how the proposed project will benefit or impact those populations;
- Whether the applicant has developed and uses its planning documents as a springboard for action in its community,
- The extent to which local citizens have participated in the preparation of plans for the future development of the community, especially preparation of the community Growth Policy and similar plans addressing community development and revitalization needs; and
- The extent to which planning supports community resilience through affordable housing, public works investments, vital employment centers, and the environment.

An adopted CIP is not a prerequisite for applying for CDBG funding, although an applicant will typically receive more points during the ranking process if an adopted CIP is in use. CDBG encourages applicants to budget for and develop a CIP that covers at least a five-year period and meets all of CDBG's CIP requirements.

Commerce's Community Technical Assistance Program is available to provide more information on community planning best practices and may be reached by email at [DOCCTAP@mt.gov](mailto:DOCCTAP@mt.gov) for further guidance.

### **Criterion #1 Questions**

1. Describe and document the community's on-going, long-term commitment to housing by:
  - a. Preparing and adopting a Growth Policy in accordance with Section 76-1-601, MCA, which includes the community's housing goals and objectives; maps and text describing an inventory of housing needs of the community; the projected trends of housing needs of the community over the life of the Growth Policy; and a description of policies, regulations, and other measures to be implemented to achieve the community's housing goals and objectives; and
  - b. Implementing the housing goals and objectives identified in the adopted Growth Policy through policies, regulations, other plans, or other measures in support of housing, such as zoning, subdivision, design standards, community education and outreach, inclusionary housing incentives, etc.
2. Describe the extent to which the applicant has identified, discussed, or planned for its housing needs in any other long-range community plans (master plan, neighborhood plan, housing plan, needs assessment, CEDS, etc.).
3. Has the community developed a Capital Improvements Plan (CIP) consistent with the adopted Growth Policy that considers public infrastructure needs in light of identified housing needs in the jurisdiction?
4. What was the applicant's process and rationale for selecting the proposed affordable housing development

project over other community development needs, including how the proposed project is supported through long range community planning? What specific goals, policies, objectives, or implementation strategies adopted by the applicant support the proposed project?

5. Describe the extent to which the applicant's community planning process and long-range community plans affirmatively further fair housing.
6. Describe how the applicant identified any significant patterns or concentrations of lower income households or groups of other disadvantaged persons within the community? How has the applicant identified, discussed, or planned for the specific housing needs of these persons? Does the applicant show how the proposed project would address these patterns or concentrations, or especially benefit or impact these residents?
7. Describe the efforts the applicant has made to engage residents or otherwise encourage citizen participation in the development of the Growth Policy or other planning efforts to identify, discuss, or plan for housing needs in the jurisdiction.
8. Demonstrate that the proposed project is reasonable and appropriate, given long term demographic trends as reflected by current and appropriate Census estimates – for example, population increases or decreases, growth in unincorporated areas, increases in elderly population, etc.
9. Describe and document the extent to which the applicant:
  - a. Comprehensively plans for community resilience through the availability of affordable housing, investment in public works, creating a diverse economy, and protecting the environment;
  - b. Actively supports the rehabilitation of existing housing units, particularly for those with disabilities and the elderly;
  - c. **Public Facilities projects only:** prioritizes funding toward existing community revitalization to improve the efficiency of public works investments while safeguarding rural landscapes and natural resources;
  - d. **Community Facilities projects only:** Prioritizes the development or rehabilitation of community facilities and services, particularly those serving the disabled and the elderly, in walkable neighborhoods or where served by public transportation systems.
10. **For Public Facilities projects only:** In addition to capital improvements planning, describe additional efforts to deal with overall community public facilities problems. This may include raising taxes, monthly user charges, hook-up charges, impact fees or fee schedules to the maximum reasonable extent to provide funds for improvements to the proposed project or by securing other federal, state and local funds to address community needs.
11. Is the project located in an Opportunity Zone?  
Opportunity Zone locations may be found here: <http://comdev.mt.gov/programs/opportunityzones>.

A PER or PAR is required for all applications in addition to responses to questions in each criterion in narrative form. The applicant can refer to supporting documentation in the PER or PAR, including the relevant page number or section, if applicable.

The Need for Project criterion considers the following, relative to the capacity of the applicant and other applications:

- Addressing community needs directly related to protection of public health and safety, in these cases, CDD will also consider the proportion of the total community assisted and the effects on LMI or special needs residents;
- Addressing community facility or public facility problems which especially affect low-income residents of the community or and giving priority to limited clientele<sup>1</sup> populations, with access to safe and efficient public infrastructure or community facilities; and
- Documentation of the need through a thorough analysis of the community's overall need for the community facilities or public facilities that promote healthy, safe, and walkable neighborhoods which safeguard the environment, as well as the needs within the project area, or for the persons to be assisted by the proposed project.  
Priority will be given to projects that are designed to eliminate serious and immediate threats to the public's health or safety. Combining high priority activities with lower priority activities may result in the assignment of a lower overall score.
- In documenting the need for the proposed CDBG project activities, applicants should address the immediacy of the community or public facility problem to be addressed with CDBG funds, including the cause of the problem, how long the problem has existed, and/or how often it has recurred.

### **Criterion #2 Questions**

1. Do one or more serious deficiencies exist in a basic or necessary community public facility or service, such as the provision of a safe domestic water supply, or does the community lack the facility or service entirely? Will all deficiencies be corrected by the proposed project?
2. Have serious public health or safety problems that are clearly attributable to a deficiency occurred, or are they likely to occur, such as illness, disease outbreak, or safety problems or hazards?
3. Does the problem currently exist; is it continual, and long-term, as opposed to occasional, sporadic, probable or potential? Describe the nature and frequency of occurrence. Provide supporting documentation.
4. Is the entire community or a substantial percentage of the residents of the community seriously affected by the deficiency, as opposed to a small percentage of the residents?
5. Is there clear documentation that the current condition of the public facility (or lack of a facility) violates a state or federal health or safety standard? If yes, describe the standard being violated.

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<sup>1</sup> For a proposed project to qualify as serving Limited Clientele, the project must benefit clientele who are generally presumed by HUD to be principally low-moderate persons (24 CFR570.483(b)(2)(ii)(A)). These include, as defined by HUD, abused children, elderly persons (age 62 or older), battered spouses, homeless persons, severely disabled adults (as defined by the Bureau of Census), illiterate adults, persons living with AIDS, and migrant farm workers.

6. Does the standard that is being violated represent a significant threat to public health or safety? For each standard being violated, identify which of the public health or safety problems are associated with it.
7. Is the proposed CDBG project necessary to comply with a court order or a state or federal agency directive? If yes, describe the directive and attach a copy of it.
8. Are there any reliable and long-term management practices that would reduce the public health or safety problems?
9. Does the proposed project directly assist low income residents of the community or limited clientele? If yes, describe and document the need of that clientele community.

A PER or PAR is required for all applications in addition to responses to questions in the criterion in narrative form. The applicant can refer to supporting documentation in the PER or PAR, including the relevant page number or section, if applicable.

The Project Concept and Technical Design criterion considers the following, relative to the capacity of the applicant and other applications:

- the degree to which the applicant has developed a reasonable, complete, and appropriate proposal for dealing with its public facility need, and
- the degree to which the proposed project addresses the problem and provides a reasonably complete, cost-effective, and long-term solution in relation to the applicant's financial and management capacity and available funding sources.

### **Criterion #3 Questions**

#### **All Projects Respond to Questions 1-6**

1. Does the proposed project completely resolve all of the identified deficiencies? If not, does the proposed project represent a complete and reasonable component of an overall long-term program or master plan for scheduled improvements for the facility or system? What deficiencies will remain upon completion of the proposed project and how and when will they be addressed?
2. Are the deficiencies to be addressed through the proposed project the deficiencies identified with the most serious public health or safety problems? If not, describe why the deficiencies to be addressed through the proposed project were selected over those identified with greater public health or safety problems?
3. Discuss how reasonable alternatives were considered and the rationale for selecting the proposed project.
4. Document that all projected costs are reasonable and well supported.
5. Demonstrate the assessment of all potential technical, environmental, regulatory or other problems. Are there any apparent technical, environmental, regulatory or other problems that could delay or prevent the proposed project from being carried out or which could add significantly to project costs
6. Document any comments solicited and received from appropriate public and qualified private agencies concerning the proposed project's concept, design, and long-term operating plans for the project.

#### **Community Facility Projects Also Respond to Questions 7-9**

7. Does the proposed project include rehabilitation of a structure that was constructed prior to 1978?
8. Describe how the analysis of any potential environmental concerns (such as lead-based paint, asbestos, and requirements for the preservation of historic architecture) has been closely coordinated with the project design, cost, and consideration of alternatives?
9. Describe how that the proposed project strategy is reasonable and appropriate regarding:
  - a. The extent of improvements that are proposed;
  - b. Project location and proximity to services;
  - c. Energy efficiency and renewable energy options;

CDBG grant applicants are encouraged to integrate renewable energy generation and energy efficiency measures in their projects. These measures help reduce energy costs, which can facilitate improved operations and maintenance, and HUD released a toolkit to help grantees integrate renewable energies into their project. HUD and the Department of Energy (DOE) announced a goal of generating 300 MW of energy through renewables for low-and-moderate income housing by 2020 and broadening the goal to include community and shared solar installations. More information on HUD's Renew 300 initiative can be found online [here](#). HUD also released a toolkit to help CDBG grantees integrate renewable energies into their projects that can be found on HUD's website [here](#).

### **Drinking Water System Projects Also Respond to Question 10**

10. For projects involving community drinking water system improvements, is there a water metering system for individual services or a plan to install meters?

The “Community Efforts and Citizen Participation” criterion considers the following: relative to the capacity of the applicant:

- the applicant’s overall long-term efforts to improve the community over time, including efforts to secure federal, State, and local funds to address community needs;
- the thoroughness of the applicant's past efforts to address community development and public facilities problems, specifically with local resources, including efforts of local volunteers and community service organizations;
- other non-financial community efforts by the applicant to assure adequate and cost-effective community and public facilities;
- Documentation of the required public hearings.

See Appendix C for detail on citizen participation and public hearing requirements.

### **Criterion #4 Questions**

#### Citizen Participation

1. Provide documentation of the dates, times, and locations of the two required public hearings and provide copies of attendance lists, meeting summaries, or minutes sufficient to reflect comments made by local officials and the citizens attending.
2. What efforts were made to solicit identification of overall community needs to facilitate a meaningful discussion and identification of community development projects during the first public hearing?
3. How does the public participation process include and address the needs of LMI residents, limited clientele, or disadvantaged groups in the community?
4. Identify and describe the process used and efforts made to elicit citizen participation in the selection of the proposed CDBG project, responses to comments or questions heard and project area during the second public hearing. In addition to including documentation of public hearings, include relevant documentation of newspaper articles, copies of special mailings, public opinion surveys, letters of support, etc., if applicable.
5. ? Provide documentation demonstrating that the project reflects the expressed preference of potential project beneficiaries regarding project details such as location, design, and scope.

#### **Local Community Improvement Efforts and Activities**

7. Describe local government efforts to target funding or activities toward existing communities to increase community revitalization, improve the efficiency of public works investments, develop or rehabilitate affordable homes, and safeguard rural landscapes and natural resources.
8. Describe efforts the community has taken to enhance the unique and resilient characteristics of the community by investing in healthy, safe, and walkable neighborhoods – rural, urban, and suburban.

9. Describe the efforts the community has taken to encourage the development and rehabilitation of community facilities and services located within walkable neighborhoods and/or served by public transportation systems, particularly for special needs and elderly residents.
10. Describe the efforts the community has taken to encourage activities that support and strengthen new and existing businesses, particularly those located within traditional downtown business centers comprising a mix of businesses, housing, and services.
11. What actions and activities has the community recently undertaken to meet the needs of LMI persons, limited clientele or disadvantaged populations in the community??

This criterion will assess the applicant's need for financial assistance by examining each applicant's relative financial need compared to other applicants. The financial assessment will determine whether an applicant's need for CDBG assistance is comparatively greater or weaker than other applicants. This criterion considers the following, relative to the capacity of the applicant, whether:

- Commerce's analysis of financial indicators demonstrates that the applicant's need for CDBG assistance is comparatively greater than other applicants' needs;
- The applicant's presentation of the proposed project budget and financing strategy,
- The applicant has demonstrated that the level of local financial participation in the proposed project is the maximum that can reasonably be expected;
- The amount of CDBG assistance requested per benefiting household is reasonable, in comparison to other applications; and
- For water and wastewater projects, projected monthly user charges would change as a result of the project to an amount equal to or greater than the current target rate for the community, including the requested CDBG assistance. Target rate information is located on Commerce's website:  
<http://comdev.mt.gov/Resources/Financial/TargetRate>

Determination of scores for this criterion will consider the following factors:

- Millage assessed in comparison to median household income (MHI)
- Target rate comparison to user rates at end of project (excluded for Community Facilities)
- Applicant tax revenues in comparison to number of households
- Poverty

Commerce will use information and statistics from the U.S. Census Bureau, Montana Department of Revenue and most current Uniform Application Form to complete this assessment. **Applicants do not need to provide data but must respond to the questions below.** Commerce staff will use information and statistics from the U.S. Census Bureau, Montana Department of Revenue, HUD and most current Uniform Application Form to complete this assessment. However, if an applicant believes this data does not accurately reflect its financial commitment or ability to provide matching funds, the applicant may provide information and/or documentation regarding such extenuating circumstances. Applicants for Public Facilities projects should submit documentation of their water and wastewater rate schedules. Further guidance on target rate analysis is found in Appendix J of these guidelines.

This criterion will assess the applicant's need for financial assistance by examining each applicant's relative financial need compared to other applicants. The financial assessment will determine whether an applicant's need for CDBG assistance is comparatively greater or weaker than other applicants.

Community Facility Projects: Often the unique clientele served by a community facility project have unique financial situations and limitations. These facilities typically do not receive funding from local governments. Therefore, the financial analysis for projects that provide less than a community-wide benefit (Head Start Centers, Child Care Centers, Nursing Homes, Mental Health Facilities and Senior Citizen Centers that serve limited populations) but serve a specific group of people will include:

- documentation of the existence of a funding gap,
- availability of other funding sources to complete the proposed project, and
- the need for CDBG grant funds.

## Criterion #5 Questions

1. What efforts were made to consider all appropriate federal, state and local, public and private funding sources that could potentially assist with this project?
2. . What is the extent of the local government's financial investment in the proposed project?
3. Document that the CDBG funds requested do not exceed \$20,000 per LMI household or individual assisted. If CDBG funds requested exceed \$20,000 per LMI household or individual assisted, Commerce may consider a waiver request, if submitted.
4. Discuss and document efforts by the applicant or non-profit or for-profit to make local contributions to the project, such as:
  - a. local cash or in-kind contributions to proposed activities;
  - b. absorbing some or all administrative costs; and/or
  - c. other forms of direct financial or in-kind contributions to support the project.
5. If the project will be completed in collaboration with an entitlement community, what is the expected contribution of entitlement community funds providing a reasonable share of the project costs?
6. For Public Facility projects only: Without the requested CDBG assistance, would monthly user charges increase as a result of the project to an amount above the target rate for the community? Please explain.
7. For Community Facilities projects only: What is the net revenue of the for profit, non- profit or local public agency that will be implementing the project and how it will be used for this project? If available revenue will not be used of this project, discuss the rationale. Additionally, discuss and document, if applicable, the following:
  - a. Existence of a funding gap;
  - b. Availability of other funding sources to complete the proposed project;
  - c. the need for CDBG grant funds.

In order to qualify for CDBG funds, a minimum of 51% of the beneficiaries must be documented as persons of low- and moderate-income (LMI). The process used to document LMI and paperwork submitted with the application must be consistent with the CDBG handbook “Documenting Benefit to Low and Moderate Income Persons”.

Benefit to low and moderate income persons can be documented in three ways:

- Area wide benefit by using the recorded LMI percentage as provided by the 2015 Census which is available on the CDBG website and follow the methodology as listed in the CDBG handbook “Documenting Benefit to Low and Moderate Income Persons”. All applicants must use the most current HUD data; or
- Limited clientele by describing and documenting how the proposed project qualifies under “limited clientele” as defined by HUD, or
- Direct Benefit by conducting a survey that meets the requirements of the CDBG handbook “Documenting Benefit to Low and Moderate Income Persons” and a description of the process used to document direct benefit.

For this ranking criterion points will be assigned, upon review of documentation, in the following manner:

<u>Percent of LMI Documented</u>		<u>Points Awarded</u>
0% - 50.9% percent LMI	-	0 Points ( <i>Project ineligible</i> )
51.0% - 74.9% percent LMI	-	120 Points
75.0% - 100% percent LMI or limited clientele	-	150 Points

All documented LMI percentages will be rounded down, for instance 74.3% LMI will be considered 74% LMI.

All applicants must provide:

- a completed copy of the Benefit to LMI Form (found in this Criterion) and
- a narrative response that explains and documents how the proposed project will principally benefit LMI persons, including specific documentation supporting claims of proposed benefit.

Applicants using an income survey must provide:

- a copy of the income survey materials, results of the survey (number received of number sent), and narrative to document how they arrived at the LMI percentage, relevant documentation to meet the CDBG requirements described in the “Documenting Benefit to Low and Moderate Income Persons” Handbook.

Applicants using limited clientele must provide:

- narrative and documentation of how the project will primarily serving limited clientele.

Applicants must assure that any activities proposed will not benefit *moderate* income persons in a manner that would exclude or discriminate against *low* income persons.

In projects where direct financial assistance to LMI persons/households is proposed (such as paying assessments or hook-up costs for LMI households), explain how LMI status will be documented by describing how the project will confirm the LMI status of beneficiaries and limit benefits to only LMI households or persons.

If necessary, describe how funds will be distributed first to low-income and then to moderate-income beneficiaries if funds are available.

### **Area Wide Benefit Considerations:**

Area wide benefit, LMI census data information for counties, cities, towns, and unincorporated areas (if located within a Census Designated Place) is available at: <http://comdev.mt.gov/Resources/Financial/TargetRate>.

Applicants proposing to use CDBG funds for area-wide benefit activities must provide documentation that at least 51% of the proposed beneficiary population consists of LMI persons. The actual project area boundaries must be clearly delineated because they determine which households would be served and, therefore, affect the calculation of the LMI benefit. A water well project, for example, that is part of a town's existing water supply would benefit all residents that receive water service. In such a case, the community-wide LMI percentage would be the appropriate figure to quantify benefit.

In 2019 HUD released a video to provide a helpful for understanding HUD low and moderate income summary data and the methodologies used by CDBG applicants to determine whether or not a CDBG-funded activity qualifies as a Low/Mod Area Benefit activity (LMA). This video can be viewed at the following web site: <https://www.hudexchange.info/news/demonstrating-area-benefit-to-low-and-moderate-income-persons-video-for-cdbg-grantees/>

Montana communities considering the submittal of CDBG applications based on demonstrating an area benefit to LMI households are urged to review this HUD guidance. This website also includes a Map Application under Data Sets. The HUD mapping application allows the user to view low- and moderate-income information by County, Census Designated Place, or Census Block Group for any location within the United States. This application overlays selected U.S. Census geographic boundaries on an aerial photograph or other basemap option which can be printed.

### **A Special Note for Schools**

Montana school districts considering seeking the sponsorship of a local government to submit a CDBG application to carry out a school improvement activity must be able to demonstrate that at least 51% of the households served by the school district are LMI since all the school district's residents would share equally in the financial benefit from the CDBG assistance. Just as the case for any CDBG local government applicant, this basic requirement can be met by use of HUD summary data or by conducting an LMI income survey.

If using HUD summary data, school districts would have to demonstrate that the school district boundary closely corresponds to the level of U.S. Census geography for which HUD data is available, whether for a local government, census designated place, census tract, or census block group, or else carry out an income survey. In some cases, it may be necessary to combine HUD summary data from several census areas to demonstrate that a majority of the district's households are LMI. In all these cases the school district should contact CDD staff for guidance and assistance.

### **Limited Clientele**

If the proposed project activity will principally benefit any of the following limited clientele populations, as defined by HUD, the project will be presumed to benefit at least 75% LMI persons and will be assigned 150 points. The applicant must provide some form of documentation to verify that the services provided by the organization primarily serve a limited clientele population.

HUD defines the limited clientele populations is below:

- abused children
- elderly persons (age 62 or older)
- battered spouses
- homeless persons
- severely disabled adults or children
- illiterate adults
- persons living with AIDS
- migrant farm workers

**CDBG Benefit to LMI Form**

A	B	C	D	E	F
<b>ACTIVITY DESCRIPTION</b> (Do <i>not</i> include <i>administrative</i> activities)  Indicate whether calculations are shown for <b>Households [H__]</b> or <b>Persons [P__]</b>	<b>NUMBER OF HOUSEHOLDS OR PERSONS THE ACTIVITY WILL SERVE</b>	<b>NUMBER OF <u>LMI</u> HOUSEHOLDS OR <u>LMI</u> PERSONS THE ACTIVITY WILL SERVE</b>	<b>PERCENTAGE OF <u>LMI</u> HOUSEHOLDS OR <u>LMI PERSONS</u> THE ACTIVITY WILL SERVE</b>	<b>AMOUNT OF CDBG FUNDS FOR THE ACTIVITY</b>	<b>AMOUNT OF CDBG FUNDS THAT WILL BENEFIT LMI FOR THE ACTIVITY</b>
1.			( % )	\$	\$
2.			( % )	\$	\$
3.			( % )	\$	\$
				Total \$	Total \$

**Overall Percent Benefit to LMI Households = Column F = \_\_\_\_\_ % LMI Benefit**  
**Column E**

The calculation of benefit to LMI households or persons using the form is a two-step process. First, the percentage of benefit to LMI households (or persons) must be calculated for each activity. The percentages must be applied to the CDBG funds requested for each activity to determine total number of dollars that will benefit LMI households or persons. Each step in the calculation is described below.

Applicants must complete the form above to determine the total CDBG dollar and percentage benefit that will result from their proposed projects. Either households or persons may be used as the basis for calculation as long as the method selected is consistent with the method used to verify the household income levels. Contact CDBG to help determine whether your benefit calculation should be for households or persons.

1. In column A, describe the activity by name, such as "Reconstruct the Wastewater Treatment Facility" or "Complete Final Engineering Design." Do not include administrative activities. The activities should be the same as shown on the application budget form under "ACTIVITY."
2. In column B, list the total number of households [or persons] that the activity will serve.
3. In column C, list the number of LMI households [or persons] that the activity will serve.
4. In column D, list the percentage of LMI households that the activity will serve. This is derived by dividing the number in column C by the number in column B for that activity.
5. In column E, list the total amount of CDBG funds requested for the activity. This should be the same as shown on the application budget form under "ACTIVITY". In column F, list the amount of those funds that will be used to benefit LMI households. This is derived by multiplying column E by the percentage in column D.
6. At the bottom of column E, list the total amount of non-administrative CDBG funds by adding up the CDBG funds requested for each activity.
7. At the bottom of column F, list the total amount of funds that will be used to benefit LMI households by adding up the amount of funds to benefit LMI households for each activity.
8. Determine overall benefit by dividing the total of column F by the total of column E to get the total CDBG project benefit to LMI households. List the percentage at the bottom of the Benefit to LMI Form.

The Implementation and Management criterion considers the following, relative to the capacity of the applicant and other applications:

- Whether the applicant has clearly demonstrated that the project is feasible and achievable, taking into consideration the nature of the project activities, the size and resources of the community, the budget, and implementation schedule proposed.
- The soundness and appropriateness of the applicant's plan for assuring proper overall management of the CDBG project, including financial management of grant funds, compliance with state and federal requirements, and cost-effective completion of project activities.
- The applicant's readiness to implement the project if awarded CDBG funds, including the firm commitment of all non-CDBG funds and resources within nine (9) months of the grant award.
- Whether the applicant (or sub-recipient entity) has carefully considered all potential environmental, regulatory, and technical issues which could impact the timely start-up and successful implementation of project activities.
- The soundness of the applicant's (or subrecipient entity's) plans for assuring effective operation and long-term management of any assisted public or community facility; and
- The applicant's performance on past CDBG funded projects.
- Compliance with Uniform Relocation Act requirements.

### **Criterion #7 Questions**

#### **Project Management Plan and Implementation Schedule**

1. Document firm commitments for assistance from other local, state or federal funding sources necessary to complete the proposed project. If firm commitments from all non-CDBG sources are not available at the time of application, how will firm commitment of all funding sources be documented within nine(9) months of CDBG award?
2. Provide a narrative demonstrating that the proposed project is feasible and achievable, coordinated with other funding sources, and takes into consideration the nature of the project activities, the size and resources of the local applicant government, the budget, and implementation schedule proposed.
3. Provide a description and history of the system or project's operation and maintenance budgets and practices. Describe how additional future improvements can be funded through reserves or depreciation accounts and not require additional assistance from state or federal grants.
4. If an applicant has open CDBG grant(s) in another project category, explain whether the project activity(ies) has/have been completed in compliance with the project implementation schedule, describe the applicant's ability to carry out project activities, and whether there are any unresolved audit or monitoring findings related to any previous CDBG grant award.

#### **Proposed Project Budget and Budget Narrative**

5. Ensure responses in the Uniform Application thoroughly define and justify each budget line item.
6. Ensure responses in the Uniform Application include a budget narrative outlining the rationale and assumptions for each line item that specifies the work to be completed under each budget line item.
7. Is there enough funding for relocation costs, as applicable?

8. Describe the plan for assuring adequate, long-term management and operation and maintenance of the facility or project including staff and financial resources?

**For Projects Involving Non-Profits, For-Profits, Local Public Agencies, or other Partner Organizations**

1. Include an Operating Plan for any organization that is proposed as a CDBG grant subrecipient/partner. Each Operating Plan must include the following elements with sufficient detail for adequate analysis:
  - a. A description of the organization and its purpose and history.
  - b. A description of the service(s) provided, geographic service area and potential for expansion of services provided or the service area. Describe the target population served (age, sex, special needs, etc.).
  - c. A description of how the CDBG project will affect the services to be provided and how the organization and its members or clientele will be affected if CDBG funds are not received.
  - d. A description of how the organization's or agency's finances are managed and whether they are formally reviewed on a regular basis.
2. The organization must be able to demonstrate that projected income will be sufficient to cover any projected debt service and current and projected operating costs, including long-term operation and maintenance. Each applicant submitting an application on behalf of a non-profit or for-profit organization must include the following financial exhibits with the application:
  - a. Financial statements for the three most recent years of operation including a balance sheet describing assets and liabilities, profit and loss statements, a revenue and expense statement, and cash flow statements as applicable to the type of organization or agency.
  - b. Financial statements, compiled or reviewed by an independent certified public accountant with full disclosure notes are required for businesses or organizations or agencies that have been in operation for more than one complete fiscal year. All financial information must be signed by a responsible officer for the organization or public agency.
3. Document the successful past long-term performance of the non-profit or for-profit organization(s) or local public agency.
4. Discuss and document the organization(s)' capacity to assure cost-effective, long-term management of the facility.
5. A non-profit organization must submit verification of its IRS 501(c) status.

**Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) Considerations**

1. Submit an Anti-displacement and Relocation Assistance Plan with the application. A template can be found in Appendix G of these application guidelines.
2. Does the applicant own the property and/or easement(s) on which the proposed project will take place? If yes, please answer the following questions and provide supporting documentation:
  - a. When were the property and/or easements acquired?
  - b. When did the applicant begin considering the use of federal funds for the proposed project?
  - c. If federal funds were considered for the proposed project before the property was acquired:
    - i. Please provide documentation that the owner made aware of his/her rights under the Uniform Relocation Act including the right to receive fair market value for the property/easements.
    - ii. Was the fair market value established prior to purchase?
    - iii. Was fair market value offered to previous owner?
3.
  - a. Will property need to be acquired to complete this project?
  - b. Will easement(s) need to be acquired to complete this project?

4. If the answer to either question 1a. or 1b. is 'yes', the applicant will need to document compliance with URA and answer the following questions.
  - a. If property or easements will be acquired to complete this project, what steps will the applicant take to document compliance with URA?
  - b. If property or easements have been acquired to complete this project, please provide evidence documenting the following:
    - The fair market value of the property or easement was established by a certified, licensed appraiser
    - The seller has been made aware of his/her rights under the URA;
    - The seller was made aware of the fair market value of the land and/or easement, and his/her right to just compensation;
    - The sale is voluntary; and
    - The acquisition process is URA-compliant.
  
5. If CDBG assistance is proposed for a project involving a property that is currently occupied, please provide documentation demonstrating the General Information Notice (GIN) was received by all occupants informing them that the land on which they reside or building which they occupy is being considered to receive CDBG assistance and informing them that there is no intent to evict the occupants or involuntarily relocate them as a result of the proposed CDBG activity.
  
6. Will any person or business need to temporarily relocate to complete this project? Will this temporary relocation last for more than one year? If the proposed project involves temporary relocation:
  - a. Identify each household and/or business that will need to be temporarily relocated.
  - b. How will the temporary relocation affect the project budget?
  - c. How will the temporary relocation affect project implementation and/or project construction?
  - d. Who will be responsible for documenting compliance with URA?
  - e. Will any person or business be prohibited from returning after temporarily relocating

### **Procurement of Services**

1. If procurement is necessary for design, implementation, and/or management of the project and has already been completed, please provide the following documents:
  - a. Affidavit of Publication for the Section 3 Notice
  - b. Direct Solicitation of Disadvantaged Business Enterprises
  - c. The full Request for Proposals (RFP) or Request for Qualifications (RFQ)
  - d. The affidavit of publication for the RFP/RFQ
  - e. Meeting minutes and/or interviews with prospective entities
  - f. The scoring criteria used to select the successful entity
  
2. If procurement is necessary for design, implementation, and/or management of the project and has **not** already been completed, describe the steps that will be taken to document procurement and that will comply with CDBG procurement requirements and state law.

### **Program Income**

Program Income is income earned by a grantee from a CDBG-supported activity, such as repayments of principal or interest to a local revolving loan fund program generated by housing rehabilitation activities. These funds are usually received after a project has been completed and closed out and are retained at the local level.

1. If a community received program income from a previously funded CDBG project, include program income earnings to date, activities funded, and any available balance.

2. If program income is expected as a result of this or other CDBG projects, how does the applicant intend on using the program income after the completion of the project?
3. For previous projects that receive program income, has the applicant submitted the annual program income report to CDBG?

### **Financial Management System and Audits**

Commerce will check with the Department of Administration's Local Government Assistance Bureau for information about compliance with these requirements

1. Is the applicant compliant with the auditing and annual financial reporting requirements provided for in the Montana Single Audit Act, 2-7-501 to 522, MCA?
2. Has the applicant established a financial accounting system to properly account for grant funds according to generally accepted accounting principles?

### **Status of Past and Current CDBG Funded Projects**

1. How were any state and/or CDBG audit findings or monitoring findings directly related to a previous CDBG grant award were satisfactorily addressed.

### **Environmental Review**

1. Has the applicant completed and included the environmental checklist found in the Montana's Uniform Application?
2. Has the applicant included documentation of direct contact with all appropriate state or federal agencies to answer the Environmental Checklist's questions?
3. Has the applicant thoroughly completed the environmental checklist by:
  - a. providing thorough and credible responses to each item, and
  - b. supplying specific sources of information for each of the environmental checklist topic areas?
4. Has the applicant described its efforts to avoid adverse environmental impacts on the project including proximity to flood plains, hazardous facilities or sites, or incompatible land uses? (See the Environmental Checklist.)
5. If any concerns or adverse impacts have been identified, has the applicant provided appropriate responses to mitigate them?
6. Has the applicant explained how the analysis of any potential environmental concerns (such as lead-based paint, asbestos, and requirements for the preservation of historic architecture) has been closely coordinated with the project design, cost, and consideration of alternatives?

### **Project Aggregation**

Project aggregation should be considered and included during the development of environmental review documents and process. To consider project aggregation a grantee must group together and evaluate, as a single project, all individual activities which are related either on a geographical or functional basis, or logical area parts of a composite of a contemplated project. The aggregated project should capture the maximum scope of the proposed project that relates to functional or geographical aggregation, not just a single activity that the federal dollars are funding.

- Functional aggregation is when a specific type of activity (e.g., water improvements) is to take place in several separate locations.
- Geographical aggregation is when a mix of dissimilar but related activities are concentrated in a specific project area (e.g., combining water, sewer and street improvements and economic development activities).

The purpose of project aggregation is to group together related activities so the grantee can:

- Address adequately and analyze, in a single environmental review, the separate and combined impacts of

activities that are similar, connected and closely related, or that are dependent upon other actions or activities,

- Consider reasonable alternative courses of action,
- Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects; and,
- Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.

To consider project aggregation, an applicant should consider the following questions. Please respond the questions below in narrative form:

1. Is the project site just one phase of a large development?
2. Is the activity part of a larger project?
3. Have additional phases of the project applied for funding?
4. Do the activities take place in a target area where a whole range of varying activities are planned?

If any of the above are yes, the project should be aggregated and the composite of the contemplated project should be used as the activities included in the environmental review process; and most specifically in maps, pictures or other narrative that is used during the environmental review process.

## APPENDIX B CDBG National and State Objectives

This appendix will be used to help determine how the proposed project will further the state's community development objectives identified in the 2015-2020 Montana Consolidated Plan. Commerce may use this appendix to prioritize proposed projects in light of available funding.

### **National Objective:**

Montana CDBG program require projects meet the benefit to low- and moderate- income (LMI) national objective. Proposed community and public facilities projects meet this national objective by providing new or improving existing public infrastructure or community services to communities where 51% or more of the population is LMI or by providing direct assistant to persons of LMI. Proposed projects that do not meet the LMI national objective will not be funded.

### **State Objective:**

The goals of the HUD programs administered by the state of Montana are to provide decent housing, a suitable living environment, and expanded economic opportunities for the state's low- and moderate-income residents. The state of Montana strives to accomplish these goals by maximizing and effectively utilizing all available funding resources to conduct housing and community development activities that will serve the economically disadvantaged residents of the state. By addressing need and creating opportunity at the individual and neighborhood levels, the state of Montana aims to improve the quality of life for all residents of the state. HUD's Community and Development Programs help to develop viable communities by funding a number of potential activities within the umbrella of the following three goals:

- *Providing decent housing* by obtaining appropriate housing for homeless persons and assisting those at risk of homelessness; preserving the affordable housing stock; increasing the availability of permanent affordable housing, without discrimination; increasing the supply of supportive housing for persons with special needs; and providing affordable housing near job opportunities.
- *Providing suitable living environments* by improving the safety and livability of neighborhoods; improving access to quality facilities, infrastructure, and services; reducing the isolation of income groups within communities through de-concentration of low-income housing; revitalizing deteriorating neighborhoods; restoring and preserving properties of special historic architectural or aesthetic value; and conserving energy resources.
- *Expanding economic opportunities* by creating and retaining jobs; establishing, stabilizing, and expanding small businesses; providing public employment services; encouraging the employment of low-income persons in projects funded under this Plan; providing reasonable mortgage financing rates without discrimination; providing access to capital and credit for development activities that promote long-term economic and social viability of the community; and reducing generational poverty of those living in publicly assisted housing by providing empowerment and self-sufficiency opportunities.

The state of Montana works to integrate efforts in these three areas into broader community development of public and community facilities, economic development, and housing strategies that recognize the limitations in traditional affordable housing initiatives, and look to identify and capitalize on opportunities to innovate. The state of Montana seeks to identify projects that satisfy criteria developed to help communities improve access to affordable housing and transportation while protecting the environment, and will leverage emerging data and tools that measure the true cost of commuting to residents of affordable housing.

The following list presents the objectives and outcomes of the 2010-2015 Montana Consolidated Plan for Housing and Community Development. There may be a need to direct and refine such resources by use of project selection criteria, which may be updated annually, based upon year-to-year need and local circumstances. The objectives and intended outcomes the state will pursue over the next five years are as follows:

*1. Support existing Montana communities:*

- a. Target funding toward existing communities to increase community revitalization, improve the efficiency of public works investments, and safeguard rural landscapes and natural resources;
- b. Encourage appropriate and comprehensive planning, market studies, preliminary architectural reports, and other studies or plans that support the sustainability of local communities, affordable housing, public works investments, vital employment centers, and the environment;
- c. Enhance the unique and resilient characteristics of all communities by investing in healthy, safe, and walkable neighborhoods—rural, urban, or suburban;
- d. Encourage the rehabilitation of existing rental and owner-occupied homes, particularly for those with special needs and the elderly;
- e. Encourage the development and rehabilitation of community facilities and services located within walkable neighborhoods and/or served by public transportation systems, particularly for those with special needs and the elderly.

*2. Invest in vital public infrastructure:*

- a. Encourage appropriate and comprehensive pre-development planning activities for public infrastructure, including asset management, needs analysis, preliminary engineering and/or architectural reports, and other studies or plans;
- b. Provide funding opportunities to improve the safety and efficiency of public infrastructure, promote healthy, safe, and walkable neighborhoods, and safeguard the environment; and
- c. Provide funding opportunities to serve eligible Montanans, particularly those special needs and elderly populations, with safe, efficient public infrastructure.

*3. Enhance Montana's economic competitiveness:*

- a. Provide reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers as well as expanded business access to markets;
- b. Support comprehensive planning for downtown revitalization, business development, and other studies or plans to attract and retain talent in Montana communities;
- c. Provide job opportunities to eligible Montanans to strengthen communities within the state;
- d. Encourage activities that support and strengthen new and existing businesses, particularly those located within traditional downtown business centers comprising a mix of businesses, housing, and services;
- e. Encourage mixed-use development that contributes to broader revitalization efforts in Montana communities; and
- f. Seek opportunities to achieve multiple economic development goals, such as removing barriers to collaboration, leveraging multiple funding sources, and increasing energy efficiency, through a single investment.

*4. Promote equitable, affordable housing in Montana*

- a. Expand location- and energy-efficient housing choices for people of all ages, incomes, races and ethnicities to increase mobility and lower the combined cost of housing and transportation;
- b. Encourage housing activities that incorporate energy-efficient design to help advance solar deployment and other on-site renewable energy installations in affordable housing that is aligned with the Federal Renewable Energy Target;
- c. Encourage activities to acquire and/or construct new affordable housing for homeownership or rental in areas where existing investment in infrastructure, facilities, and services leverages multiple economic, environmental, and community objectives;

- d. Encourage appropriate and comprehensive planning, market studies, preliminary architectural reports, and other studies or plans in support of the efficient construction of affordable housing;
- e. Encourage financial mechanisms that increase homeownership opportunities and provide rental assistance to eligible Montanans, particularly those with special needs and the elderly.

*5. Reduce homelessness in Montana:*

- a. Encourage activities that address the housing needs of homeless Montanans and/or those at risk of homelessness;
- b. Encourage activities that increase the level of assistance programs to homeless Montanans and/or those at risk of homelessness, with the goal of achieving stable and sustainable housing; and
- c. Encourage the development and rehabilitation of non-rental facilities for the shelter of temporarily homeless Montanans.

## APPENDIX C

### Public Participation and Public Hearing Requirements

#### The First Public Hearing

The purpose of the first public hearing is to provide an objective and neutral forum for considering overall community needs and potentially competing or alternative proposals for CDBG projects to deal with those needs, within the local government's jurisdiction.

The first hearing:

- is intended to give citizens an opportunity to identify and discuss their community's overall community development and housing needs, including the needs of LMI persons, and to propose possible community improvement projects to meet those needs, before the local government makes a decision on what project or projects for which it will seek CDBG assistance for, and
- should inform the public about the amount of state CDBG funds estimated to be available to Montana communities, and the kinds of activities that are eligible to be assisted with CDBG funds.

Applicants should hold the first public hearing not more than eighteen months prior to the date of application. The site of the first public hearing should be a neutral one that would encourage fair and impartial consideration of all potential CDBG projects.

Local officials may have a possible project in mind for a CDBG application before the first public hearing to "identify community development and housing needs" is held. However, it is very important that the location of the first hearing be considered a neutral site, so as not to skew the selection of the proposed project toward a pre-determined community need, and so that all potential CDBG projects may receive fair consideration before a decision to submit a particular project is made. For example, even though a county government may be considering a project to serve a particular unincorporated community, the first public hearing should be held in the county seat, rather than in that unincorporated community, so that each potential community development and housing need may receive fair and impartial consideration as a potential CDBG project.

The same concept would apply to a city considering a project in a particular neighborhood. Example: A local government may be considering an application on behalf of a non-profit organization, such as for improvements to a senior center. In this case, it would be inappropriate to hold the hearing for identifying community needs at the senior center since this may discourage advocates for other community needs from coming forward or speaking out.

In some cases, a local government may need to respond to a mandate from a state agency to improve a specific public facility. There may be legal pressure to accomplish a particular project, such as upgrading the city wastewater treatment plant to meet state water quality standards. The reason local officials rank this issue as their number one need is understandable. In this case, the citizen participation process can still be a valid way to educate local citizens regarding the community's obligation to assure adequate sewage treatment to protect Montana's environment. It may also lead to dialogue as to how goals are accomplished.

To minimize duplication, local governments may use advertised public hearings related to their planning program or other funding applications to meet the CDBG requirement for a public hearing prior to preparation of their CDBG application, as long as overall community needs and possible solutions are considered. An increasing number of Montana counties and cities are cooperating to publicize and hold joint, annual hearings to consider overall community development and housing needs for both the city and county. By this means, a single public hearing on overall community development needs can meet the requirements of other state or federal programs. This approach may also make participation more convenient for the public and interested organizations or groups.

## **The Second Public Hearing**

The purpose of the second public hearing is to give citizens and potential beneficiaries of the proposed CDBG project (especially LMI persons) or residents of the project area adequate opportunity to consider the potential impacts and benefits of the community's proposed project and to comment on it, before the community submits the application. The second hearing should be held not more than three months prior to the date of application.

At the second public hearing, specific CDBG program requirements and related project issues should be reviewed. For example, if taxes or user charges will need to be increased as part of the cost of financing a CDBG project, it is especially important that residents be informed and understand the necessity of raising user costs. This is the key hearing at which the public should have the full opportunity to review and comment on the details of the scope and design of the proposed project, as well as all projected financial responsibilities falling on project beneficiaries.

To facilitate the participation of citizens who may be most affected by a proposed project, local officials may wish to hold the second public hearing in a location near the proposed project site, such as in an unincorporated community or a neighborhood in a larger city. For the second public hearing it would be appropriate, for example, to hold the hearing at a senior center proposed to be assisted with the CDBG project. Local governments may conduct a single, consolidated public hearing to address the public hearing requirement for other funding programs while meeting the CDBG second public hearing requirement.

The second public hearing on the proposed CDBG project should be held well in advance of the application deadline so that local officials may have a reasonable amount of time to deal with suggestions or concerns stated by citizens at the hearing.

### Sample Notice for the *First* CDBG Public Hearing

*\*Information listed in italics or underline should be replaced with grantee specific data.\**

The (*Town of \_\_\_\_\_*, the *City of \_\_\_\_\_* or *\_\_\_\_\_ County*) will hold a public hearing on (*day*), (*date*), (*time*), in the (*...building name and address...*), Room *\_\_\_\_*, for the purpose of obtaining public comments regarding the *City's (Town's or County's)* overall community development needs (public facilities, economic development, and housing needs), including the needs of low and moderate income persons. *The Town/City Council of \_\_\_\_\_* (or *\_\_\_\_\_ County Commissioners*) will also seek the views of citizens on the activities that should be undertaken to meet the identified needs and their relative priority. The (*City, Town or County*) may apply for funding from the Montana Community Development Block Grant (CDBG) Program (federal funding administered by the Montana Department of Commerce) and other state and federal funding sources to deal with local housing, public facilities, or other community needs and would like comments or suggestions from local citizens regarding the *City's (Town's or County's)* needs and the type of projects which should be considered. Comments may be given orally at the hearing or submitted in writing before (*time and date*).

Anyone who would like more information or who wants to submit suggestions should contact (*person*), (*title*), (*telephone number*).

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*If it is the intent of the applicant to coordinate the second project public hearing with hearings for other programs, this notice may be combined with information from other programs, but must contain CDBG project specific details as listed below.*

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### Sample Notice for the *Second* CDBG Public Hearing

The (*Town of \_\_\_\_\_*, *the City or County of \_\_\_\_\_*) will hold a public hearing on (*day*), (*date*), (*time*), in the (*location or building name and address, Room \_\_\_\_\_*), for the purpose of obtaining public comments regarding a proposed application to the Montana Department of Commerce's Community Development Block Grant (CDBG) Program and other programs, as applicable, for a (*type of project, description of project, and project area, as applicable*). At the public hearing, the proposed project will be explained, including the purpose and proposed area of the project, activities, budget, possible sources of funding, and (*if applicable, any costs that may impact local citizens as a result of the project*). All interested persons will be given the opportunity to ask questions and to express their opinions regarding this proposed project.

Comments may be given orally at the hearing or submitted in writing before (*time and date*).

Anyone who would like more information or who wants to submit questions or comments should contact (*person*), (*title*), (*telephone number*).

**APPENDIX D**  
**Resolution to Authorize Submission of a CDBG Application**

Each application for CDBG funds must be accompanied by a copy of a resolution formally adopted by the applicant and authorizing:

- the submission of the CDBG application in compliance with the CDBG Application Guidelines, and
- the applicant's chief elected official or chief executive officer to act on its behalf in regard to the application and to provide such additional information as may be required.

The resolution must also indicate the governing body's intent to commit to any funding for the project that will be provided by the applicant.

Applicants must have the legal jurisdiction and authority to finance, operate and maintain the proposed facility and, where applicable, must have the demonstrated financial capacity to repay any debt incurred. In all cases, the applicant assumes complete responsibility for:

- proper financial management of the CDBG funds awarded to it; and
- compliance with all federal and state laws and regulations; and
- compliance with the auditing and annual financial reporting requirements provided for in the Montana Single Audit Act, 2-7-501 to 522, [MCA](#); and
- the establishment of a financial accounting system that can properly account for grant funds according to generally accepted accounting principles.

See sample resolution on next page and provide information listed in italics specific to the applicant.

Sample

**RESOLUTION TO AUTHORIZE SUBMISSION OF CDBG APPLICATION**

WHEREAS, the *(Name of applicant)* is applying to the Montana Department of Commerce for financial assistance from the Community Development Block Grant Program (CDBG) to *(describe purpose of project)*;

WHEREAS, the *(Name of applicant)* has the legal jurisdiction and authority to construct, finance, operate, and maintain *(the proposed community facility or public facility)*;

That the *(Name of applicant)* agrees to comply with all applicable parts of Title I of the Housing and Community Development Act of 1974, as amended, which have not been cited herein, as well as with other applicable federal laws and regulations, and all state laws and regulations and the requirements described in the CDBG Community and Public Facilities Application Guidelines and those that are described in the CDBG Grant Administration Manual;

That the *(Name of applicant)* commits to provide the amount of matching funds as proposed in the CDBG Community and Public Facilities application; and

That *(name of Chief Elected Official or Chief Executive Officer)*, *(title)*, is authorized to submit this application to the Montana Department of Commerce, on behalf of *(Name of applicant)*, to act on its behalf and to provide such additional information as may be required.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attested: \_\_\_\_\_

Local Government's DUNS Number: \_\_\_\_\_

**APPENDIX E**  
**Certification for Application**

- Each applicant must agree to comply with all applicable state and federal laws and regulations in implementing their proposed CDBG project, if selected for funding.
- A copy of the Certifications for Application (provided below), signed by the chief elected official or executive officer of the applicant must accompany the application for CDBG funds.
- Applicants should carefully review the following certifications for application and consider their potential impact when designing and implementing the CDBG project.
- Since this is a brief summary and not intended to be a comprehensive description of each law, local officials who have any questions or concerns regarding the applicability of these requirements should contact Commerce for guidance.

## MONTANA CDBG CERTIFICATION FOR APPLICATION

### ***The Applicant hereby certifies that:***

It will comply with all requirements established by the Montana Department of Commerce (Commerce) and applicable state laws, regulations, and administrative procedures and accept all Montana Community Development Block Grant (CDBG) program requirements.

It accepts the terms, conditions, selection criteria, and procedures established by the CDBG program and expressly waives any statutory or common law right it may have to challenge the legitimacy and propriety of these terms, conditions, criteria, and procedures in the event that it is not selected for an award of CDBG funds.

### National Objective

It will complete a project that meets the benefit to low- and moderate- income (LMI) national objective, by serving no less than 51% of LMI residents as part of the project activities.

### State Objectives

It will complete project activities that meet one or more of the goals and objectives established in the most current version of the Montana Consolidated Plan.

Goals of the HUD programs administered by the State of Montana are:

- *Providing decent housing* by obtaining appropriate housing for homeless persons and assisting those at risk of homelessness; preserving the affordable housing stock; increasing the availability of permanent affordable housing, without discrimination; increasing the supply of supportive housing for persons with special needs; and providing affordable housing near job opportunities.
- *Providing suitable living environments* by improving the safety and livability of neighborhoods; improving access to quality facilities, infrastructure, and services; reducing the isolation of income groups within communities through de-concentration of low-income housing; revitalizing deteriorating neighborhoods; restoring and preserving properties of special historic architectural or aesthetic value; and conserving energy resources.
- *Expanding economic opportunities* by creating and retaining jobs; establishing, stabilizing, and expanding small businesses; providing public employment services; encouraging the employment of low-income persons in projects funded under this Plan; providing reasonable mortgage financing rates without discrimination; providing access to capital and credit for development activities that promote long-term economic and social viability of the community; and reducing generational poverty of those living in publicly assisted housing by providing empowerment and self-sufficiency opportunities.

The objectives and outcomes of the Montana Consolidated Plan are:

#### *1. Support existing Montana communities:*

- f. Target funding toward existing communities to increase community revitalization, improve the efficiency of public works investments, and safeguard rural landscapes and natural resources;

- g. Encourage appropriate and comprehensive planning, market studies, preliminary architectural reports, and other studies or plans that support the sustainability of local communities, affordable housing, public works investments, vital employment centers, and the environment;
- h. Enhance the unique and resilient characteristics of all communities by investing in healthy, safe, and walkable neighborhoods—rural, urban, or suburban;
- i. Encourage the rehabilitation of existing rental and owner-occupied homes, particularly for those with special needs and the elderly;
- j. Encourage the development and rehabilitation of community facilities and services located within walkable neighborhoods and/or served by public transportation systems, particularly for those with special needs and the elderly.

*2. Invest in vital public infrastructure:*

- d. Encourage appropriate and comprehensive pre-development planning activities for public infrastructure, including asset management, needs analysis, preliminary engineering and/or architectural reports, and other studies or plans;
- e. Provide funding opportunities to improve the safety and efficiency of public infrastructure, promote healthy, safe, and walkable neighborhoods, and safeguard the environment; and
- f. Provide funding opportunities to serve eligible Montanans, particularly those special needs and elderly populations, with safe, efficient public infrastructure.

*3. Enhance Montana's economic competitiveness:*

- g. Provide reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers as well as expanded business access to markets;
- h. Support comprehensive planning for downtown revitalization, business development, and other studies or plans to attract and retain talent in Montana communities;
- i. Provide job opportunities to eligible Montanans to strengthen communities within the state;
- j. Encourage activities that support and strengthen new and existing businesses, particularly those located within traditional downtown business centers comprising a mix of businesses, housing, and services;
- k. Encourage mixed-use development that contributes to broader revitalization efforts in Montana communities; and
- l. Seek opportunities to achieve multiple economic development goals, such as removing barriers to collaboration, leveraging multiple funding sources, and increasing energy efficiency, through a single investment.

*4. Promote equitable, affordable housing in Montana*

- f. Expand location- and energy-efficient housing choices for people of all ages, incomes, races and ethnicities to increase mobility and lower the combined cost of housing and transportation;
- g. Encourage housing activities that incorporate energy-efficient design to help advance solar deployment and other on-site renewable energy installations in affordable housing that is aligned with the Federal Renewable Energy Target;
- h. Encourage activities to acquire and/or construct new affordable housing for homeownership or rental in areas where existing investment in infrastructure, facilities, and services leverages multiple economic, environmental, and community objectives;
- i. Encourage appropriate and comprehensive planning, market studies, preliminary architectural reports, and other studies or plans in support of the efficient construction of affordable housing;
- j. Encourage financial mechanisms that increase homeownership opportunities and provide rental assistance to eligible Montanans, particularly those with special needs and the elderly.

*5. Reduce homelessness in Montana:*

- d. Encourage activities that address the housing needs of homeless Montanans and/or those at risk of homelessness;

- e. Encourage activities that increase the level of assistance programs to homeless Montanans and/or those at risk of homelessness, with the goal of achieving stable and sustainable housing; and
- f. Encourage the development and rehabilitation of non-rental facilities for the shelter of temporarily homeless Montanans.

#### ACQUISITION, DISPLACEMENT AND RELOCATION

It will minimize displacement as a result of activities assisted with CDBG funds and assist persons actually displaced.

It will comply with:

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (The Uniform Act) as amended, and implementing regulations 49 CFR part 24 and the requirements of section 570.496a. These laws and accompanying regulations require the grantee to provide relocation payments and offer relocation assistance to all persons displaced as a result of acquisition of real property for an activity assisted under the CDBG program. Such payments and assistance must be provided in a fair and consistent and equitable manner that ensures that the relocation process does not result in a different or separate treatment of such persons on account of race, color, religion, national origin, sex, source of income, age, handicap, or familial status (families with children). The grantee must assure that, within a reasonable period of time prior to displacement, decent, safe and sanitary replacement dwellings will be available to all displaced families and individuals and that the range of choices available to such persons will not vary on account of their race, color, religion, national origin, sex, source of income, age, handicap, or familial status (families with children); and
- The grantee must also inform affected persons of their rights and of the acquisition policies and procedures set forth in the regulations of 49 CFR, Part 24, Subpart B, and found in the local government's Anti-displacement and Relocation Assistance Plan.
- The Residential Anti-displacement and Relocation Assistance Plan adopted by the Montana Department of Commerce for the CDBG program and the Anti-displacement and Relocation Assistance Plan adopted by the applicant.

#### *Assessments for Public Improvements*

It will not attempt to recover any capital costs of public improvements assisted 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 proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than CDBG 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.

#### *Building Standards*

It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under the CDBG program to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117.1R 1971, subject to the exceptions contained in CFR 101-19.604.

It will also comply with the Architectural Barriers Act of 1968 and HUD regulations 24 CFR part 8, "Nondiscrimination Based on Handicap in Federally Assisted Activities of HUD." The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor; and will comply with HUD Cost-Effective Energy Standards, 24 CFR Part 39.

### *Citizen Participation*

It will comply with the detailed Citizen Participation Plan adopted by Commerce for the CDBG program (see pages Q-14 through Q-18, below).

## CIVIL RIGHTS, EQUAL OPPORTUNITY, FAIR HOUSING REQUIREMENTS

### *Civil Rights*

It will comply with Title VII of the Civil Rights Act of 1964 (42 U.S.C. d 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.

### *Equal Opportunity*

It will comply with:

- Section 109 of the Housing and Community Development Act of 1974 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;
- 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;
- 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 disability, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal assistance funds;
- 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, 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

- 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.

#### *Fair Housing*

It will affirmatively further fair housing and will comply with:

- Title VIII of the Civil Rights Act of 1968 (also known as The Fair Housing Act) (42 U.S.C. 3601 et seq.), as amended by the Fair Housing Amendments Act of 1988 and the regulations issued pursuant thereto. The law states that it is the policy of the United States prohibiting 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, disability, or familial status. 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
- 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 or 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.

#### *Prohibition Against Discrimination on Basis of Religion*

It will comply with section 109(a) of the Housing and Community Development Act that prohibits discrimination on the basis of religion or religious affiliation. No person will be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with CDBG funds on the basis of his or her religion or religious affiliation.

#### *Prohibition Against Excessive Force*

It will, if awarded CDBG funds, adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations in accordance with Section 104(1) of the Housing and Community Development Act, as amended.

#### *ADA Compliance*

It will do a self-assessment of impediments to accessibility in compliance with the Americans with Disabilities Act (ADA) of 1990. Grantees are required to find a means of making CDBG program activities and services accessible to persons with disabilities; to review their communities for impediments to disabled citizens; and develop a plan to address those impediments.

#### CONFLICT OF INTEREST

It will comply with the provisions of 24 CFR 570.611 and with sections 2-2-125, 2-2-201, 7-3-4367, 7-5-2106, and 7-5-4109, MCA, (as applicable) regarding the avoidance of conflict of interest.

#### ENVIRONMENTAL REQUIREMENTS

##### *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 state implementation plan for national primary and secondary ambient air quality standards.

##### *Environmental Impact*

It will comply with:

- 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
- 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. Pursuant to these provisions, the grantee must also submit environmental certifications to the Department of Commerce when requesting that funds be released for the project. The grantee must certify that the proposed project will not significantly impact the 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 the 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 CDBG 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.

##### *EPA List 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.

#### *Farmlands Protection*

It will comply with the Farmlands Protection Policy Act of 1981 (7 U.S.C. 4202, et seq.) and any applicable regulations (7 CFR Part 658) which established compliance procedures for any federally assisted project which will convert farmlands designated as prime, unique or statewide or locally important, to non-agricultural uses.

#### *Floodplain Management and Wetlands Protection*

It will comply with:

- 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 Housing and Urban Development 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;
- 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 floodplain and (2) avoid direct or indirect support of floodplain development wherever there is a practical alternative. If a 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 any 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
- 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.

#### *Historic Preservation*

It will comply with:

- 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/or to determine the need for professional

archaeological, historical, or architectural inventory of potentially affected properties to determine whether they would qualify for register listing; and

2. consulting, with the SHPO and THPO, 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.

#### *Lead-Based Paint*

It will comply with current requirements of Title X of the Residential Lead Based Paint Hazard Reduction Act of 1992. Both Commerce and DPHHS provide education and information on LBP hazards to parents, families, healthcare providers, grant recipients, and contractors. Commerce requires that any contractor or subcontractor engaged in renovation, repair and paint activities that disturb lead-based paint in homes, child and care facilities built before 1978 must be certified and follow specific work practices to prevent lead contamination. In addition to complying with Title X, UPCS inspections will be performed at rental properties assisted with HTF, HOME, Section 8, and other public rental properties throughout the state.

#### *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 is prohibited in general for projects with unacceptable noise exposures 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.

#### *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.

#### *Water Quality*

It will comply with:

- 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 drinking water source for an area; and
- 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.

#### *Wildlife*

It will comply with:

- 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 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

- 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.

#### *Wild and Scenic Rivers*

It will comply with the Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271, et seq.). The purpose of this Act is to preserve selected rivers or sections of rivers in their free-flowing condition, to protect the water quality of such rivers and to fulfill other vital national conservation goals. Federal assistance by loan, grant, license or other mechanism may not be provided to water resources construction projects that would have a direct and adverse effect on any river included or designated for study or inclusion in the National Wild and Scenic River System.

#### FINANCIAL MANAGEMENT

It will comply with the applicable requirements of:

- OMB Circular A-87, "Cost Principles for State and Local Governments," as specified by Commerce;
- HUD "Administrative Requirements for Grant and Operative Agreements to State, Local, and Federally-Recognized Indian Tribal Governments," (24 CFR, Part 85), or any equivalent procedures and requirements that the Montana Department of Commerce may prescribe. The HUD Administrative Requirements are the basis for a number of specific requirements on the financial management and record keeping of CDBG funds. The requirements apply to cash depositories, bonding and insurance, record keeping, program income, property management, procurement, closeout, audit, and other requirements; and
- The Single Audit Act of 1984, as amended by the Single Audit Act of 1996 ( the "Single audit Act Amendments") which establishes criteria for determining the scope and content of audits and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations", revised June 24, 1997. (OMB Circular A-133.)

It will promptly refund to Commerce any CDBG funds determined by an audit to have been spent in an unauthorized or improper manner or for ineligible activities.

It will give Commerce, the Montana Legislative Auditor, HUD, and the Comptroller General, through any authorized representatives, access to and the right to examine all records, books, papers, or documents related to the grant.

#### *Labor Standards*

It will comply with:

- 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. 276-1- 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;

- Davis-Bacon Act, as amended (40 U.S.C. 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;
- 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 contractor or subcontractor is liable to any affected employee for unpaid damages as well as to the United States for liquidated damages; and
- 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 workweek.

#### *Legal Authority*

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

#### *Lobbying*

It certifies that:

- No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influencing an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

*Political Activity*

It will comply with the Hatch Act Modernization Act of 2012, as follows:

- a. If an employee’s salary is paid 100%, directly or indirectly, by loans or grants made by the United States or a Federal agency, that employee may not run for partisan office.
- b. The Hatch Act Modernization Act did not change the federal Hatch Act’s prohibitions on coercive conduct or misuse of official authority for partisan purposes. A state or local employee is still covered by these prohibitions if the employee works in connection with a program financed in whole or in part by federal loans or grants, even if the connection is relatively minor. A covered employee who runs for office would violate the Hatch Act if the employee:
  - o uses federal or any other public funds to support his own candidacy;
  - o uses his state or local office to support his candidacy, including by using official email, stationery, office supplies, or other equipment or resources; or
  - o asks subordinates to volunteer for his campaign or contribute to the campaign.

*Procurement*

Consulting Services will be procured in a manner that provides fair and unbiased, full and open competition, without conflicts of interest.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

DUNS Number: \_\_\_\_\_

EIN Number: \_\_\_\_\_

**APPENDIX F**

**5-YEAR PRO FORMA STATEMENT**

**5- Year Financial Operating Pro Forma for Community Facilities**

<b>Project Name:</b>	
----------------------	--

Year	Income	Operating Expense *	Replacement Reserve**	Net Income Available for Debt Service	Debt Service	Net Operating Income***	Debt Coverage Ratio****
Projected Annual Increase							
1						\$	
2						\$	
3						\$	
4						\$	
5						\$	

* Include all such expenses as wages, utilities, supplies, and snow removal. Consider an annual percentage increase of 2%.
** Consider an annual percentage increase of 3%
***Net Operating Income = Income - Operating Expense. Consider an annual percentage increase of 3%
****Debt Coverage Ratio = Net Operating Income / Debt Service

## APPENDIX G

### Anti-Displacement and Relocation Assistance Plan

This Residential Anti-displacement and Relocation Assistance Plan is prepared by the Montana Department of Commerce (Commerce) and [*Grantee City, Town, Or County*] in accordance with the Housing and Community Development Act of 1974, as amended (the “Act”) and HUD regulations at 24 CFR 42.325 and is applicable to our Community Development Block Grant (CDBG) assisted programs and projects.

#### Minimize Displacement

Consistent with the goals and objectives of activities assisted under the Act, [*Grantee City, Town, Or County*] will implement policies to minimize the direct and indirect displacement of persons (families, individuals, businesses, for-profit organizations, not-for-profit organizations and farms) from their homes and neighborhoods as a result of assisted activities including:

- Encouraging (alternate; mandate) its subrecipient partners to stage rehabilitation of apartment units to allow tenants to remain in the building/complex during and after the rehabilitation, working with empty units first.
- Assisting its subrecipient partners with locating facilities to house persons who must be relocated temporarily during rehabilitation by offering vacant units in other regulated properties in the immediate area, if any.
- Supporting local efforts to enact tax assessment policies which reduce the impact of potentially increasing property tax assessments on lower income owner-occupants or tenants in revitalizing areas.
- Where feasible, giving priority to rehabilitation of housing, as opposed to demolition, to avoid displacement.
- Where feasible, allowing for demolition or conversion of only dwelling units that are not occupied or vacant occupiable dwelling units (especially those units which are “lower-income dwelling units” (as defined in 24 CFR 42.305)) or structures that have not been used for residential purposes.
- Targeting only those properties deemed essential to the need or success of the project.
- Acquisition of easements or property related to community and public facility projects.

#### Relocation Assistance to Displaced Persons

[*Grantee City, Town, Or County*] will provide relocation assistance for eligible beneficiaries (as defined by CDBG regulations) who, in connection with an activity assisted under the CDBG program, move permanently or move personal property from real property as a direct result of the demolition of any dwelling unit or the conversion of a lower-income dwelling unit. Depending upon their status, a displaced person may qualify assistance under either the Uniform Relocation Assistance and Real Property Acquisitions Act (“URA”) and its implementing regulation at 49 CFR 24 or under Section 104(d) of the Act, including:

1. Advisory Services – A displaced person will be advised of his or her rights under the Fair Housing Act. If a comparable replacement dwelling to be provided to a minority person is located in an area of minority concentration (as may be identified in the Consolidated Plan) the minority person will also be given, if

possible, referrals to comparable and suitable decent, safe and sanitary replacement dwellings not located in such areas. (24 CFR 42.350(a))

2. Moving Expenses – Payment for moving expenses at levels described in the URA. (24 CFR 42.350(b))
3. Security Deposits and Credit Checks – The reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit, and for credit checks required to rent or purchase the replacement dwelling unit. (24 CFR 42.350(c))
4. Interim Living Costs – Displaced persons shall be reimbursed for actual, reasonable, out-of-pocket costs incurred in connection with a displacement, including moving expenses and increased housing costs, if (24 CFR 42.350(d)):
  - a) a person must relocate temporarily because continued occupancy of the dwelling unit constitutes a substantial danger to the health or safety of the person or the public; or
  - b) a person is displaced from a “lower income dwelling unit”, none of the comparable replacement dwelling units to which the person has been referred qualifies as a lower income dwelling unit and a suitable lower income dwelling unit is scheduled to become available in accordance with the one-for-one replacement rule discussed below.
5. Replacement Housing Assistance – Displaced persons are eligible to receive one of the following two forms of replacement housing assistance [(24 CFR 42.350(e))]:
  - a) rental assistance equal to 60 times the amount necessary to reduce the monthly rent and estimated average monthly cost of utilities for a replacement dwelling (comparable replacement dwelling or decent, safe, and sanitary replacement dwelling to which the person relocates, whichever costs less) to the "Total Tenant Payment," as determined by 24 CFR 5. (All or a portion of this assistance may be offered through a certificate or voucher for rental assistance, if available, provided under Section 8. If a Section 8 certificate or voucher is provided, the subrecipient partner must provide referrals to comparable replacement dwelling units where the owner is willing to participate in the Section 8 Tenant-Based Assistance Existing Housing Program 24 CFR 982); or
  - b) If a displaced person purchases an interest in a housing cooperative or mutual housing association and occupies a decent, safe, and sanitary dwelling in the cooperative or association, the person may elect to receive a payment equal to the capitalized value of 60 times the amount that is obtained by subtracting the "Total Tenant Payment," as determined under 24 CFR 5, from the monthly rent and estimated average monthly cost of utilities at a comparable replacement dwelling unit. To compute the capitalized value, the installments shall be discounted at the rate of interest paid on passbook savings deposits by a federally insured financial institution conducting business within the recipient's jurisdiction. To the extent necessary to minimize hardship to the displaced household, subrecipient partners will, subject to appropriate safeguards, issue a payment in advance of the purchase of the interest in the housing cooperative or mutual housing association.

A displaced person who is not a lower-income tenant will be provided relocation assistance in accordance with the URA. Businesses relocated as a result of assisted activities will also be provided relocation assistance in accordance with the URA.

### **One-for-One Replacement of Lower-Income Dwelling Units**

[*Grantee City, Town, Or County*] will replace all occupied and vacant occupiable lower-income dwelling units demolished or converted to a use other than lower-income housing in connection with a project assisted with funds provided under the CDBG programs in accordance with 24 CFR 42.375, as follows:

1. To the extent feasible, [*Grantee City, Town, Or County*] will require that replacement units be located within the same neighborhood as the units demolished or converted.
2. [*Grantee City, Town, Or County*] will require that replacement units be sufficient in number and size to house no fewer than the number of occupants who could have been housed in the units that are demolished or converted. The number of occupants who could have been housed in units shall be determined in accordance with applicable local housing occupancy codes. Demolished or converted units may not be replaced with smaller units (e.g., a 2-bedroom unit with two 1-bedroom units).
3. The replacement units must be provided in standard condition. Replacement lower-income dwelling units may include units that have been raised to standard from substandard condition if:
  - a) No person was displaced from the substandard unit; and
  - b) The substandard unit was vacant for at least 3 months before execution of the agreement between the [*Grantee City, Town, Or County*] and the property owner.
4. The replacement units will be required to be designed by [*Grantee City, Town, Or County*] to remain lower-income dwelling units for the minimum number of years required by regulation. Replacement lower-income dwelling units may include, but are not limited to, public housing or existing housing receiving Section 8 project-based assistance.

### **Replacement Not Required Based on Unit Availability**

Under 24 CFR 42.375(d), [*Grantee City, Town, Or County*] may submit a request to Commerce (if the project is funded through the State) for a determination that the one-for-one replacement requirement does not apply based on objective data that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a non-discriminatory basis within the area. Commerce, upon receipt of such submission, will promptly put notice of the request on its website and inform interested persons that they have 30 days from its posting to comment and provide additional information to Commerce.

### **Appeals**

Any displaced person who disagrees with [*Grantee City, Town, Or County*]'s determination of eligibility for benefits or the amount of relocation assistance for which the person is eligible may file a written appeal to [*Grantee City, Town, Or County*]. Appeals may be directed to [*Grantee City, Town, Or County*], [*Mailing Address*] AND [*Phone*]

*Number*]. Further appeal, in writing, may be submitted to the Montana Department of Commerce, Community Development Division, PO Box 200523, Helena, MT 59620-0523.

### **Contacts**

[*Grantee City, Town, Or County*] is responsible for tracking the replacement of lower-income dwelling units and ensuring that they are provided within the required period. HCR monitors this tracking throughout the development process.

[*Grantee City, Town, Or County*] is responsible for providing relocation payments and other relocation assistance to any lower-income person displaced by the demolition of any dwelling unit or the conversion of lower-income dwelling units to another use. [*Grantee City, Town, Or County*] will monitor the payment of relocation assistance throughout the development process.

**APPENDIX H**

**Draft Project Implementation Schedule**

TASK	QUARTERS, 2020 <small>Click or tap here to enter text.</small>				QUARTERS, 2021 <small>Click or tap here to enter text.</small>			
	1st JFM	2nd AMJ	3rd JAS	4th OND	1st JFM	2nd AMJ	3rd JAS	4th OND
<b><u>PROJECT DESIGN</u></b>								
Commence Final Design	_____	_____	_____	_____	_____	_____	_____	_____
Complete Project Design	_____	_____	_____	_____	_____	_____	_____	_____
Submit Plans to DEQ	_____	_____	_____	_____	_____	_____	_____	_____
Prepare Bid Documents	_____	_____	_____	_____	_____	_____	_____	_____
Finalize Acquisition	_____	_____	_____	_____	_____	_____	_____	_____
<b><u>ADVERTISEMENT FOR CONST. BID</u></b>								
Review Contract Requirements	_____	_____	_____	_____	_____	_____	_____	_____
Public Bid Advertisement	_____	_____	_____	_____	_____	_____	_____	_____
Open Bids & Examine Proposals	_____	_____	_____	_____	_____	_____	_____	_____
Request Contr. Debarment Review	_____	_____	_____	_____	_____	_____	_____	_____
Select Contractor & Award Bid	_____	_____	_____	_____	_____	_____	_____	_____
Conduct Pre-Const. Conference	_____	_____	_____	_____	_____	_____	_____	_____
Issue Notice to Proceed to Contractor	_____	_____	_____	_____	_____	_____	_____	_____
<b><u>PROJECT CONSTRUCTION</u></b>								
Begin Construction	_____	_____	_____	_____	_____	_____	_____	_____
Monitor Engineer & Contractor	_____	_____	_____	_____	_____	_____	_____	_____
Conduct Labor Compliance Reviews	_____	_____	_____	_____	_____	_____	_____	_____
Hold Const. Progress Meetings	_____	_____	_____	_____	_____	_____	_____	_____
Final Inspection	_____	_____	_____	_____	_____	_____	_____	_____
<b><u>PROJECT CLOSE OUT</u></b>								
Submit Final Drawdown	_____	_____	_____	_____	_____	_____	_____	_____
Project Completion Report/Final Certification	_____	_____	_____	_____	_____	_____	_____	_____
Contract End Date	_____	_____	_____	_____	_____	_____	_____	_____

**APPENDIX I**

**Draft Project Management Plan**

## **I. ADMINISTRATIVE STRUCTURE**

The (*City, Town or County*) of \_\_\_\_\_ is an incorporated (*city, town or county*) with a (*Mayor-Council or other*) form of government. The following persons will have lead responsibility for administering the (*city, town or county*)'s Community Development Block Grant (CDBG) grant.

(*Mayor or Commission Chair*) \_\_\_\_\_, as the (*city, town or county*)'s chief elected official will have responsibility for all official contacts with the Montana Department of Commerce (Commerce) and ultimate authority and responsibility for the management of project activities and expenditure of CDBG funds.

The Clerk-Treasurer, as the (*city, town or county*)'s chief financial officer, will be responsible for management of, and record keeping for, the CDBG funds involved in the financing of this project.

\_\_\_\_\_, \_\_\_\_\_, will be designated as *Project Manager* and be responsible for overall project management and reporting and for assuring compliance with applicable requirements.

The (*city, town or county*) Attorney, as the (*city, town or county*)'s legal counsel, will provide legal guidance as requested.

The Project Architect/Engineer will be responsible for construction-related activities including preparation of preliminary studies and designs, final design plans and specifications, as well as construction inspection.

## **II. PROJECT MANAGEMENT**

A. The ***Project Manager*** will be responsible for:

1. Familiarity with the current *Grant Administration Manual* and its requirements and for assuring compliance with the CDBG contract and with CDBG policies for project activities and administration.
2. Preparing any additional environmental review to assure full compliance with the National and Montana Environmental Policy Acts, including meeting any applicable environmental requirements and documenting any mitigating actions or additional consultation is completed pursuant to the findings of the environmental review.
3. Documenting compliance with applicable civil rights requirements.
4. Assisting the (*city, town or county*) with all requirements related to effective project start-up and maintaining compliance with the implementation schedule attached to the contract.
5. Assisting the (*city, town or county*) with procuring professional services and/or a general contractor.
6. Monitoring and enforcing compliance with labor standards requirements.
7. Documenting compliance with URA requirements, as applicable.
8. Preparing all required performance reports and closeout documents.

B. The ***Project Architect/Engineer*** will be responsible for:

1. Designing architectural and/or engineering plans necessary for successful completion.

2. Preparation of the construction bid package in conformance with applicable CDBG requirements.
3. Overseeing construction bidding and award process, including the preparation of the advertisements for bid solicitation, the bid opening, and helping to determine the lowest responsible, responsive bidder.
4. Conducting the pre-construction conference.
5. Supervision of the construction work and preparation of inspection reports.
6. Reviewing and approving all requests from contractors for payment and submitting the approved requests to the Project Manager.

### **III. FINANCIAL MANAGEMENT**

A. **The Clerk-Treasurer** will be responsible for:

1. Establishing the CDBG bank account and transferring CDBG funds from that account to the *(city, town or county)*'s treasury for disbursements, based on claims and supporting documents.
2. Ensuring a separate non-interest bearing account required by CDBG will be established and used for CDBG funds. Balances in that account will not exceed \$5,000 for a period of three days, to comply with CDBG requirements.
3. Entering all project transactions into the *(city, town or county)*'s existing accounting system, and preparing checks/warrants for approved expenditures.
4. Ensuring all Requests for Reimbursement are signed by authorized representatives.
5. Ensuring no expenditures will be made without proper *(city, town or county)* approval.

B. **The Project Manager and the Clerk-Treasurer** will be responsible for:

1. The review of all proposed expenditures of CDBG funds. The Project Manager and Clerk-Treasurer will prepare requests for reimbursement, which will be signed by authorized representatives.
2. All disbursements are handled in accordance with the *(city, town or county)*'s established procedures for reviewing claims.

**Appendix J**  
**Target Rate Analysis for**  
**Water, Wastewater and Solid Waste Projects**

“Target rate analysis” is a key part of the financial assessment for water, wastewater and solid waste projects. It is used by Commerce to help determine the amount of grant funds a community needs to keep its user rates, resulting from a proposed improvement to a water, wastewater, or solid waste project, at a reasonably affordable level for its citizens relative to other communities. The idea of “target rates” is based on the concept that the ability of a community, as a whole, to pay a particular user rate is related to the overall median household income (MHI) level in the community, and that communities with higher median household incomes can afford higher rates than those with lower median household incomes. Commerce **will utilize American Community Survey 2011-2015 data for MHI.**

Commerce utilizes the combined rates for both water and wastewater systems in its target rate analysis. This helps to ensure that an applicant's need for financial assistance is not understated if either of the systems have high rates, even though the other system may have relatively low rates. For communities with only a water system, or a wastewater system, but not both, only the target rate for that single system will be used. Storm drain projects are computed as if they were a part of the wastewater system. Target rate analysis of solid waste systems will consider rates for solid waste plus, where applicable, water and wastewater.

A community's target rate is computed by multiplying the community's MHI by the combined target percentage (2.3%) to measure residential households' ability to pay combined water and wastewater rates (1.4% for water systems plus 0.9% for wastewater systems equals 2.3%). For communities with only one system, 1.4% will be used for water systems and 0.9% will be used for wastewater systems.

A community's target rate for a solid waste system is computed by multiplying the community's MHI by the target percentage (0.3%) to measure residential household's ability to pay solid waste rates. The combined target rate for a solid waste project would then be equal to 2.6% and would consider solid waste, water and wastewater rates. The target rate for a county applying for a solid waste project may necessarily revert to the solid waste rate only since there might not be an applicable water and wastewater rate to use.

For example, if a community had an annual MHI of \$30,000, this figure is multiplied by 2.3%. The sum is then divided by twelve months to determine the community's combined monthly target rate (for water and wastewater) of \$57.50 per month ( $\$30,000 \times 2.3\% = \$690.00$  divided by 12 months = \$57.50 per month). If a community only has a water system and no wastewater system, the target rate would be \$35.00 per month ( $\$30,000 \times 1.4\% = \$420.00$  divided by 12 months). If a community only has a wastewater system and no water system, the target rate would be \$22.50 per month ( $\$30,000 \times 0.9\% = \$270.00$  divided by 12 months).

An equivalent amount to a user fee will be used in the target rate analysis for tribal governments applying to CDBG if individual users are not assessed fees. Subsidization by the tribe is viewed as equal to user fees paid by individuals in typical municipal systems. The equivalent amount will be based on the tribe's cost to finance the improvements, repay any existing system debt, and operate and maintain the system divided by the number of households that are served by the system. The equivalent amount will then be compared to the applicant's target rate. Other appropriate methodologies as determined by the Commerce may be used as needed by the Commerce staff to determine financial need for tribal governments.

Under some conditions, an applicant may use census tract data, block group data or conduct an income survey in order to establish income figures that more accurately reflect the area benefitted by Commerce funds. Maps of boundaries and areas must be submitted for determination and to provide documentation. Contact Commerce staff for guidance if an alternative data source is to be used to establish MHI.

Because of the importance of “target rate analysis” in the ranking of Commerce applications for water, wastewater and solid waste projects, applicants should contact the Commerce staff in order to have their target rates calculated or verified in order to ensure that the correct target rate is being used.

If the proposed user rates would be below the target rate, after preparing a preliminary financial package to construct the proposed project, applicants should discuss their proposed projects with Commerce staff. **Grant funding will not be recommended for projects that would result in user charges below the target rate.**

Additional guidance on target rates can be obtained by contacting Commerce staff.