



**Chapter 4 Public Works (PW)
2015 Application Forms, Instructions,
and Application Guidelines**

State of Nebraska, Department of Economic Development

Housing and Community Development Division

Community Development Block Grant (CDBG)

Community Development Program

Effective for 2015 Program Year (July 1, 2015 through June 30, 2016)

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Section A. Overview

These application guidelines are for all Public Works (PW) applications. Any eligible applicant must follow the instructions and information within this Chapter in order to apply for any PW resources.

The purpose of the Public Works Category is to provide for investments in effective and affordable infrastructure and facilities to quality communities that are investing in long- term development. This provides a sound basis for fostering local economic development. This recognizes the importance of the availability and condition of public works/facilities. Funded projects shall develop the state's communities and counties by providing residents with basic public works/facilities with the opportunity to maximize energy efficiency.

FOR MORE INFORMATION

For further information please contact the following Interim Primary Contact for this program. See also Chapter 1 for more information and Chapter 8 for the Exhibits for the application.

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A. Eligible Applicants

Except as provided for in Section 1.03 of the Application Guidelines, **eligible applicants** include every Nebraska incorporated municipality under 50,000 in population and every county.

B. Eligible Activities

The following activities are eligible within the PW Program. If any activity is not noted within the list below, please consult a CDBG Program Representative in order to determine if any other proposed activities are eligible for the program.

- community centers;
- senior centers exclusively for persons aged 62 and over;
- nonprofit centers for day care, primary health and mental health clinics;
- remodel shelter facilities for the homeless (excludes costs for operation);
- accredited public libraries;
- fire and/or rescue buildings, including fire trucks;
- removal of architectural barriers from city/village halls or county courthouses for accessibility;
- parks (a new facility/improvement or a quantifiable increase of an existing facility/improvement);
- street, curb, gutter, sidewalk, or storm sewer;
- flood control and drainage;

- and tornado-safe shelters in manufactured home parks.

For more information see Section 3.04 of the Application Guidelines.

C. Ineligible Activities

The following activities are ineligible within the PW Program. If any activity is not noted within the list below, and is not listed as an eligible activity, please consult a CDBG Program Representative in order to determine if any other proposed activities are eligible for the program.

- Buildings used predominantly for the general conduct of government such as:
 - City and village halls;
 - County administrative buildings
 - State Capitols,
 - Office buildings or other facilities in which the legislative or general administrative affairs of the government are conducted.
- General government expenses, except those costs that are directly attributable to administration of a local CDBG program;
- Facilities or equipment used for political purposes or to engage in other political activities;
- Purchase of equipment except as set forth in Section 3.03(4) of the Application Guidelines;
- Generally, any expense associated with repairing, operating, or maintaining public facilities, improvements and services. For specific exceptions see Section 3.03(5) of the Application Guidelines;
- For income payments for housing including:
 - Payments for income maintenance;
 - Housing allowances;
 - Down payments;
 - Mortgage subsidies.

For a full description of ineligible Public Works activities, please see Section 3.03 of the Application Guidelines.

D. Grant Amounts, Matching Funds, & Leverage

Grant Amount: The maximum grant amount is \$250,000 for a community or county. The CDBG cost per beneficiary cannot exceed \$3,000, except for day care where it cannot exceed \$5,000.

Match Requirements: The maximum grant amount for Public Works activities will be \$250,000 per community. The cost per resident beneficiary cannot exceed \$3,000, except for daycare facility projects where the cost per resident beneficiary cannot exceed \$5,000. PW activities require a 25% match. No more than 12.5% of the total project match may be in-kind services or source contributions. General Administration activities may not exceed 10% of the amount of CDBG funds awarded, but not to exceed \$25,000. General Administration activities do not require any matching funds and also cannot be matched, using local resources, for purposes of meeting the 25% match requirement.

Leverage: Leverage includes funds that are committed to the project activities exceeding the required match. Leverage may include public and private funds, or in-kind services, such as materials, labor, or other items that are directly related to the project. Leveraged funds may be considered only if they are spent during the project period (Date of Release of funds through the project completion date). The amount of leverage must be given in dollars.

E. Application Due Dates

Applications are prepared at the applicants’ expense and costs are not reimbursable. Public Works applications will be accepted by DED from June 20, 2015 through July 1, 2015. Applications will be accepted during this period based on U.S. Postal Service postmark date or date of delivery by other means.

Approval of the National Objective for each specific project MUST be approved by DED prior to submission of application. Documentation on the National Objective for each specific project will accepted through May 29, 2015, with notification of approval from DED no later than June 20, 2015.

Below is a summary of the milestones that would be completed during a PW project.

Milestone Summary	Dates
CDBG National Objective Submission for Specific Project	January 2015-May 29, 2015
National Objective Approval Notification	February - June 4, 2015
Public Works Applications Accepted	June 20, 2015 –July 1, 2015
Site Visits	July-August 2015
Public Works Projects Awarded	Fall 2015
Mandatory Local Government Workshop [location to be determined]	October 2015

Applications are reviewed by DED according to the selection criteria established in Section 5.03 and 5.04 of the Application Guidelines. It is anticipated that the Governor of Nebraska will announce Public Works grant awards in the fall of 2015. A mandatory workshop for local governments awarded funds will be held in October 2015, with the location to be determined. The workshops will review regulations, reporting requirements, and payment procedures. All grants must have a “certified administrator.” Projects are to be completed by the grantees within 24 months following award. NOTE: All land for the project MUST be in the possession of the community at the time of application.

F. Threshold Review Criteria

The following threshold requirements must be met by the local government applicant in order to be eligible for Program resources. These requirements include:

- a. activities proposed are eligible and comply with CDBG National Objectives and State CDBG priorities. See the CDBG National Objective Section for more information.

- b. applicant has no significant, unresolved audit finding;
- c. applicant has no legal actions under way that may significantly impact its capacity;
- d. applicant is following a detailed Citizen Participation Plan (CPP) and Anti-Displacement Plan;
- e. applicant has adopted an authorizing participation resolution;
- f. applicant must have addressed and cleared all compliance problems (i.e. Davis Bacon, acquisition, fair housing, etc.) found during monitoring, if any, from past awarded projects, and have had a response accepted by DED;
- g. applicant is current with all reporting requirements (semiannual status reports, closeout reports, audit reports, notification of annual audits, etc.); and
- h. applicant has drawn down 90% of any 2013 CDBG grants and 100% of any 2012 or prior year CDBG grants (this requirement excludes Comprehensive Revitalization, Comprehensive Investment & Stabilization, Economic Development, Planning, and Tourism Development projects). In general, DED will review projects that have been funded at least 2 years prior to the current Program Year.

The percentage for funds drawn down shall be figured by DED based on the final application acceptance date, except when an applicant is awarded funds after initial award date, obligated and drawn down funds shall be based on a proportionate number of months lapsed since initial grant award. DED shall contact an applicant if additional information is required.

CDBG National Objective

All PW projects funded, and CDBG-funded project activities, must meet a National Objective of the CDBG Program. This includes:

- i. Benefiting low-to-moderate income persons (LMI); (including on an area basis or serving a limited clientele);

For more information see Section 2.01 of the Application Guidelines.

A project or project activity that fails to meet one of these specified national objectives is ineligible for CDBG resources.

G. Post Award Requirements

Each eligible application must also comply with any necessary post award requirements. These requirements include: Environmental Review; Davis-Bacon compliance; Procurement, etc.

For more information, and for a complete list of Post Award Requirements, see Section 5.06 of the Application Guidelines.

H. Application Point System and Scoring

Each Chapter of the CD Application Guidelines contains specific information regarding the scoring criteria for each Program. A summary of the scoring criteria is noted within each Program’s Selection Criteria Matrix. Within Section B. Application Forms and Instructions, the “Part IV. Project Description” provides details on scoring and the points assigned to all scoring criteria.

Below is the Scoring Criteria Matrix for the Public Works Program. The Matrix describes each selection criteria as a numerical score within the PW Program. The maximum number of points available within any application is 1,000 points. A minimum score of 300 points is required and some criteria require a minimum score as noted below.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
Project Need	Project Impact	Project Readiness	Citizen Participation	Leverage	LMI Benefit	MEF	Bonus Points	TOTAL
200	150	250	150	50	50	100	50	1,000 points
75 min	75 min	100 min	50 min	0	0	0	NA	300 minimum

For more information see Section B. Application Forms and Instructions and Section C. Application Guidelines.

Section B. Application Forms & Instructions

This section contains all forms and exhibits to be submitted so that your application can be scored and ranked effectively. Application narratives should be thorough and concise. The Department reserves the right to verify all information, and to consult with other agencies on the proposed project.

There are more applicants requesting funds than there are funds available. Applicants must carefully read and review the ***Application Guidelines*** and the selection criteria described to develop a competitive application.

In submitting your application, these instructions must be followed:

- Submit **ORIGINAL, TWO** (2) complete copies, and a PDF copy of the application.
- Do not fold, staple, or bind in any way.
- No less than 2" top margin and 1" side and bottom margins.
- Table of Contents **must** be included
- All pages **must** be numbered in sequence at the bottom of the page.
- All Exhibits **must** be labeled at the bottom of the page, right-hand corner.
- All Attachments **must** be labeled at the bottom of the page, right-hand corner.

Failure to follow these instructions will result in your application being returned for you to correct and resubmit. All applicants will be given one week to correct and resubmit their application.

PAGES MUST BE TWO-HOLE PUNCHED AT TOP. DO NOT BIND, FOLD OR STAPLE.

Below is an outline of what a Public Works (PW) Application should look like:

- Cover Sheet
- Table of Contents (use Table of Contents Checklist)
- Part I. General Information (use required form)
- One Page Project Summary (follow instructions)
- Part II. Funding Summary (use required form)
- Part III. Project Budget
- Part IV. Project Description & Scoring Criteria
- Part V. Required Exhibits and Attachments (See Chapter 8 for all Exhibits)
- Part VI. Additional Attachments (supplemental info provided by applicant)

Table of Contents & Checklist

Each applicant must attach a Table of Contents to their application and must include a Table of Contents Checklist for the Program they are applying for with their application.

The following page provides the format for the Table of Contents Checklist for PW applications.

TABLE OF CONTENTS CHECKLIST PW

Applicants must complete and submit this checklist with the application. Type in additional appendix items as deemed necessary to your project. List appropriate page numbers under PAGE NUMBER column.

<u>PROJECT INFORMATION</u>	<u>PAGE NUMBER</u>
Part I – General Information.....	
Part II Funding Summary	
Part III Project Budget	
Part IV Item 1 – Project Need	
Part IV Item 2 – Project Impact	
Part IV Item 3 – Project Readiness	
Part IV Item 4 – Citizen Participation	
Part IV Item 5 – Leverage	
Part IV Item 6 – LMI Benefit	
Part IV Item 7 – MEF.....	
Part IV Item 8 – Bonus Points	
Part V - <u>REQUIRED EXHIBITS AND ATTACHMENTS</u>	
A. Notice of Public Hearing	
B. Authorizing Resolution Endorsing Project.....	
C-1. Statement of Assurances and Certifications.....	
C-2. Citizen Participation Plan.....	
D. Residential Anti-displacement & Relocation Assistance Plan	
E-1. LMI Documentation/Low- and Moderate-Income Worksheet (<i>Only for LMI Area Benefit</i>)	
E-2. LMI Random Sample Worksheet (<i>Only for LMI Area Benefit</i>)	
E-3. LMC Worksheet (<i>Only for Limited Clientele</i>)	
F-1. Slum and Blight Area Basis Documentation (<i>Only for SBA Area Basis</i>)	
F-2. Slum and Blight Spot Basis Documentation (<i>Only for SBA Spot Basis</i>).....	

- L. Federal Funding Accountability and Transparency Act (FFATA) form
- M. Map of Proposed Project Area
- N. Systems for Award Management (SAM) record and clearance documentation
- O-1. Four Factor Analysis Assessing Limited English Proficiency
- O-2. Language Assistance Plan (*Optional at the time of application*)

K. Procurement Process (narrative)*
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Please use the language verbatim in each exhibit. Incorrect language may cause a delay in application review and award, if successful. Also, provide the bracketed information as requested in each exhibit. The omission or incomplete description as requested in bracketed text may cause a delay in application review and awards.

*Only required when Applicant will act in its official capacity or has retained the services of a professional and can provide documentation to the appointed person(s) or firm(s) for three consecutive years, including the program year for which they are seeking funds.

REQUIRED ATTACHMENTS (where applicable)

- Attachment 1. Facility Floor Plan (for all building projects).....
- Attachment 2. Commitment letters for all sources listed in Item 3

Part VI - **ADDITIONAL ATTACHMENTS (where available)**

- Attachment (number and title)

PART I. General Information

Type or print all information except where signatures are required.

- 1. Applicant Identification:** Enter the name, mailing address, telephone and fax number of the local government that is the applicant in an individual application or the lead applicant in a joint application. Enter the name of the local government contact person. Such person is the **applicant's employee who is most familiar with the application**, and not a circuit rider, regional council or community action agency staff person, consultant or other applicant non-employee. Include the Federal Tax Identification number and DUNS number of the Applicant. The DUNS number can be obtained via D&B online at <http://fedgov.dnb.com/webform> or requested by phone at 866-705-5711 or for persons with a hearing impairment, the TTY number is 866-814-7818. Enter the e-mail address for the local unit of government or local contact.
- 2. Person Preparing Application:** Enter the name, mailing address and telephone number of the person who prepared the application. If prepared by a firm, identify the staff contact person. Include the Federal Tax Identification number of the firm, development district, or nonprofit. If the application preparer is not affiliated with one of the above organizations, include preparer's social security number. Provide preparer's e-mail address. Check the appropriate application preparer status box.
- 3. Activity Type:** Select the project activity. If activity is not listed, please identify under the "Other" category.
- 4. Funding Sources:** Enter the dollar amounts of CDBG funds requested for this project. Enter the amount of all other funds identified in the application that you are committing to this project. **Round amounts to the nearest dollar.** (Other funds include matching and leveraged funds. "Matching Funds" are those CDBG eligible project funds required in *Section 4.02*. "Leveraged Funds" are those CDBG eligible project funds that are non-CDBG resources committed to the project in excess of the required match. For example, a \$250,000 public works activity requires a minimum commitment of \$62,500 non-CDBG matching funds with any additional commitment of non-CDBG funds being leveraged.) Be certain that the figures are correctly added, and are the same as provided on the "Total" line for each funding source in Part II.
- 5. Application Type:** Check the appropriate application type box under which funds are being requested.
- 6. Project Summary:** Give a short detailed description of the project activities in measurable terms for which funds are requested. Include a list of other applicants if a joint application is being submitted. For a joint application, or "on behalf of" application, attach a copy of the written agreement as stipulated in *Section 1.03(3)*. **IN ADDITION, ATTACH A ONE PAGE PROJECT SUMMARY FOLLOWING PART. 1 APPLICATION.**
- 7. Certifying Official: Only the signature of the applicant's chief elected official will be accepted.** Blue ink for signature is advisable. Alternate signatures (e.g. city council president, city manager) are not allowed, except where there exist extenuating circumstances (e.g. chief elected official is out for an extended period), and the applicant receives prior written approval from DED. Type the name and title of both signers and the date of their signatures.

PART II. Funding Summary

Using the activity code number and description provided on the Funding Summary, enter the national objective code for each activity (as identified on the application form).

Enter the dollar amount of CDBG funds requested for each major activity. Enter the amount of other funds **that you are committing** to each activity and identify the source. All matching funds shown on the application must comply with all CDBG requirements. Select the single most specific code to describe the nature of the activity being funded. For example, if property will be acquired and a senior center will be constructed with CDBG funds, code the activities 91 Senior Center rather than 10 Acquisition. You would include appraisal, acquisition, architectural, and construction costs with 91 Senior Center. You would include costs for environmental review, fair housing activities, labor standards enforcement, record keeping, progress reports, general office expenses, contractual services for administration, and audits under 0181 General Administration.

Limit Funding Summary to allowable CDBG eligible costs incurred during the CDBG program period only. Exclude any "other" project costs not eligible for CDBG reimbursement or match (i.e. test holes completed, preliminary architectural or engineering fees incurred or obligated prior to Release of Funds, fees for services not procured by CDBG guidelines, equipment or furnishings not affixed to building, etc.). Written documentation of commitment of source matching funds must be included as **attachment 2**.

Identify the sources of other funds and provide written documentation of availability of matching funds. Please be certain that the figures are correctly added and the column totals are the same as provided in the Part I Application.

PART II. FUNDING SUMMARY (Round amounts to the nearest dollar)

Activity Code-Activity	*National Objective	CDBG Funds	**Matching Funds	Total Funds	Sources of Matching Funds
10 Acquisition/Easements	1				
30 Clearance/Demolition	1				
50 Disposition	1				
70 Public Facilities & Improvements **					
81 Day care Centers					
82 Health Care Clinics					
90 Community Centers					
91 Senior Centers					
92 Public Libraries					
93 Fire Station/Equipment					
230 Streets/Bridges					
250 Storm Sewers					
370 Flood Control & Drainage Facilities					
450 Relocation	1				
490 Architectural Barriers					
0180 Total Non-Administration					
0181 General Administration					
1000 TOTAL PROGRAM COSTS					

¹Must correspond to National Objective for primary activity.

Clarification for the above activities should be directed to DED.

***NATIONAL OBJECTIVE:** Enter most appropriate national objective code for each activity. Refer to Section 2.01.

LMA: Benefit Low/Moderate Income Persons area basis. Census Data _____% or income survey _____% **Attach Exhibit E-1 or E-2.**

LMC: Benefit Low/Moderate Income Persons on a limited clientele basis

****Provide as attachment 2, written documentation supporting the amount and source of funding. The documentation should come from the provider of the matching funds.**

NOTE: For remodel shelter facilities for the homeless (excludes costs for operation) and parks (a new facility/improvement or a quantifiable increase of an existing facility/improvement) please use Activity 0070.

PART III. PROJECT BUDGET

The proposed budget includes project delivery costs and administration costs as stated in the project budget text. All items listed as match and CDBG costs must be allowable and eligible under the CDBG Program. The Department reserves the right to clarify budgeted items for specifics and clarity during the application review prior to award.

Provide the following information on separate sheet(s) of paper behind Part II of the application. Information provided in this section will be used to evaluate the accuracy and reasonableness of activities and cost estimates shown in the application. Indicate the date and source of cost estimates. Provide name, address, phone and e-mail of person(s) who prepared the estimates. The proposed budget includes project delivery costs and administration costs as stated in the project budget text. All items listed as match and CDBG costs must be allowable and eligible under the CDBG Program. The Department reserves the right to clarify budgeted items for specifics and clarity during the application review prior to award.

Project Delivery Costs

Provide a breakdown of the costs for the project. Common line item costs are real property acquisition, legal expenses, architectural and engineering fees, project inspection fees, site work, demolition and removal, construction, equipment, miscellaneous (detailed information) and contingencies (detailed information). If the project includes work to be performed by volunteers or in-kind contributions by the local government or other organizations, include the value of the volunteer or in-kind donations under the appropriate budget line item.

Please note that project costs not eligible for CDBG reimbursement or match and not claimed on the Part II Funding Summary may be identified here as a separate subtotal to clarify total project costs. Such “other” costs may include: architectural or engineering fees incurred or obligated prior to Release of Funds, fees for services not procured, equipment or furnishings not affixed to building, etc.

Administration Costs

The **general administration** (activity number 0181) budget includes those costs that are administrative in nature with the exception of pre-program costs, such as payment or reimbursement of application preparation fees, costs of conducting local surveys, etc. Common line item costs are environmental review, fair housing activities, financial audit (if necessary), labor standards enforcement, preparation of required grant progress reports and draw downs. If many of the general administration duties are to be performed by local government personnel, it is acceptable to use salaries and benefits as a line item cost. However, it should be noted what specific duties are to be performed under the salaries and benefits line item.

PART IV. Project Description & Scoring Criteria

The Matrix below describes each selection criteria as a numerical score within the PW Program. The maximum number of points available within any application is 1,000 points. A minimum score of 300 points is required and some criteria require a minimum score as noted below. All selection criteria will be scored in five point increments and shall be scored on a scale.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
Project Need	Project Impact	Project Readiness	Citizen Participation	Leverage	LMI Benefit	MEF	Bonus Points	TOTAL
200	150	250	150	50	50	100	50	1,000 points
75 min	75 min	100 min	50 min	0	0	0	NA	300 minimum

Limit responses to the space provided below with a minimum 9-point font (Arial or Calibri). For each of the following sections a project narrative must be provided and any additional information as noted within each individual application question.

Item 1: PROJECT NEED: Up to 200 points possible. If the minimum of 75 points is not met, the application will not be reviewed further. The level of project need will be compared to other applicants.

Points in this section include:

0-75 points—no clearly defined problem or no clear description of the need for the project.

76-150—minor problems or minor need are only defined.

151-200—major problems or description of project need is clearly defined.

Some examples of major needs include:

- A public facility that is undersized or lacking space;
- The facility is not physically accessible/removal of architectural barriers;
- Water infiltration and inflow or decrepit distribution lines;
- There is no similar facility or service within a reasonable distance;
- Construction or renovation of facilities that serve special-needs populations, senior services, or child care centers;
- Significant structural problems within a public facility or utility;
- There is a health and safety threat to users.

The application narrative shall be scored for: (a) explanations of the overall purpose of the project application and factual information that illustrates the severity of the public works problems or needs; (b) past efforts to resolve the problem and meet public works needs; and (c) stated goals and objectives for resolving the problem or need with a description of how the

community will be included in the citizen participation process in order to determine the objectives for problem resolution.

Item 2: PROJECT IMPACT: 150 points maximum possible. If minimum of 75 points is not met, the application will not be reviewed further. Describe the importance of project activities to the community and provide clarity on how the project will benefit those identified by a CDBG National Objective. The significance of the project impact will be scored as compared to other applicants.

Points in this section include:

0-50 points—inadequately defined project impact.

51-100—reasonably defined project impact that is average compared to other applicants.

101-150—above average description of project impact.

Within this section, the applicant should explain what the expected outcome of the project will be and why the community will be uniquely impacted by project completion. Examples of impacts may include providing important services in the community that were not available previously, increasing the ability to maintain important services in the community, improving the quality of life for beneficiaries, or positioning the community to attract new business.

Item 3: PROJECT READINESS: Up to 250 points possible. If minimum of 100 points are not met, the application will not be reviewed further. The level of capacity and commitment by the community will be scored as compared to other applicants.

Points in this section will include:

0-100—lack of local staff or ability to oversee the efforts from planning to the implementation of the physical project, no availability of the site(s) investigated, preliminary work is not substantially completed, and project is not construction ready.

101-175—local capacity is demonstrated through past projects, past community improvement efforts, citizen participation, there is strong evidence of a commitment to proceed with the project, the feasibility and cost estimates are reliable, the project is construction ready and financial resources have been investigated.

176-250—Significant local capacity demonstrated through past improvement efforts, financial resources are secured and pending CDBG award approval, match/non-CDBG funding is committed and documented, and environmental review has been completed.

Item 4: CITIZEN PARTICIPATION: Up to 150 points possible. If the minimum of 50 points is not met, the application will not be reviewed further. Applicant's description of public

participation and the process used to identify community needs and allocate resources to address needs will be compared to other applicants.

The following criteria will be taken into consideration when determining the community’s score for the Citizen Participation section.

- Completed a comprehensive needs assessment;
- The needs assessment process includes documented citizen participation;
- Developed, distributed, and analyzed a community needs surveys;
- Held public meetings to discuss the outcomes on the community needs analysis;
- Documentation showing the community needs assessment took place within the past 3 years;
- Developed a priority list using the community needs assessment process;
- Developed a strategy to address items in order of the communities priority list;
- A record of conducting other community and economic development efforts with significant citizen involvement within the last three years that address items ranked on the communities priority list;
- The community has adopted or updated a comprehensive plan, housing study, and/or a capital improvement plan within the last five years;
- The community can show evidence of economic initiatives such as: LB840, completing a business retention and expansion survey, or other viable fundraising efforts.

Points in this section include:

0-50 points—has not completed a majority of the above criteria.

51-100—has completed a majority of the above criteria.

101-150—has completed and properly documented most or all of the above criteria.

Item 5: Up to 50 points is possible. No minimum points in this section are required in order to meet threshold. For purposes of Public Works applications, leverage is defined as local funds provided by the community committed to the project’s non-administrative activities that exceed the required match.

Points will be awarded to applicants based on the amount of leverage provided that exceeds the required match. Communities who provide more leverage will receive points within this section. The table below further describes these criteria.

Leverage	
50 points	10% or greater of total project costs above required match
25 points	5-9.99% of total project costs above required match
10 points	3-4.99% of total project costs above required match
0 points	Less than 3% of total project cost above required match

Item 6: LMI Benefit: Up to 50 points is possible. No minimum points in this section are required in order to meet threshold. This scoring category is designed to give points to communities with higher concentrations of LMI persons. Communities with a LMI population of 55% or more will receive 50 points. Communities with a LMI population between 51% - 54.99% will receive no points in this section.

Item 7: MEF: Up to 100 points possible. No minimum points in this section are required in order to meet threshold. A Municipal Equalization Fund (MEF) score will be generated for each community that has applied for this program.

The Municipal Equalization Fund (MEF) was created in 1996 as a needs-based method of providing state aid to cities. The program is administered by the Nebraska Department of Revenue, with data provided by the Department of Revenue's Property Assessment and Research Divisions, and the Nebraska Auditor of Public Accounts. Final aid calculations for Nebraska communities are posted in June of each year.

This aid formula provides a way of looking at needs and resources while at the same time ensuring that local governments provide a level of local resources. DED will incorporate the MEF calculation into the scoring criteria for this program.

Each city's population is multiplied by the average per capita property tax levy for the relevant population group. Then each city's property tax valuation is multiplied by the state average property tax levy. These numbers are used to make the preliminary determination for state aid under the MEF formula. If a city's population multiplied by the average per capita property tax levy is greater than the state-wide average levy multiplied by its valuation, the community will earn points. If the difference is negative, no points will be awarded under the MEF scoring criteria for this program.

All of the incorporated cities in the state are divided into three population groups:

1. Municipalities with a population of 5,000 inhabitants or more;
2. Municipalities with a population between 800 and 5,000 inhabitants; and
3. Municipalities with a population of 800 inhabitants or less.

Populations are based on the last decennial census including those modified by annexations that have taken place since the last census and any special censuses completed by the U.S. Census Bureau.

Item 8: Bonus Points: Up to 50 points possible. No minimum points in this section are required in order to meet threshold. Applicant must demonstrate any of the following items at the time of application submittal. These items include:

- a. Applicant is designated as an Economic Development Certified Community. For a complete list of communities and additional information visit the DED website at: <http://www.neded.org/economic-development-certified-community/certified-communities>. **30 bonus points**
- b. Applicant is designated as a DED Leadership Community. For a complete list of communities and additional information visit the DED website at: <http://www.neded.org/community/community-info/community-improvement/leadership-community>. **30 bonus points**
- c. The public works project will significantly reduce inefficiencies throughout the community in relation to: budget, operations, and project implementations. **20 bonus points.**

Based on the instructions and information above, below are the questions that will need to be answered for the PW application. Answers should be provided within the boxes noted below, but if necessary, attach additional sheets and documentation as needed.

Application Questions and Scoring Criteria

Item 1. Project Need. (75 points min; 200 points max.)
Describe the geographical target area of the project (include entire area served by activity).

Need for the project. Address each of the following: 1) existing conditions, 2) severity, extent, frequency, duration of problem(s), 3) lack of facility and distance to comparable facility, 4) age and structural deterioration, 5) lack of capacity and functions that cannot be performed, 6) health and safety concerns, 7) accessibility to facility or restrooms. Attach only relevant pages of any mandates, studies or reports, petitions, community assessments or surveys, photos, etc., that identify the proposed project as a need.

Item 2. Project Impact. (75 points min; 150 points max)

Describe in measurable units the specific improvement activities proposed. Include: linear/square feet, size, design life expectancy, etc. Additionally, include a Facility Floor Plan (***for building projects only***) and label it "**Attachment 1**".

Describe the frequency of use and the new or increased level of service available, accessible, or affordable.
Describe 1) the degree to which the proposed accomplishments will reduce or eliminate the need (as identified in Item3) in the target area, and 2) any plans to address what need(s) remains.
Describe the level of community/business support for the project and potential other investment in area.
Item 3. Project Readiness. (100 points min; 250 points max)
Describe the organization that will own and operate the facility. (If other than local government, also specify the organization's legal status and date of incorporation).

List key individuals who will be responsible for the day-to-day operations and provide specific information regarding their experience and ability.
Identify annual costs, specific revenue events/sources and amounts to demonstrate short- and long-term operation and maintenance.
Address each of the following in order: 1) need identification, 2) alternatives considered and why rejected, 3) preliminary design, 4) determination and maintenance of historic integrity, 5) compliance with energy conservation code, 6) consultation on environmental impacts, 7) how cost estimates were determined, and 8) status of necessary agreements or permits to implement or construct project, etc.

List each source and amount of other funds to complete the project. For each source, provide 1) name and telephone number of a contact person, and 2) status of the commitment. Attach commitment letters for all listed sources and label as "**Attachment 2**".

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List other funds investigated and why not available for this project.

Benchmarks. Provide a proposed date for each measurable benchmark in order to outline a schedule for the project. If benchmarks are not met, DED may invoke the right to terminate the CDBG contract. The following list is not exhaustive; please add benchmarks applicable to the project on a separate sheet of paper if needed.

Benchmark	Completion Date
Secure CDBG award	
Secure administrative services	
Complete environmental review	
Receive RROF approval	
Secure engineering services	
Complete plans/specifications	
Obtain permits and approvals	
Solicit construction bids	
Award contracts	
Construction start	
Project completion	

Item 4. Citizen Participation

Public Participation Process. Provide information for the **past 5 years** on each of the following: 1) extent of “public” involvement; 2) identify community needs; 3) address community needs identified in item 2; 4) allocate resources. Attach additional information as needed. Be sure to include dates. (50 points min; 150 max)

Did the public participation process include:

- Developing and distributing community attitude surveys? YesNo Dates: _____
- Public meetings to develop community priorities? YesNo Dates: _____
- Involving local groups/organizations to develop community priorities? YesNo
- Prioritization of survey results? YesNo
- Developing action plans for short & long term projects? YesNo

List community and economic development efforts with citizen participation that have been conducted within the past 3-5 years as a result of the above efforts. Please include dates. Attach additional pages if needed.

List all projects/programs implemented/completed within the past 3-5 years. Please include dates. Attach additional pages if needed.

Please list the update or adoption dates of:

Comprehensive plan _____	Not Applicable _____
Housing study _____	Not Applicable _____
Capital improvement plan _____	Not Applicable _____

Does your community currently participate in the Nebraska Leadership Program? Yes No

Has your community implemented LB840? Yes No
 Implementation Date: _____

Has your community completed a business retention and expansion survey for the community? Yes No
 Completion Date: _____

Item 5. Leverage

Up to 50 points possible. No minimum points in this section are required in order to meet threshold. For purposes of DTR applications, leverage is defined as local funds (including “other” funds and or in-kind contributions) committed to the project’s non-administrative activities that exceed the required match.

Points will be awarded to applicants based on the amount of leverage provided that exceeds the required match. Communities who provide more leverage will receive points within this section. The table below further describes this scoring criteria.

Leverage	
50 points	10% or greater of total project costs above required match
25 points	5-9.99% of total project costs above required match
10 points	3-4.99% of total project costs above required match
0 points	Less than 3% of total project cost above required match

Item 6. LMI Benefit/National Objective

Up to 50 points is possible. No minimum points in this section are required in order to meet threshold. This scoring category is designed to give points to communities with higher concentrations of LMI persons. Communities with a LMI population of 55% or more will receive 50 points. Communities with a LMI population between 51% - 54.99% will receive no points in this section.

Number of individuals currently served: _____
Number of individuals to be served at project completion: _____
Number of LMI individuals currently served: _____
Number of LMI individuals to be served at project completion: _____
Percent of LMI benefit: _____

Check the appropriate national objective for each CDBG funded activity (see Section 2.01).

- Area Benefit Activities:
 - Census: Attach HUD census data from *Census data must be taken from the DED website at: <http://www.neded.org/community/grants/applications/income-limits-cdbg-home-nahtf>. Information is found under the heading, “Low-Moderate Income (LMI) data and selected maps and data” and the link to follow is called “2010 Census LMI Information (All Counties and Municipalities) Estimates.” Contact the Department for further information.
Census Tract _____ Block Group _____
(<http://www.hud.gov/offices/cpd/systems/census/ne/index.cfm>)
 - Survey: Complete Exhibit E-1 – LMI Worksheet Census Survey
Survey Completion Date _____
 - Survey: Complete Exhibit E-2 – LMI Worksheet Random Survey
Survey Completion Date _____
 - Limited Clientele Activities: Complete Exhibit E-3 – Limited Clientele Worksheet. Attach supporting documentation.

Item 7. Municipal Equalization Fund (MEF)

Up to 100 points possible. No minimum points in this section are required in order to meet threshold. A Municipal Equalization Fund (MEF) score will be generated for each community that has applied for this program.

Item 8. Bonus Points

Up to 50 points possible. No minimum points in this section are required in order to meet threshold. Applicant must demonstrate any of the following items at the time of application submittal. These items include:

- a. Applicant is designated as an Economic Development Certified Community. For a complete list of communities and additional information visit the DED website at: <http://www.neded.org/economic-development-certified-community/certified-communities>. **30 bonus points**
- b. Applicant is designated as a DED Leadership Community. For a complete list of communities and additional information visit the DED website

at: <http://www.neded.org/community/community-info/community-improvement/leadership-community>. **30 bonus points**

- c. The public works project will significantly reduce inefficiencies throughout the community in relation to: budget, operations, and project implementations. **20 bonus points.**

PART V. Exhibits and Attachments

This Chapter contains specific information on the Exhibits that are required for the project as well as any necessary Attachments that must also be provided in order for the applicant to submit a complete application.

The list of required exhibits is identified below as well as provided within the Table of Contents Checklist. **All Exhibit information and templates will be found in Chapter 8 of these Application Guidelines.** Any required Attachment information is provided within this Chapter below.

The following Exhibits include the certification and documentation requirements for the PW application. These Exhibits must be submitted with the application.

- **Exhibit A:** Notice of Public Hearing (including Proof of Publication or Certificate of Posting and summary of citizen's comments)
- **Exhibit B:** Authorizing Resolution (Original or Certified copy)
- **Exhibit C-1 :** Statement of Assurances and Certifications
- **Exhibit C-2:** Citizen Participation Plan
- **Exhibit D:** Residential Antidisplacement and Relocation Assistance Plan
- **Exhibit E-1:** LMI Census Worksheet (only for LMI area benefit)
- **Exhibit E-2:** LMI Random Sample Worksheet (only for LMI area benefit)
- **Exhibit E-3:** LMC Worksheet (Limited Clientele)
- **Exhibit F-1:** Slum and Blight Area Basis Documentation (*where appropriate*)
- **Exhibit F-2:** Slum and Blight Spot Basis Documentation (*where appropriate*)
- **Exhibit L:** FFATA Federal Funding Accountability and Transparency Act
- **Exhibit M:** Map of Proposed Project Area (See Item 5 of Part IV Project Description)
- **Exhibit N:** Systems for Award Management (SAM) record and clearance documentation
- **Exhibit O-1:** Four Factor Analysis Assessing Limited English Proficiency
- **Exhibit O-2:** Language Assistance Plan (optional at the time of application)

The following Exhibit K is only required when Applicant will act in its official capacity or has retained the services of a professional and can provide documentation to the appointed person(s) or firm(s) for three consecutive years, including the program year for which they are seeking funds.

- **Exhibit K:** Procurement Process (include narrative)

The following attachments are required (where applicable) for the PW application.

- **Attachment 1:** Facility Floor Plan (for all building projects)
- **Attachment 2:** Commitment letters for all sources listed in Item 3

Any additional attachments that are provided within the application should be appropriately labeled and noted as the information provided within the Table of Contents Checklist.

C. Application Guidelines

The primary objective of Nebraska's nonentitlement Community Development Block Grant (CDBG) Program is to develop viable communities and counties by providing decent housing, suitable living environments, and expanding economic opportunities principally for low- and moderate-income (LMI) persons. As the designated state administering agency, the Nebraska Department of Economic Development (DED) accomplishes this objective by funding activities authorized under the federal Housing and Community Development Act of 1974, as amended, and designed to meet the objectives for the CDBG Community Development category. These particular guidelines concern Public Works. Other guidelines for comprehensive revitalization, housing, planning, downtown revitalization, economic development grants, and any other CDBG programs can be obtained from DED.

Section 1.01 Eligible Applicants

Except as provided in *Section 1.03*, eligible applicants include every Nebraska incorporated municipality under 50,000 in population and every county.

Section 1.02 Types of Applicants

Eligible applicants may submit one of two types of applications:

1. Individual: Except as provided in *Section 1.03*, an eligible municipality may apply only for projects within its corporate limits, and an eligible county may apply only for such projects or activities in unincorporated areas.

2. Joint: Eligible applicants may jointly apply for projects when it can be clearly documented that mutual action by the applicants is required. The applicant local government in a multi-jurisdictional application must also be a direct participant in the study/project. The applicant local government cannot serve only as a pass through for CDBG funds or only as the general administrator of the study/ project.

Section 1.03 Special Policies for Applicants

Special policies affecting *Section 1.01* and *Section 1.02* are:

1. A municipality may not submit an application for projects undertaken outside its corporate limits unless the projects either: (a) occur within its zoning jurisdiction; or (b) involve property acquired by the municipality prior to project implementation through purchase, donation or a permanent easement.

2. A county may not submit an application for projects undertaken within the corporate limits or zoning jurisdiction of a municipality unless the projects involves either: (a) public facilities within an eligible incorporated municipality that are owned or operated by the county; or (b)

activities provided county-wide, either directly by the county or through contract with another local or area agency.

3. A joint application must include a written agreement made in accordance with state law (Interlocal Cooperation Act) that (a) stipulates that the parties will cooperate in undertaking the project; (b) delineates responsibilities and authorities of each party with respect to grant administration; and (c) authorizes one of the parties to act as primary agent for administrative and monitoring purposes. The applicant local government in a multi-jurisdictional application must also be a direct participant in the study/project. The applicant local government cannot serve only as a pass-through for CDBG funds or only as the general administrator of the study/project.

4. If an application requires participation of entities that are not eligible applicants, each such entity must provide written assurance that it concurs with the project and is committing its resources, if any, as stated in the application. A grantee/ sub-grantee agreement that stipulates the decision making authority, administration, contract compliance, reporting, etc.... should be executed and submitted with the application. In all instances the grantee has the final responsibility for implementation of the project and must retain environmental and financial responsibility.

5. Eligible applicants may provide CDBG funds to a sub grantee neighborhood-based nonprofit organization (proof of nonprofit status, such as Secretary of State designation, must be included with the application). A neighborhood-based nonprofit organization is an association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood. An organization is considered to be neighborhood-based if the majority of its membership, clientele, or governing body are residents of the neighborhood where activities assisted with CDBG funds are to be carried out. A neighborhood is defined as: geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation; or the entire jurisdiction of a unit of general local government that is under 25,000 population.

Section 2.01 Compliance with the National CDBG Objective

The primary national CDBG objective is the development of viable urban communities by providing decent housing, suitable living environments, and expanding economic opportunities, principally for low- and moderate-income persons. Under these guidelines, this is accomplished by funding projects that meet at least one of three national objectives. Based on the amended 1974 HCD Act and HUD guidance, the national objectives are defined and clarified by DED as follows:

1. Benefit to low-and moderate-income persons (referred to throughout this document as LMI persons): LMI persons are defined as a member of a family having an income equal to or less than the income limits established by HUD for their resident county. The income limits as

published by HUD at www.huduser.org/datasets/il.html are determined for each Nebraska County on the higher of either: 80% of the median income of the county, or 80% of the median income of the entire non-metropolitan area of the state.

Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to meet this national objective.

a. Area benefit activities: An area benefit activity is available to all residents of an area that is **primarily residential**. In order to qualify on an area basis, the activity must meet the identified needs of LMI persons residing in an area where at least 51% of the residents are LMI persons. The benefits of this type of activity are available to all residents in the area regardless of income. If the assisted activity *serves* an area having a LMI concentration below 51%, the activity may not qualify even if there is reason to believe that it will actually be used primarily by LMI persons.

Such an area need not be coterminous with census tract or other officially recognized boundaries, but must be the ENTIRE area served by the activity (i.e. an arterial street or sewer interceptor line running through a neighborhood would serve more residents than those in the immediate neighborhood).

To determine the percentage of LMI persons in the service area, Grantees may use data from the most current U.S. Census or conduct an income survey in the project service area. Grantees may choose to conduct an income survey of the residents of the project service area if: data from the most current Census does not reflect current relative income levels in an area and is below 51%; or census boundaries do not coincide with the service area of an activity. DED will accept information obtained from income surveys if it is determined that the results are methodologically sound. Surveys must be conducted as set forth in **Guidance for Survey Methodology to Determine Low/Mod Status of CDBG Service Areas** located at: <http://www.neded.org/community/grants/applications/cdbg-forms#lmi> . If an income survey has been conducted to determine the LMI percentage, the application must complete and submit Exhibit E, LMI worksheet, and include a description of the methodology and income guidelines used. **Income surveys conducted before January 1, 2010 will not be accepted.**

b. Limited clientele activities. These are activities that provide a benefit to a specific group of persons rather than everyone in a general area. It may benefit particular persons without regard to the area in which they reside, or be an activity that provides benefit on an area basis but only to a specific group of persons who reside in the area. In either case, at least 51% of the beneficiaries of the activity must be LMI persons. To qualify under this subcategory, the activity must meet one of the following tests:

(1) Exclusively benefit a clientele who are generally presumed by HUD to be principally LMI persons. The following groups are currently presumed by HUD to be made up principally of LMI persons: abused children, battered spouses, elderly persons, adults meeting Bureau of Census'

definition of severely disabled adults, homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or,

(2) Require information on family size and income so that it is evident that at least 51% of the clientele are persons whose family income does not exceed the LMI limit, this includes the case where the activity is restricted exclusively to LMI persons; or

(3) Be of such nature and in such location that it may reasonably be concluded that the activity's clientele will primarily be LMI persons (e.g. a daycare center that is designed to serve residents of a public housing complex); or,

(4) Be an activity that removes material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting Bureau of Census' Current Population Reports definition of "severely disabled," provided it is restricted, to the extent practicable, to the removal of such barriers by assisting the reconstruction of a public facility or improvement or rehabilitation of a privately-owned nonresidential building that does not qualify under LMI area benefit criteria.

Activities that serve an area generally cannot qualify under the Limited Clientele criterion. For example, while a clinic serving only persons with AIDS living in a particular area would clearly qualify as a Limited Clientele activity, a clinic providing CDBG-subsidized health services which are available to *all* persons in the area would not. It must instead meet the criteria for an Area Benefit activity.

2. Aid in the prevention or elimination of slums and blight: : "Slums" has the same meaning as substandard areas as defined in Section 18-2103(10) Neb. R.R.S. "Blight" has the same meaning as blighted areas as defined in Section 18-2103 (11) Neb. R.R.S. A copy of the Community Development law is available upon request from DED.

Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to meet this national objective.

a. On an area basis: An activity will be considered to meet this objective if: (1) the area is designated by official action of the local government as substandard or blighted in accordance with the applicable state statute; (2) there is a substantial number of deteriorated or deteriorating structures throughout the area, or public improvements throughout the area are in a general state of deterioration; (3) the assisted activity is designed to address one or more of the conditions which contributed to the deterioration of the area; (4) documentation is provided and maintained by the recipient on the boundaries of the area and the conditions which qualified the area at the time of its designation; and (5) activities to be assisted with CDBG funds must be limited to those that address one or more of the conditions that contributed to the deterioration of the area. Submit Exhibit F-1.

b. On a spot basis: An activity must be designed to eliminate specific conditions of blight or physical decay not located in a designated slum or blighted area; and be limited to one of

the following: acquisition, clearance, relocation, historic preservation, or rehabilitation of buildings, but only to the extent necessary to eliminate specific conditions detrimental to public health and safety. (Public improvements cannot qualify under this standard except for rehabilitation of public buildings and historic preservation of public property that is blighted). Submit Exhibit F-2.

Section 2.02 Compliance with State Community Development Objective

The state CDBG objective of the Public Works Category within the Community Development Program is to provide for investments in effective and affordable infrastructure to quality communities that are investing in long-term development. This provides a sound basis for fostering local economic development, recognizing the importance of the availability and condition of public works/facilities and housing in business expansion and location decisions. Funded projects shall develop the state's communities and counties by providing residents with: decent, safe and sanitary housing in a suitable living environment or basic public works/facilities.

Section 3.01 Compliance with State Public Works Priorities

Several activities are eligible for assistance under Section 105(a) of the amended 1974 HCD Act. Although the state may not refuse to distribute CDBG funds for any eligible activity, the state can use criteria that have the effect of increasing the likelihood of certain activities being funded. Under the state program, CDBG funds will be distributed for the eligible activities listed in *Section 3.04* that comply with the state priorities. In addition, all improvements must be either publicly owned or owned by a nonprofit and operated so as to be open to the general public during all normal hours of operation.

PUBLIC WORKS (PW): Single or multiple activities that contribute to the revitalization of neighborhoods or specific target areas as defined in *Section 3.02(4)* which have concentrations of LMI. The target area boundaries must allow for maximum treatment of substandard conditions.

Activities given priority are: community centers or senior centers of a single or multipurpose nature designed to provide public recreational and social activities; nonprofit centers for day care, primary health and mental health care outpatient clinics (excluding shelters defined as: hospitals, nursing homes, convalescent homes, battered spouse shelters, halfway houses, group homes, temporary housing); remodel shelter facilities for the homeless (excludes costs for operation); accredited public libraries; single or multi-service fire/rescue buildings (fire trucks are specifically considered "public facilities" and thus eligible); removal of architectural barriers from City/Village Halls or County Courthouses for accessibility; parks (a new facility/improvement or a quantifiable increase of an existing facility/improvement); water distribution lines (excludes water transmission, wells, and storage system) improvements/service lines (only if system service connections are or will be metered) and/or sanitary sewer collection system improvements (lines on private property are eligible under LMH national objective); bridge and/or street improvements including curb, gutter, and sidewalk; storm sewer improvements; flood control (designed to influence or affect the flow in

a natural water course such as a river, stream or lake); drainage improvements (i.e. retention ponds or catch basins); and tornado-safe shelters in manufactured home parks (containing not less than 20 manufactured housing units that are within such proximity of shelter to be of use in a tornado). When in support of any of the above activities, acquisition/easements, clearance, and code enforcement activities, that predominantly benefit LMI.

Section 3.02 Special Policies for Activities

Special policies affecting activities listed in *Section 3.01* are:

- 1. Facilities containing both eligible and ineligible uses:** A public facility otherwise eligible for assistance under the CDBG program may be provided with CDBG funds even if it is part of a multiple use building containing ineligible uses, if: (a) the facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and (b) the grantee can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility. Allowable costs are limited to those attributable to the eligible portion of the building or facility.
- 2. Fees for use of facilities:** Reasonable fees may be charged for the use of the facilities assisted with CDBG funds, but charges, such as excessive membership fees, which will have the effect of precluding LMI persons from using the facilities, are not permitted.
- 3. Special Assessments:** The term special assessment means the recovery of the capital costs of a public improvement, such as streets, water or sewer lines, curbs, and gutters, through a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, or a one-time charge made as a condition of access to a public improvement. This term does not relate to taxes on property or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes, and does not include periodic charges based on the use of a public improvement, such as water or sewer user charges, even if such charges include the recovery of all or some portion of the capital costs of the public improvement.

Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be used to recover capital costs as follows: a) special assessments to recover the CDBG funds may be made only against properties not owned and occupied by LMI persons (such assessments are program income), b) special assessments to recover the non-CDBG portion may be made provided that CDBG funds are used to pay the special assessment on behalf of all properties owned and occupied by LMI persons; except that CDBG funds need not be used to pay the special assessments on behalf of properties owned and occupied by moderate income persons if the grantee certifies that it does not have sufficient CDBG funds to pay the assessments on behalf of all of the LMI owner-occupant persons (funds collected through such special assessments are not program income).

4. Target area definition: A target area is contiguous and substantial. Generally, substantial means a concentration of 100 or more families and primarily residential in character. A contiguous target area is generally delineated along block lines and by natural/man-made boundaries, such as streets, highways, railroads and streams. Alleys and lot lines do not delineate target area boundaries exclusively. The entire community is considered the target area if there are less than 100 families. All target areas will be reviewed for direct effects of the assisted activity to LMI persons and other persons inside or outside the target area as well.

The target area for a county is a contiguous and substantial area of concentrated families or the entire unincorporated area. County applications exclude the incorporated areas, unless the county is a lead applicant in a joint application submitted in conformance with *Section 1.03(3)*.

Target area must be appropriately designed to coincide with the project service area. Separate activities may suggest different target areas or a combined target area to be most effective.

Section 3.03 Ineligible Activities

This section identifies ineligible activities.

1. Buildings, or portions thereof, used predominantly for the general conduct of government cannot be assisted with CDBG funds. Such buildings are defined as city and village halls, county administrative buildings, state capitols, or office buildings or other facilities in which the legislative or general administrative affairs of the government are conducted. This definition does not include such facilities as neighborhood service centers or special purpose buildings located in LMI areas that house various non-legislative functions or services provided by government at decentralized locations. This does not exclude, however, the removal of architectural barriers in order to make public buildings accessible to elderly and handicapped persons.
2. General government expenses cannot be paid with CDBG funds, except for those costs that are directly attributable to administration of a local CDBG program and are documented as such. (Eligible cost expenses are detailed in OMB Circular A-87).
3. CDBG funds cannot be used to pay for facilities or equipment used for political purposes or to engage in other political activities such as candidate forums, voter transportation, or voter registration. However, a facility originally financed in whole or in part with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.
4. The purchase of equipment with CDBG funds is generally ineligible, except (a) the purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to OMB Circulars A-87, or A-122 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible;

(b) fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible; and (c) the purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with OMB Circulars A-87 or A-122, as applicable) for such items when necessary for use by a municipality or county in the administration of activities assisted with CDBG funds, or when eligible as firefighting equipment, or when such items constitute all or part of a public service.

5. The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of operating and maintaining a facility used in providing a public service would be eligible, even if no other costs of providing such a service are assisted with such funds.

Examples of ineligible operating and maintenance expenses are: (a) maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar public facilities. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs; and (b) payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.

6. CDBG funds may be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction when required to provide last resort housing under the Uniform Relocation Act. Activities in support of the development of LMI housing including clearance, site assemblage, provision of site improvements and public improvements and certain housing preconstruction costs are considered activities to subsidize or assist new residential construction.

7. The general rule is that CDBG funds cannot be used for income payments for housing or any other purpose. Examples of ineligible income payments include: payments for income maintenance, housing allowances, down payments, and mortgage subsidies. One time payments made on behalf of persons or families to meet emergency needs such as housing or essential utilities is not an income payment and is eligible.

Section 3.04 Eligible Activities

Activities eligible for assistance under the state's CDBG program are only those authorized in Section 105(a) of the amended 1974 HCD Act. The general rule is that any activity listed in Section 105(a) may be funded in whole or in part with CDBG funds. Below is a partial list of activities from Section 105(a). Communities should be aware that although an activity may be legally eligible under Federal statute and HUD regulations, it may not be competitive under the

guidelines and ranking system in the Nebraska CDBG Program. The State has adopted priorities, listed in *Section 3.01*, which increase the likelihood of funding of certain activities. Restrictions are identified in *Sections 3.02* and *3.03* above.

1. The acquisition of real property (including air rights, water rights, and other interests therein) which is (a) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (b) appropriate for rehabilitation or conservation activities; (c) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (d) to be used for the provision of public works, facilities, and improvements eligible for assistance under this program; or (e) to be used for other public purposes.
2. The acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements.
3. Code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area.
4. Clearance, demolition, removal, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation, or privately owned properties and including the renovation of closed school buildings).
5. Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons.
6. Payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for relocation of individuals and families displaced by CDBG activities.
7. Disposition (through sale, lease, donation, or otherwise) of any real property acquired with CDBG funds or its retention for public purposes.
8. Payment of the nonfederal share required in connection with a federal grant-in-aid program undertaken as part of activities assisted under this program.
9. Relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate activities.

10. Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in Section 701(e) of the Housing Act of 1954 on the date prior to the enactment of the Housing and Community Development Amendments of 1981.

11. Activities which are carried out by public or private nonprofit entities, including (a) acquisition of real property; (b) acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), site improvements, and utilities.

Section 4.01 Maximum Grant Amount

The maximum PW grant amount is \$250,000. The cost per beneficiary cannot exceed \$3,000, except for daycare where it cannot exceed \$5,000. General administration shall not exceed \$20,000.

Section 4.02 Matching and Leveraged Funds Requirements

Matching funds are required non-CDBG cash or in-kind contributions committed and accountable to the project. Leveraged funds are other non-CDBG cash or in-kind contributions committed and accountable to the project that exceed the required match. Allow-ability of cash and in-kind contributions are governed by 24 CFR 85.

1. All public works/facility activities require a minimum 25% match of the total activity costs (maximum 75% CDBG funds/minimum 25% non-CDBG funds or in-kind contributions). The following clarifies public facility activity:

- a. Public facility activity is defined as any new public improvement activity or any new, expanded, or rehabilitated permanent physical facility.
- b. Community or senior centers are considered public facilities.
- c. Public housing is not considered a public facility.

2. General administrative and audit activities require no matching funds and the amounts budgeted for them cannot be used as match or leverage for other activities.

Section 4.03 Program Income

Program income is defined as gross income received by a State, a unit of general local government, or a subgrantee of the unit of general local government that was generated from the use of CDBG funds, regardless of when the CDBG funds were appropriated and whether the activity has been closed out, except in limited circumstances [See also 24 CFR

570.489(e)(2)]. When program income is generated by an activity that is only partially assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used.

Program income includes, but is not limited to, the following:

(1) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds except in instances where the proceeds are received more than 5 years after expiration of the grant agreement between the state and the unit of general local government.” [See also 24 CFR 570.489(e)(2)(v)]; (2) Proceeds from the disposition of equipment purchased with CDBG funds; (3) Gross income from the use or rental of real or personal property acquired by the unit of general local government or subgrantee of the unit of general local government with CDBG funds, less the costs incidental to the generation of the income; (4) Gross income from the use or rental of real property, owned by the unit of general local government or other entity carrying out a CDBG activity that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income; (5) Payments of principal and interest on loans made using CDBG funds, except in instances where “Payments of principal and interest made by a subgrantee carrying out a CDBG activity for a unit of general local government, toward a loan from the local government to the subgrantee, to the extent that program income received by the subgrantee is used for such payments;” [See also 24 CFR 570.489(e)(2)(iii)]; (6) Proceeds from the sale of loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that are not otherwise eligible costs under sections 105(a)(13) or 106(d)(3)(A) of Title I of the Housing and Community Development Act of 1974 (as amended); (7) Proceeds from the sale of obligations secured by loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that are not otherwise eligible costs under sections 105(a)(13) or 106(d)(3)(A) of Title I of the Housing and Community Development Act of 1974 (as amended); (8) Interest earned on funds held in a revolving fund account; (9) Interest earned on program income pending disposition of the income; (10) Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households not of low and moderate income, if the special assessments are used to recover all or part of the CDBG portion of a public improvement; and (11) Gross income paid to a unit of general local government or subgrantee of the unit of general local government from the ownership interest in a for-profit entity acquired in return for the provision of CDBG assistance.

All program income earned during the grant period must be expended on the project activities prior to drawing down additional CDBG funds under the grant. Program income earned after the completion of the grant activities is subject to the following requirement.

Additional information regarding CDBG program income is available within the current Annual Action Plan.

Section 4.04 Public Works Priority Point System for Selection

Full applications are scored based on the scoring criteria as identified within the Selection Scoring Criteria Matrix.

The Matrix below describes each selection criteria as a numerical score within the PW Program. The maximum number of points available within any application is 1,000 points. A minimum score of 300 points is required and some criteria require a minimum score as noted below. All selection criteria will be scored in five point increments and shall be scored on a scale.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
Project Need	Project Impact	Project Readiness	Citizen Participation	Leverage	LMI Benefit	MEF	Bonus Points	TOTAL
200	150	250	150	50	50	100	50	1,000 points
75 min	75 min	100 min	50 min	0	0	0	NA	300 minimum

The most current available data will be used for the selection criteria which include:

Item 1: PROJECT NEED: Up to 200 points possible. If the minimum of 75 points is not met, the application will not be reviewed further. The level of project need will be compared to other applicants.

Points in this section include:

0-75 points—no clearly defined problem or no clear description of the need for the project.

76-150—minor problems or minor need are only defined.

151-200—major problems or description of project need is clearly defined.

Some examples of major needs include:

- A public facility that is undersized or lacking space;
- The facility is not physically accessible/removal of architectural barriers;
- Water infiltration and inflow or decrepit distribution lines;
- There is no similar facility or service within a reasonable distance;
- Construction or renovation of facilities that serve special-needs populations, senior services, or child care centers;
- Significant structural problems within a public facility or utility;
- There is a health and safety threat to users.

The application narrative shall be scored for: (a) explanations of the overall purpose of the project application and factual information that illustrates the severity of the public works

problems or needs; (b) past efforts to resolve the problem and meet public works needs; and (c) stated goals and objectives for resolving the problem or need with a description of how the community will be included in the citizen participation process in order to determine the objectives for problem resolution.

Item 2: PROJECT IMPACT: 150 points maximum possible. If minimum of 75 points is not met, the application will not be reviewed further. Describe the importance of project activities to the community and provide clarity on how the project will benefit those identified by a CDBG National Objective. The significance of the project impact will be scored as compared to other applicants.

Points in this section include:

0-50 points—inadequately defined project impact.

51-100—reasonably defined project impact that is average compared to other applicants.

101-150—above average description of project impact.

Within this section, the applicant should explain what the expected outcome of the project will be and why the community will be uniquely impacted by project completion. Examples of impacts may include providing important services in the community that were not available previously, increasing the ability to maintain important services in the community, improving the quality of life for beneficiaries, or positioning the community to attract new business.

Item 3: PROJECT READINESS: Up to 250 points possible. If minimum of 100 points are not met, the application will not be reviewed further. The level of capacity and commitment by the community will be scored as compared to other applicants.

Points in this section will include:

0-100—lack of local staff or ability to oversee the efforts from planning to the implementation of the physical project, no availability of the site(s) investigated, preliminary work is not substantially completed, and project is not construction ready.

101-175—local capacity is demonstrated through past projects, past community improvement efforts, citizen participation, there is strong evidence of a commitment to proceed with the project, the feasibility and cost estimates are reliable, the project is construction ready and financial resources have been investigated.

176-250—Significant local capacity demonstrated through past improvement efforts, financial resources are secured and pending CDBG award approval, match/non-CDBG funding is committed and documented, and environmental review has been completed.

Item 4: CITIZEN PARTICIPATION: Up to 150 points possible. If the minimum of 50 points is not met, the application will not be reviewed further. Applicant’s description of public participation and the process used to identify community needs and allocate resources to address needs will be compared to other applicants.

The following criteria will be taken into consideration when determining the community’s score for the Citizen Participation section.

- Completed a comprehensive needs assessment;
- The needs assessment process includes documented citizen participation;
- Developed, distributed, and analyzed a community needs surveys;
- Held public meetings to discuss the outcomes on the community needs analysis;
- Documentation showing the community needs assessment took place within the past 3 years;
- Developed a priority list using the community needs assessment process;
- Developed a strategy to address items in order of the communities priority list;
- A record of conducting other community and economic development efforts with significant citizen involvement within the last three years that address items ranked on the communities priority list;
- The community has adopted or updated a comprehensive plan, housing study, and/or a capital improvement plan within the last five years;
- The community can show evidence of economic initiatives such as: LB840, completing a business retention and expansion survey, or other viable fundraising efforts.

Points in this section include:

0-50 points—has not completed a majority of the above criteria.

51-100—has completed a majority of the above criteria.

101-150—has completed and properly documented most or all of the above criteria.

Item 5: Up to 50 points is possible. No minimum points in this section are required in order to meet threshold. For purposes of Public Works applications, leverage is defined as local funds provided by the community committed to the project’s non-administrative activities that exceed the required match.

Points will be awarded to applicants based on the amount of leverage provided that exceeds the required match. Communities who provide more leverage will receive points within this section. The table below further describes these criteria.

Leverage	
50 points	10% or greater of total project costs above required match
25 points	5-9.99% of total project costs above required match

10 points	3-4.99% of total project costs above required match
0 points	Less than 3% of total project cost above required match

Item 6: LMI Benefit: Up to 50 points is possible. No minimum points in this section are required in order to meet threshold. This scoring category is designed to give points to communities with higher concentrations of LMI persons. Communities with a LMI population of 55% or more will receive 50 points. Communities with a LMI population between 51% - 54.99% will receive no points in this section.

Item 7: MEF: Up to 100 points possible. No minimum points in this section are required in order to meet threshold. A Municipal Equalization Fund (MEF) score will be generated for each community that has applied for this program.

The Municipal Equalization Fund (MEF) was created in 1996 as a needs-based method of providing state aid to cities. The program is administered by the Nebraska Department of Revenue, with data provided by the Department of Revenue’s Property Assessment and Research Divisions, and the Nebraska Auditor of Public Accounts. Final aid calculations for Nebraska communities are posted in June of each year.

This aid formula provides a way of looking at needs and resources while at the same time ensuring that local governments provide a level of local resources. DED will incorporate the MEF calculation into the scoring criteria for this program.

Each city’s population is multiplied by the average per capita property tax levy for the relevant population group. Then each city’s property tax valuation is multiplied by the state average property tax levy. These numbers are used to make the preliminary determination for state aid under the MEF formula. If a city’s population multiplied by the average per capita property tax levy is greater than the state-wide average levy multiplied by its valuation, the community will earn points. If the difference is negative, no points will be awarded under the MEF scoring criteria for this program.

All of the incorporated cities in the state are divided into three population groups:

1. Municipalities with a population of 5,000 inhabitants or more;
2. Municipalities with a population between 800 and 5,000 inhabitants; and
3. Municipalities with a population of 800 inhabitants or less.

Populations are based on the last decennial census including those modified by annexations that have taken place since the last census and any special censuses completed by the U.S. Census Bureau.

Item 8: Bonus Points: Up to 50 points possible. No minimum points in this section are

required in order to meet threshold. Applicant must demonstrate any of the following items at the time of application submittal. These items include:

- a. Applicant is designated as an Economic Development Certified Community. For a complete list of communities and additional information visit the DED website at: <http://www.neded.org/economic-development-certified-community/certified-communities>. **30 bonus points**
- b. Applicant is designated as a DED Leadership Community. For a complete list of communities and additional information visit the DED website at: <http://www.neded.org/community/community-info/community-improvement/leadership-community>. **30 bonus points**
- c. The public works project will significantly reduce inefficiencies throughout the community in relation to: budget, operations, and project implementations. **20 bonus points.**

Section 5.01 Submission of Applications and Selection of Grantees

Eligible local governments may individually or jointly apply and receive one grant per year in the Public Works category.

Applications must be submitted according to the provisions stated in *Section 1.01 through Section 1.03*. **Public works applications will be accepted beginning June 20, 2015 through July 1, 2015.** Applications will be accepted during this period based on U.S. Postal Service postmark date or date of delivery by other means.

Applications will be returned and not considered if they fail to meet any of the following threshold requirements prior to review:

- a. activities proposed are eligible and comply with CDBG National Objectives and State CDBG priorities. See the CDBG National Objective Section for more information.
- b. applicant has no significant, unresolved audit finding;
- c. applicant has no legal actions under way that may significantly impact its capacity;
- d. applicant is following a detailed Citizen Participation Plan (CPP) and Anti-Displacement Plan;
- e. applicant has adopted an authorizing participation resolution;
- f. applicant must have addressed and cleared all compliance problems (i.e. Davis Bacon, acquisition, fair housing, etc.) found during monitoring, if any, from past awarded projects, and have had a response accepted by DED;
- g. applicant is current with all reporting requirements (semiannual status reports, closeout reports, audit reports, notification of annual audits, etc.); and
- h. applicant has drawn down 90% of any 2013 CDBG grants and 100% of any 2012 or prior year CDBG grants (this requirement excludes Comprehensive Revitalization,

Comprehensive Investment & Stabilization, Economic Development, Planning, and Tourism Development projects). In general, DED will review projects that have been funded at least 2 years prior to the current Program Year.

The percentage for funds drawn down shall be figured by DED based on the final application acceptance date, except when an applicant is awarded funds after initial award date, obligated and drawn down funds shall be based on a proportionate number of months lapsed since initial grant award. DED shall contact an applicant if additional information is required.

i. **CDBG National Objective**

All PW projects funded, and CDBG-funded project activities, must meet a National Objective of the CDBG Program. This includes:

- Benefiting low-to-moderate income persons (LMI); (including on an area basis or serving a limited clientele);

A project or project activity that fails to meet one of these specified national objectives is ineligible for CDBG resources.

In addition, in order to meet threshold, the applicant must meet the following requirements:

- PW applicant meets minimum selection criteria scores as noted within the Selection Criteria Matrix.
- applicant does not have an open Comprehensive Revitalization grant;
- applicant activities are not included or located within the designated area for an applicant's open Downtown Revitalization grant,
- applicant's proposed project and activities within the application are not a Water/Waste Water priority, as determined by DED, and therefore eligible, and more appropriately suited, within the W/WW Program.

Public Works applicants meeting threshold requirements are reviewed by DED on a competitive basis according to the selection criteria established in *Section 5.03*. Applicants ranking highest in competitive order shall be selected for funding, subject to the amount of funds available.

Applicants may apply for a construction grant without having been awarded a preliminary engineering or a final design grant from CDBG program.

Combined Design and Construction. When appropriate, a single grant application for both final design and construction may be obtained; however, grantees must have all land acquired or option to purchase in place.

Section 5.02 Special Policies for Thresholds for Selection Special policies affecting thresholds for selection in *Section 5.01* are:

1. The citizen participation plan must contain provisions for the involvement of citizens, particularly LMI residents, in all phases of the project. Each local government submitting a single application or participating in a joint application must have and follow a citizen participation plan. The plan must provide for:

- a. proper notice and access to all meetings and project records;
- b. technical assistance on request to group's representative of LMI persons;
- c. a minimum of two public hearings, each at a different stage of the program, for the purpose of obtaining citizen's views, responding to proposals and questions (specifically during the application phase, the hearing(s) must cover community and housing needs, development of proposed activities to be undertaken, the amount of funds requested, the estimated amount proposed to benefit LMI persons, the amount and source of matching funds, if any, and the applicant's plans for minimizing displacement of persons as a result of CDBG assisted activities and for assisting persons actually displaced; and specifically during the implementation phase, the hearing(s) must review program performance). The minutes of the public hearing and the public hearing notice are to include each listed statement. Public hearings for joint applicants must be held in each participant's jurisdiction and the application must be available for public inspection at each locality.
- d. a process for responding to complaints and grievances within 15 working days; and
- e. the needs of non-English speaking residents where a significant number of them can be expected to participate in public hearings.

2. The **residential anti-displacement and relocation assistance plan** must be adopted and certified by the local government and be available to the public. A certification and plan is required even if the applicant is not proposing activities which will result in demolition or in the conversion of an LMI unit to a use other than LMI housing. The plan must contain two components (a) one-for-one replacement unit requirement, and (b) a relocation assistance component.

a. One-for-one replacement unit requirement applies to all occupied and vacant occupiable LMI dwelling units that will be demolished or converted to another use as a direct result of a CDBG assisted activity. Occupiable dwelling unit is a residential unit that is in standard condition or in a substandard condition, but suitable for rehabilitation.

(1) An LMI dwelling unit is defined as a unit with a market rental, including utility costs, that does not exceed the Section 8 fair market rent (FMR) as established by HUD. Whenever assisted rehabilitation raises the rent above the FMR that unit must be replaced.

(2) A “vacant occupiable dwelling unit” is a unit in standard condition or a unit in substandard, but is suitable for rehabilitation; or a dwelling unit that has been occupied (except for a squatter) at any time one year prior to the Notice of Approval date for an approved application.

(3) A unit is “standard condition” is ready to be lived-in with only a minimal amount of deferred maintenance or repair required at a reasonable cost.

(4) A unit “suitable for rehabilitation” is defined for purposes of this certification as a unit whose estimated repair, rehabilitation, weatherization, and/or general improvement costs do not exceed one half of its replacement value after rehabilitation. The local government may use their own definition for “suitable for rehabilitation” provided such definition is made public and DED determines the definition to be acceptable.

(5) Replacement LMI units must be provided within three years from the start of demolition or conversion and must be:

- located within the same jurisdiction;
 - sufficient in number and size to house at least the number of occupants that were or could have been housed; according to local occupancy codes;
 - provided in standard condition or brought up to a standard condition; and
 - designed to remain LMI units for ten (10) years.
- Replacement units may include public housing and housing with Section 8 project-based assistance.

(6) Assistance cannot be obligated to the demolition or conversion activity until the local government makes public and submits to DED information that identifies:

- the activity - the location and number of units by bedroom size;
- the proposed demolition or conversion schedule;
- the number and placement of replacement units and their size;
- the source of funding and time schedule for replacement units; and
- the basis for concluding that each replacement unit will remain a LMI unit for 10 years.

b. Relocation assistance must be provided to each LMI family displaced by the demolition or conversion to another use of any housing unit because of an assisted activity. Persons must be provided assistance as prescribed in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) or 24 CFR 570.496a(c).

Section 5.03 Use of Consultants

CDBG funds cannot be used to fund application preparation and Release of Funds must be received before engineering/architectural services are eligible for reimbursement.

There are a number of reasons why a community may want to use consultants to assist with preparing a Community Development Block Grant application or administering a grant, such as when:

- a) work requires special professional services, such as accounting, architectural, engineering, or legal services;
- b) local staff is inexperienced in the area of grant writing or project administration, or is already committed to other ongoing activities; or,
- c) work involves a short-term, but somewhat specialized project activity that does not justify hiring experienced, full-time staff.

Communities selected for CDBG funding will receive detailed training and written guidelines regarding the federal and state requirements for selection of consultants to assist with project implementation, such as engineers or project administrators. The federal requirements do not apply to communities selecting consultants to assist with the preparation of an application.

Several points should be considered before selecting any consultant, engineer, architect, or other professional to help assure that the community will receive satisfactory service.

1) “Loss-Leader” Arrangements

“Loss-leader” arrangements, where a consultant offers to prepare a grant application or preliminary engineering estimates at cut rates or at no cost in return for a future contract if the application is funded, are prohibited by federal regulations. Some firms may suggest this approach because costs incurred by a city or county prior to the award of a CDBG, such as preparation of the application or preliminary engineering studies, are not eligible for reimbursement with CDBG funds. However, loss-leader arrangements violate federal regulations which require “maximum open and free competition.” Professional organizations also consider this practice unethical because it deprives the client of the benefits that can result from competition among competent, professional firms.

2) Selection of Engineers or Administrative Consultants Prior to Grant Award

In some cases, local officials decide to procure the services of an engineer to assist them with both preparation of preliminary engineering plans and project engineering, in the event their community is selected for grant award. Likewise, some communities want to conduct one procurement process to cover both grant preparation and grant administration. This approach is permitted under federal procurement regulations. Obviously, in both cases, the selection process would occur prior to grant application. Any agreement between the community and the engineer or consultant that includes preliminary and project engineering or grant writing and administration services would have to be contingent upon award of a CDBG. Any such contract also would have to have the prior approval of the Department of Economic Development to assure that federal procurement procedures were complied with and that all required federal clauses are included in the contract. Local officials would have to follow the procedures briefly outlined below under Competitive Proposals.

3) Competitive Proposals

Procurement by “competitive proposals” is a method used to meet federal and state requirements for soliciting architectural, engineering, legal, management, or accounting services. If your CDBG application is selected for funding, this is the procedure that is most appropriate to solicit and select professional services for your project. You may also want to use this procedure to select a consultant to assist you with the preparation of a CDBG application.

Competitive proposals are advertised and requested from several qualified sources.

HUD regulations for competitive proposals require the following:

- a) Requests for proposals (RFP's) or qualifications (RFQ's) must be publicized and identify all evaluation factors and their relative importance (examples might be technical expertise of the firm and its personnel-25 points; past record of performance on projects of similar nature, including quality of work and cost control-25 points; familiarity with CDBG program-20 points; capacity of firm to perform the work within time schedule-20 points; nature and extent of services proposed versus estimated fees – 10 points; etc.);
- b) Proposals must be solicited from an adequate number of qualified sources (at least three);
- c) Grantees and sub-grantees must have a method for conducting technical evaluations of the proposals received according to the criteria specified in the RFP and for selecting awardees;
- d) Awards must be made to the responsible firm whose proposal is most advantageous to the program, with price and other specified factors considered; and
- e) Grantees may use competitive proposal procedures for qualification based procurement of architectural/ engineering (A/E) professional services, whereby competitor's qualifications are evaluated and the most qualified competitor is selected subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of Architectural or Engineering services.

DED recommends sending RFP's to firms serving your region of the State. In addition to advertising in your local newspaper, you should also advertise in at least one other newspaper that is widely distributed in your region of the state. The community would evaluate the firms responding and could then conduct interviews with one or more of the firms responding and select a consultant. The community then negotiates a contract with terms and conditions to its satisfaction.

A response to an RFP should not be confused with a competitive bid. A bid is an estimate of cost in response to detailed specifications. A response to a RFP in the competitive proposal process is a description of how a consultant proposes to approach solving your problem. Competitive proposals refer to the comparison of qualifications and may include fees where required or deemed appropriate. However, the main focus in selecting the consultant is to

evaluate the content of the proposal and the consultant's qualifications and demonstrated competence.

4) References

Any time a consultant solicits your business you should always check references prior to contracting with them. Request a list of prior clients, showing the organization's name, address, phone number and contact person, as well as a brief description of the work performed. A list of the most recent clients is preferable (especially previous CDBG projects). Contact each reference. Some useful questions might be:

- Were you satisfied with the work?
- Was it performed on time?
- Was the consultant knowledgeable about the program?
- Were the tasks or work products prepared by the consultant useful?
- Did the consultant work with local staff to develop local capacity?
- Were the costs or charges reasonable? Did they stay within their original budget?
- Would you hire them again?

Also check to see if the work done for these clients is similar to what you want the consultant to do. The ability to write a grant application does not mean the same consultant has the capability to assist you with managing a grant.

Sometimes the firm you are interested in will be a new firm with few if any client references. New, small firms can be just as good as well established, large firms, so instead of asking for client references, you would ask for past employer references.

Checking references prior to contracting is the most important action you can take to avoid becoming involved with a less than satisfactory firm.

5) Involve Local Staff

Whenever you retain a consultant to assist you with preparing a grant application or managing a CDBG project, make sure that someone from the city or county works with the consultant and understands the community's application or the management issues involved. You should have a local staff person become familiar with the regulations for the CDBG program and work closely with the consultant in developing the application or managing the project. A consultant is a technical resource.

Section 5.06 Post Award Requirements

Consideration should be given to a variety of Federal and State regulations that can have scheduling or cost implications. Among these are:

1) Records. All information on grant-assisted activities must be retained for ten years following completion and closeout of the grant. During the grant period, performance reports are required semi-annually.

2) 78 FR 78589 § 200.501. Local governments and non-profits that expend the minimum dollar amount threshold in a fiscal year must conduct a Single Audit of federal and local funds.

3) Davis-Bacon Act. This and related acts require that prevailing wage rates be paid to all employees working on a construction contract of \$2,000 or more.

4) Acquisition/Relocation. Regulations for acquisition and relocation emphasize anti-displacement and should be discussed with the Department URA representative at the beginning of the project. The Uniform Relocation and Real Properties Acquisition Act (URA) apply to all federally assisted activities that involve the acquisition of real property or the displacement of persons. If CDBG funds are used in any part of the project, the URA would govern the acquisition of real property, including easements, and any resulting displacement, even if local funds are used to pay the acquisition costs. The URA requirements may include: formal notification of the affected property owner(s), preparation of an appraisal to determine fair market value, and a written purchase offer based on an amount determined to be fair market value. The only exception is a voluntary transaction that meets certain criteria.

Regulations emphasize anti-displacement. However, if displacement is necessary, relocation assistance must be provided to persons displaced by rehabilitation, acquisition, demolition, or the conversion of units for use other than low-to-moderate income dwelling units. Grantees will be required to replace every occupied unit that is demolished or converted with CDBG funds on a one-for-one basis within a three-year period.

5) Procurement. Open and free competition on solicitation of professional services or construction bidding is also required. If the applicant intends to use CDBG funds to pay all or a portion of fees, or intends to claim fees as match, then CDBG procurement guidelines must be followed. For more information see Section 5.05 of the Application Guidelines.

6) Environmental Review. Grant recipients are required to obtain appropriate environmental clearance for their projects and to maintain an Environmental Review Record for each project. The review process involves consultation with various agencies, groups and individuals regarding: historic properties, floodplain management, wetland protection, noise control, air quality, explosive and flammable operations, airport hazards, water quality, threatened and endangered species, wild and scenic rivers, farmland protection, environmental justice, contamination and toxic substances. The environmental review and Request for Release of Funds/Certification, if required, must be completed before the grantee, or any participant in the development process, incur costs against the project.

7) Special Assessments. Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments to recover the non-CDBG portion may be made provided that CDBG funds are used "to pay" the special assessment on behalf of all properties owned and occupied by low- and moderate-income persons. For more information see Section 3.02 (3).

8) Equal Opportunity, Fair Housing, and Handicap Accessibility. Laws require that CDBG grantees administer their projects in a manner that affirmatively furthers fair housing and equal opportunity. All grantees will be required to undertake specific activities to further fair housing. Grantees must also assure that all activities and services are accessible to those with disabilities.

9) International Energy Conservation Code. Most new construction or substantial rehabilitation of buildings must meet the 2009 International Energy Conservation Code or the most recent version of the International Conservation Code in effect, as required by 72-804-806 NRRS, and provide for Nebraska Energy Office (NEO) review of plans and specifications (at no cost) that meet said standards. This applies to lighting, heating, cooling, ventilating, or water heating equipment or controls, as well as building envelopes.

As an alternate compliance method when a licensed architect and/or engineer have designed a subject building, a Designer Certification may be submitted to NEO instead of building plans and specifications. The certification form, which will be provided by the NEO, will attest that the building design complies and provide summary information about the design.

When the Energy Office has determined that a subject building complies, or has received documentation of alternate compliance, it will provide a Verification of Construction form on which it must be certified that the building is constructed substantially according to the plans. At key points during construction, the building should be inspected to verify that insulation and other envelope components, and all specified lighting, heating, cooling, ventilating and water heating equipment and controls are installed as indicated on the plans. The Verification of Construction form must be signed and returned to the Energy Office within twenty (20) days following substantial completion. Contact NEO at 402/471-2867 for a copy of the code.

10) Continued Use. All community facilities assisted with CDBG funds must remain in the same use for five years after grant closeout. For more information see 24 CFR 570.489.

Section 6.01 Glossary of Terms

Age of seniors

For purposes of this program and qualifying a project as meeting the low- and moderate-income national objective by principally benefiting seniors, a senior citizen is a person aged 62 or older.

Assessment Abatement

To pay fees levied against private property for the costs of public facilities activities (see special assessment). In order to maximize benefit to low- and moderate-income households, funds may be used to abate the assessments for these owner-occupied households.

Community Development Need

A demonstrated deficiency in housing stock, public facilities, economic opportunities, or other services which are necessary for developing or maintaining viable communities.

Department or DED

Nebraska Department of Economic Development. The state agency that administers the federal Community Development Block Grant State Program for communities under 50,000 in population with funds allocated to the US Department of Housing and Urban Development.

Disability

Any condition or characteristic that renders a person an “individual with disabilities” as defined in 24 CFR Part 8.3 (Code of Federal Regulations). An “individual with disabilities” means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment.

Eligible Activities

Those activities authorized in Section 105(a) of the amended 1974 Housing and Community Development Act. However, the State and local participants have developed priorities, listed in *Section 3.01*, that best serve their interests and increase the likelihood of being funded.

Family

A family is defined as all persons living in the same household who are related by birth, marriage or adoption. An individual living in a housing unit that contains no other person(s) related to him/her is considered to be a one-person family for this purpose. A dependent child who is living outside of the home (e.g. students living in a dormitory or other student housing), is considered for these purposes to be part of the family upon which he/she is dependent, even though he/she is living in another housing unit.

Firm Public or Private Commitment

An agreement by a private or public party to take part in a local community development project. The party must demonstrate the capacity to carry out the activity specified in the grant application. The agreement may take the form of a city council or county board resolution, letter from a governmental agency, or a letter of credit from a private lending institution.

Flood and Drainage

Facilities designed to influence or affect the flow in a natural water course (such as a river, stream, lake or intermittent stream) and excludes storm sewers.

Grant Closeout

The process by which the department determines that all applicable administrative actions and all required work have been completed by the grant recipient and the department.

Grant Contract

The legally binding contract between the state and a grant recipient. It consists of: the notice of grant award, special conditions to the contract, certifications to comply with applicable state and federal regulations, the project budget, and the grant application.

Household

All the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

Housing and Community Development Needs Assessment

A statement by the applicant that lists the community's development needs, including housing needs and needs of low- and moderate-income persons and strategies to address the needs. Required of all applicants to be eligible for CDBG funding under Title I of the Housing and Community Development Act.

Income

Income includes all monies received by all members of the family, who are age 15 or older, such as gross wages and salaries, bonuses, tips, interest, dividends, social security, other retirement, supplemental security income, welfare, disability, VA payments, unemployment, alimony, other. A family that is involved in a business where the finances are interrelated with the family budget (such as a farmer) should consider their income as net after expenses, as reported to the Internal Revenue Service.

Leverage

Funds that are committed to the project activities exceeding the required match. Leverage may include public and private funds, or in-kind services, such as materials, labor, or other items that are directly related to the project. Leveraged funds may be considered only if they are spent during the project period (Date of Release of funds through the project completion date). The amount of leverage must be given in dollars.

Low- and Moderate-Income Person

A member of a family having an income equal to or less than the Section 8 low-income limit established by HUD (80% or less of the area median). Unrelated individuals shall be considered as one person families for this purpose.

Low-Income Person

A member of a family having an income equal to or less than the Section 8 "very low" income limit established by HUD (50% or less of the area median). Unrelated individuals shall be considered as one person families for this purpose.

Single Purpose Project

One or more activities designed to meet a specific community development need.

Special Assessment

A fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement; or a onetime charge made as a condition of access to the improvement. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefiting properties. For additional information see *Section 3.02 (3)*.

Target Area

A defined geographic area within which an applicant has determined that, based on community plans or other studies, a need for community development activities exists. A target area may be a neighborhood of 100 or more families in a community or an entire community. The target area must encompass the entire area served by the project. For additional information see *Section 3.02 (4)*.