

N E B R A S K A

COMMUNITY
DEVELOPMENT
BLOCK GRANT

P R O G R A M

2010

Economic Development
Application Guidelines



Nebraska Department of Economic Development
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CDBG ECONOMIC DEVELOPMENT APPLICATION GUIDELINES TABLE OF REVISION CHANGES

Version Date	Approximate location of pages of the revision where changes were made	Synopsis of change
<p>July 1, 2010 version. For the convenient reference of those users familiar with the prior versions of these guidelines, the major differences between the July 1, 2009, version and the July 1, 2010, version are in the Synopsis of Change column.</p>	Page 5	<p>Change in the language regarding Eligible Activities and Forms of CDBG Assistance, adding (in <i>italics</i>):</p> <ul style="list-style-type: none"> • speculative building projects or speculative industrial park prospects, in the form of conditional grants to applicant communities (or to qualifying non-profit development organizations) <i>for such projects; and planning for such projects</i> • <i>short-term interim financing program</i>
	Page 5	<p>Change in award amounts and forgiveness:</p> <p>Award- From: \$500,000 as a guideline for an award for one project under the CDBG ED category...</p> <p>To: \$1,000,000 as a guideline for an award for one project under the CDBG ED category...</p> <p>Forgiveness- From: \$250,000 as the aggregate maximum amount of loan forgiveness...</p> <p>To: an amount up to the total award to be determined by the Department.</p>
	Page 19	<p>Change in the award amount for speculative sites:</p> <p>From: \$250,000 as the maximum amount of assistance...</p> <p>To: \$750,000 as a guideline with a limit of \$5,000,000 for the program year.</p>
	END OF CHANGES	

CDBG ECONOMIC DEVELOPMENT APPLICATION GUIDELINES OVERVIEW OF GENERAL REQUIREMENTS

The objective of the Nebraska Department of Economic Development ("Department" or "DED") for the Community Development Block Grant ("CDBG") Economic Development ("ED") category is to assist businesses which expand the state's economic base and which create quality jobs principally benefiting employees in the low-to-moderate ("LMI") income levels. CDBG is a funding source from the U.S. Department of Housing and Urban Development ("HUD"). The federal statutory authority for the CDBG program is the Housing and Community Development Act of 1974, as amended ("HCDA"), codified at 42 U.S.C. §5301 et seq.

Eligible Applicants.

Eligible applicants include every Nebraska incorporated municipality under 50,000 population; and every Nebraska county.

Eligible Businesses. Not all businesses are eligible to be benefited businesses under the Department's CDBG ED program.

For a business to be eligible under the Department's CDBG ED program, it must:

- meet the definitional criteria to be a "qualified business" as that term is defined in the Nebraska Advantage Act, as that Act exists at the time an eligibility determination is made under these guidelines;

and also,

- meet any additional eligibility criteria, and not be ineligible by reason of the exclusions, in these guidelines.

Nebraska Advantage Act Criteria.

As a basic narrative for these guidelines, the following listing summarizes the categories of businesses considered to be considered a "qualified business" under the Nebraska Advantage Act. The statutory text (and regulatory interpretations thereof by the Department of Revenue) will prevail in the event of an interpretive conflict with these guidelines. "Qualified businesses" are those engaged in any one (or combination) of the following:

- Research and development
- Manufacturing
- Data processing
- Telecommunications
- Insurance
- Financial Services
- Distribution
- Storage
- Transportation
- Headquarters (administrative)
- Targeted export services (75% of sales outside Nebraska or to the U.S. Government: software development; computer systems design; product testing services, guidance or surveillance systems; technology licensing)

Additional CDBG ED Guidelines Criteria and Ineligibility Exclusions.

- The business must pay all employees at the project location in Nebraska at a rate of no less than \$9.00 per hour, as well as provide appropriate employee benefits, for the duration of the project job maintenance period (which period will be established as part of the MOU for the project).
- Non-profit businesses/organizations are ineligible.
- Businesses that derive any revenues from gaming are ineligible.

- Production agriculture enterprises are ineligible. These are excluded because they lack the necessary CDBG ED program guideline requirement that there must exist extra levels of substantial and separately identifiable value-added processing being performed by employees of the production agriculture enterprise—beyond those tasks and activities of production, harvesting, and marketing normally associated with traditional agricultural production commodities. Examples of such ineligible enterprises (when they lack the extra value-added component) include: grain farming, livestock raising, raising of poultry or the production of eggs, the production of milk, fruit or nut orchards, vegetable farming including hydroponics vegetable production, and aquaculture facilities.
- Trucking enterprises, which lack the requisite storage, warehousing, or distribution extra components which would distinguish them from the usual so-called "rolling stock" enterprises, are ineligible.

Eligible Activities and Forms of CDBG Assistance.

Activities assisted with CDBG funds must be eligible under HCDA, CDBG regulations, and other HUD requirements, and also must be eligible under the Department's CDBG ED category. Generally, eligible activities include:

- loans to for-profit businesses (through the applicant community) for a variety of business purposes
- public facilities (infrastructure) projects undertaken by applicant communities for economic development purposes, where a benefiting business agrees to locate or expand premised on the infrastructure improvements and agrees to create jobs for LMI persons
- job training grants to for-profit businesses (through the applicant community)
- entrepreneurial development grants
- speculative building projects or speculative industrial park prospects, in the form of conditional grants to applicant communities (or to qualifying non-profit development organizations) for such projects; and planning for such projects
- short-term interim financing program

Compliance with CDBG National Objective Requirements.

All project activities must meet one of three national objectives of the CDBG program. This is a statutory requirement of the HCDA and a regulatory requirement under HUD CDBG regulations. The three national objectives are:

- benefiting low-to-moderate (LMI) income persons
- aiding in the prevention or elimination of slums or blight
- meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to health or welfare of the community and other financial resources are not available to meet such needs

In the CDBG ED category portion of the CDBG program of the Department, nearly all, if not all, projects in a given program year are funded through meeting the first national objective cited above, namely, benefiting low-to-moderate income persons. In turn, that LMI benefit is demonstrated in nearly all projects through job creation, job retention, or both job creation and job retention, by a benefited business. Such job creation or job retention must involve the employment of persons, the majority (51% or more) of whom are LMI persons. A project activity that does not meet the applicable tests for determining whether a national objective has been met, is in noncompliance with federal statutory and regulatory requirements. Repayment consequences arise in such circumstances.

Maximum Amounts of Awards

\$1,000,000 will be used as a guideline for an award for any one project under the CDBG ED category, further limited by maximums of \$250,000 for any one job training grant and \$250,000 for any one speculative building project.

\$1,000,000 will be used as a guideline for an award for any one speculative industrial park project under the CDBG ED category.

These maximums apply to the aggregate of all activities for a project other than general administration. An additional amount (above the cited maximums) for general administration of the project, can be, and normally is, awarded. Such additional amount for general administration typically ranges from \$3,000 to \$5,000.

Maximum Amount of CDBG Loan Forgiveness to a Benefited Business.

The aggregate amount of forgiveness to a benefited business—from the CDBG ED category may be an amount up to the total award, and will be determined by DED.

Matching Requirements.

All CDBG ED category projects require a minimum 1:1 match of CDBG funds with funds from other (non-CDBG) sources. Put another way, CDBG funds can be no more than 50% of the total project cost. The one, small exception

to this matching requirement is that CDBG funding for general administration of project activities does not require matching funds. Note that the matching requirement for public facilities (infrastructure) projects undertaken for economic development purposes (a particular form of CDBG assistance discussed later in these guidelines) cannot be met using the benefited business' investment, e.g., in a new plant, but rather must come directly from the applicant community, and the matching funds must be invested in the infrastructure project.

Application Timing.

Applications for CDBG ED awards are accepted and considered on a continuous, open cycle.

The Department will consider only fully complete applications. The requirements for a complete application are set forth later in these guidelines. **Please note that a complete application includes having completed the environmental review process prior to submission of the application.**

The process of application review involves consideration and recommendation by: the Project Review Committee; followed by the Department Director, followed by the office of the Governor. A formal Notice of Approval letter will be sent by the Department to an applicant community receiving application approval. The approval decision by the Department will normally be completed within one month after receipt of the fully complete application.

Federal Requirements—"Strings".

Applicants, and benefited businesses, must be aware at the outset of the existence of a host of federal statutes and regulations that have scheduling implications, cost implications, and substantial paperwork implications, when CDBG funding is used for ED projects. These "strings" that accompany utilizing federal funds are many. **Businesses must be prepared to accept delays and other "strings" requirements, and should not harbor unrealistic expectations about the speed with which a project may develop.** The following listing is by no means comprehensive. The list simply highlights three areas of the many commonly applicable "strings".

- **Environmental Review.** Federal statutes (the National Environmental Policy Act and HCDA) and HUD implementing regulations (24 C.F.R. Part 58) require that CDBG-assisted projects must have an appropriate environmental review process completed prior to costs for the project being incurred. This process must be documented with an appropriate environmental review record. The environmental review process and its documentation are the responsibility of the applicant unit of general local government. The entire project, often referred to in these contexts as the entire "footprint" of the project—not just a portion of the project which might involve CDBG-funded activities—must be aggregated when reviewing the project's environmental impact. In order for a project application to be considered complete for submission to the Department, **there must be a completed environmental review process and record in place and sufficient evidence of its completion must be included with the application.** Specific discussion of the environmental review requirements, including flowcharts (with timing requirements) and forms may be found in the CDBG Administration Manual, at the Department's website, at the webpage address:

→http://crd.neded.org/cdbg_admin_manual.htm←

under Chapter 7, Environmental Review, at that webpage address. **The time required to complete the entire process of environmental review varies considerably depending on the facts and circumstances of each project. The process can take as little as a few days to as much as several months. The time requirement for this process is often underestimated by businesses and applicant communities. In many projects, clearing the environmental review "hurdle" is a time-consuming task and delays in project implementation arising from this process should be anticipated by those utilizing CDBG funds.**

- **The Davis-Bacon Act (and related acts).** These federal statutes and their implementing regulations require that federally-assisted construction work in excess of \$2,000 must have prevailing wage rates (determined by the U.S. Department of Labor) paid to all employees working on such construction work. If CDBG funds assist even just a portion of the construction work, then Davis-Bacon becomes applicable to the entire construction work. Note however, that CDBG funds can finance activities other than construction work, without triggering Davis-Bacon requirements, even though CDBG funds are "in the mix" of an overall project which may involve construction work. Note also that use of matching funds (from non-CDBG sources) for construction work does not trigger Davis-Bacon requirements.
- **HUD Required Employee Reporting, Business Financial Reporting, and Other Record Keeping Requirements.** The benefited business and the applicant governmental unit have various, periodic,

employment and financial reporting and record keeping requirements pursuant to CDBG regulations. Semi-annual employment reporting is required, and all information on CDBG ED assisted activities must be retained for four years following completion and closeout of the grant.

Other Considerations Affecting Project Eligibility.

Intrastate Relocation.

CDBG ED funds cannot be used in a project which relocates a business from one Nebraska community to another Nebraska community, unless the business obtains the written approval of the appropriate community officials of the community which is losing the business. This has been a longstanding policy of the Department, designed to avoid putting the Department in the position of financially enabling a "raid" of one Nebraska community by another. It is the responsibility of the business to resolve matters with the community from which it is departing, in order to obtain the approval by that community required by the Department. In addition to such community approval, the Department must conclude there are compelling business reasons for—and compelling public benefits associated with—the relocation, in order to assist such an intrastate relocation.

Additionally impacting intrastate relocation is the job-pirating prohibition in the HUD CDBG regulations (explained below). These prohibitions may be applicable to, and possibly pose a barrier to, using CDBG ED funds for relocating a business from one Nebraska community to another Nebraska community.

Prohibition on Use of CDBG Assistance for Job-Pirating Activities.

The federal statute [HCDA, codified at 42 U.S.C. §5305(h)] and implementing regulations issued by HUD [24 C.F.R. §570.482(h) for state programs—effective June 23, 2006] establishing this anti-pirating policy, prohibit the state (and state grantee communities) from using CDBG funds for "job-pirating" activities that are likely to result in significant job loss in the Labor Market Area (LMA) from which the business is relocating. The regulation basically targets businesses that move (or expand) existing operations from one LMA to another LMA. Relocations within a LMA are not subject to the regulations.

The regulations prohibit providing CDBG funds to for-profit businesses (including expansions of existing businesses) if the funding will assist in the relocation of a plant, facility, or operation (terms defined in the regulations)—and—if the relocation is likely to result in a significant loss of jobs in the LMA from which the relocation occurs. A "significant job loss" is not defined in the statute, but is defined in HUD regulations. The regulation uses measurements of:

- **500** jobs lost in a LMA as being definitionally a significant loss; and thus CDBG funds cannot be used in such cases.
- **25** or fewer jobs lost in a LMA as being definitionally not a significant loss; and thus not a job-pirating problem, so CDBG funds can be used in such cases.
- **26-499** jobs lost may be a significant job loss if the lost jobs are equal to or greater than one-tenth of one percent (0.1%) of the total number of persons in the labor force of the LMA from which the proposed business relocation would occur. As an example, 26 jobs lost would be a significant job loss in a LMA with a labor force size of 26,000 people.

Grants to communities for infrastructure improvement that aid the relocation of a specific business, and which are justified for CDBG funding as meeting the national objective of benefiting LMI persons through job creation/retention agreement by a specific business, are covered by this anti-pirating rule, being considered the same as directly assisting the relocating business.

Under the regulations a job will be considered to have been relocated if positions are eliminated at an existing operation within three (3) years of the time when CDBG funding assistance was provided to the expansion site operation of the business.

Certifications (by the business, as to non-relocation of jobs) are required by the regulations to be part of the agreement which governs CDBG assistance to the business. These certifications are made by the business, not by the grantee community. The business must also contractually agree that if significant job losses do occur (within a 3-year window) at an existing location from which an expansion was CDBG assisted, then the business will reimburse the CDBG recipient (the community) for CDBG assistance provided to the business (directly) or expended on behalf of the business (e.g., infrastructure improvement project). These certifications and agreements to reimburse, by the business, must be a part of the MOU for the project.

The community being provided CDBG funding by the Department has the burden of collecting the necessary labor force data and determining whether a significant job loss will occur as a result of the proposed relocation. This assessment will be part of the normal "packaging" and application process for the project.

States are permitted (but not required) to determine/define applicable Labor Market Areas (LMAs) in non-metropolitan areas of the state. If this is done for Nebraska, the Department will make its determinations known, through these guidelines or other publication methods. If no differing definitions are made by the Department, the LMAs defined by the U. S. Department of Labor will be used. At the time of the writing of this portion of these guidelines: the "default" designations of the LMAs are found at the Bureau of Labor Standards website at <http://www.bls.gov/lau/lmadir.pdf>; and labor force data by county (annual averages) are found at the Bureau of Labor Standards website at <http://www.bls.gov/lau/home.htm>.

The HUD regulations in this area are fairly lengthy and filled with definitions, exceptions, time limits, reporting requirements, and explanations. The guidelines explanations above are not intended to be a full explanation of this rather complicated set of newly imposed (in 2006) CDBG restrictions. The full text of the regulations must be read and understood in order to achieve compliance. The publications of the regulations by HUD appear in the Federal Register for December 23, 2005, Volume 70, Number 246, pages 76362-76371—and—in the Federal Register for May 24, 2006, Volume 71, Number 100, pages 30026-30027. These Federal Register pages have been reproduced on the Department's website at http://crd.nedcd.org/publications/applications_guidelines.htm [look for the bulleted pdf files "HUD Regulations on Anti-Pirating (2006 final rule, adopting the interim rule)", and "HUD Regulations on Anti-Pirating Activities (2005 interim rule)".

Program Income and Reuse Plans.

Program income for the state's program under the CDBG ED category is regulated by the provisions of 24 C.F.R. §570.489(e). The text of this regulation should be consulted for definitions and for other guidance concerning program income.

Grantees that receive a CDBG ED award in the 2010 program year will be governed by the policies written in the 2010 Annual Action Plan, Section 2: Distribution of Funds, Part D: Program Income.

It is important to note that all CDBG ED category program income received by a community (including program income from other CDBG ED projects) must be the first funds to be disbursed to pay for project activities prior to requesting ("drawing down") additional CDBG funds from the Department. In other words, program income must be the "first out" and must be fully depleted before the community requests "new" CDBG funds from the Department on any CDBG ED category grant to the community.

Program income generally means gross income received by the grantee community, or by a sub-recipient of the grantee community, that was generated from the use of CDBG funds. Some exceptions to this general rule are detailed in 24 C.F.R. §570.489(e)(2). Program income includes, but is not limited to, the following:

- payments of principal and interest on loans made using CDBG funds
- proceeds from the disposition (by sale or long-term lease) of real property purchased or improved with CDBG funds
- proceeds from the disposition of equipment purchased with CDBG funds
- interest earned on program income pending its disposition
- interest earned on CDBG funds held in a revolving loan fund's cash balance interest-bearing account

The state is implementing policies that allow local governments that actively use program income from the Economic Development Category to retain those funds. The state will require local governments that have been inactive in using their program income from the Economic Development Category to return their program income to the state.

The state will use Program Income Reports submitted by local governments and/or other information obtained from local governments to determine if they have been active or inactive in using their program income from the Economic Development Category. Local governments that have used their ED program income to fund at least one project since June 30, 2008 will be considered active. Local governments that have not used their Economic Development program income to fund at least one project since June 30, 2008 will be considered inactive. This applies to program income accounts regardless of whether it is designated as a locally administered or regionally administered fund.

In no case shall a program income account have a balance that exceeds \$750,000. Any amount in excess of \$750,000 shall be returned to the State.

All program income is and remains subject to all requirements of the HCDA and CDBG regulations. Program income which may become a part of a Department approved community CDBG revolving loan fund remains subject to all requirements of the HCDA and CDBG regulations. This means all loans made from such a fund, including second and subsequent generation loans, are, and continue to be, subject to all CDBG requirements.

Notice of Intent. If a community intends to keep program income (normally generated from loan repayments by a benefited business, and normally kept in a revolving loan fund) to carry out CDBG ED activities in the future, the community must notify the Department of this intent within three months of the date of the Notice of Approval for a project which is to generate the program income. Note the three-month time limit for this notification. More details and other time limitations associated with establishing and administering a revolving loan fund are set forth below.

In the absence of such timely notice of intent being received by the Department, the default position is that all program income must be returned to the Department.

Also note that certain program provisions in the CDBG ED category may limit the amount of program income a community may be allowed to keep for a particular project, requiring amounts over certain limits to be returned to the Department. As an example of such a limitation, in the CDBG ED category of loans to for-profit businesses, a community may choose to "keep" (have the business repay the loan to the community, such repayment being program income), or may forgive, up to \$250,000 of a loan to a benefiting business. [Note this decision is not unilaterally controlled by the community—it does require Department concurrence in a decision to forgive, so as to avoid instances where the benefiting business, or its principals, would be unduly enriched or would be receiving an unreasonably high rate of return on their investment as a result of such forgiveness.] If the amount of the CDBG loan for such project is more than \$250,000, such "excess" amount (over the \$250,000) of the repayable loan is program income (when repayments are generated) and must be returned to the Department.

Notice of Intent (repeated reminder + more about reuse plans). Program income cannot be committed to a revolving loan fund until the grantee community submits a written notice of its intent to propose a reuse plan for the program income. This notice must state whether the grantee community intends to retain program income at the local level, or intends to join a regional organization's plan. The notice must be submitted to the Department within three months of the date of the Notice of Approval for a project which is to generate the program income. If not submitted by that date, program income will be required to be returned to the Department.

- Local Administration.
 - If the notice of intent is submitted within the specified period and the grantee community intends to retain program income at the local level, the grantee community will have six months from the date of the Notice of Approval for the project to submit to the Department a plan for the administration of the program income. If the plan is not submitted by the six-month deadline, program income will be required to be returned to the Department.
 - The plan must include either: (a) a detailed description of the organization, administration, and priorities of the program income projects to be approved by the grantee community; or (b) a detailed description of the organization and administration plans, together with an incorporation of the Department's CDBG ED category objectives, including an agreement to incorporate all future changes made by the Department.
 - If the grantee community timely submits a plan, and if the plan is approved by the Department, the grantee community then must, within 24 months from the date of their initial receipt of any program income via loan repayment to them, obligate program income to another project, and seek and obtain the Department's approval for such new project.
 - During this 24-month period, program income must be placed in an interest-bearing account controlled by the grantee community (which account must be deposit insured/secured as required by state law). If no new project is approved within this 24-month period, program income will be required to be returned to the Department.

- Regional Administration.
 - If the notice of intent is submitted within the specified period and the grantee community intends to retain program income at the regional level, the grantee community will have six months from the date of the Notice of Approval for the project to submit to the Department evidence of: (a) the grantee community having entered into an agreement with other local governments which newly establishes a regional plan for the administration of the program income; or, (b) having entered into an agreement with an existing regional plan for administration of the program income. If this evidence of a regional plan is not submitted by the six-month deadline, program income will be required to be returned to the Department.
 - The regional plan must include either: (a) a detailed description of the organization, administration, and priorities of the program income projects to be approved under the authority of the regional plan; or (b) a detailed description of the organization and administration plans, together with an incorporation of the Department's CDBG ED category objectives, including an agreement to incorporate all future changes made by the Department.
 - If a newly established regional plan is timely submitted, and if the plan is approved by the Department, the regional administrator of the plan then must, within 36 months from the date of their initial receipt of any program income via loan repayment to them, obligate program income to another project, and seek and obtain the Department's approval for such new project.
 - During this 36-month period, program income must be placed in an interest-bearing account controlled by the regional administrator (which account must be deposit insured/secured). If no new project is approved within this 36-month period, program income will be required to be returned to the Department.
- Non-Profit Development Organizations (NDO)
Alternatively, the community may affiliate with a NDO to administer their program income funds. Details on this arrangement can be found in the 2010 Annual Action Plan Section 2-14 8.

CDBG ECONOMIC DEVELOPMENT APPLICATION GUIDELINES OVERVIEW OF PROCESS

Principal phases in the process of approval of CDBG ED projects:

- An initial expression of interest by a business wanting to utilize the CDBG program to locate or expand in a particular community, leading to preliminary eligibility and "fundability" review by economic development representatives from the community and from the Department. Department personnel normally involved are those engaged as Economic Development Consultants of CDBG ED projects.
- If basic thresholds of eligibility are satisfied, further discussion, and information assembly and review, will be conducted by and among interested stakeholders. These stakeholders are typically the benefiting business, financial institutions and others who would be lending project funds to the business, the applicant community, and the Department. Particulars are refined, various issues are identified and resolved, financial commitments from non-CDBG funding sources are obtained, and the project may be preliminarily discussed between Department packaging staff and the Department's Project Review Committee. The environmental review process (discussed elsewhere in these guidelines) is normally ongoing at this stage of project development. Eventually, all necessary stakeholders involved in the project make their project commitments in a written agreement which is required by the Department for all projects, called a Memorandum of Understanding ("MOU"). The form and content of the MOU must be acceptable to the Department and must satisfy various regulatory requirements of the CDBG program. This is best accomplished by having the MOU drafted by the Department, and then reviewed by other parties (and modified as necessary to reach a mutually satisfactory agreement). The Department is the last party to sign the MOU, and this occurs only if, and not until, a project is approved.
- The project enters a phase where the formal application is prepared and submitted to the Department. The Department's review process for applications is then invoked. In the review process, the application serves as the final, complete documentation package for consideration of project approval (or not) by:
 - the Department's Project Review Committee; and then,
 - by the Department's Director; and then,
 - by the office of the Governor.
 - If the Governor's office approves the project, the Department issues a Notice of Approval.
- Such Notice of Approval is the official notice of the approval of the award. No other communication or document, oral or written, from any other source, substitutes for the Notice of Approval issued by the Department. The Notice of Approval will, in normal circumstances, also contain additional language authorizing proceeding with project activities (including hiring employees), and authorizing incurring project costs. Note that at this point these authorizations are allowed by the Department to accommodate the usual desire of the business to proceed as quickly as possible with project implementation—but at this point, lacking a Notice of Release of Funds, the community and the business incur costs at their own risk.
- When all conditions required by the administrative contract between the Department and the community have been satisfied, the Department issues a Notice of Release of Funds. Issuance of a Notice of Release of Funds is the final step which allows project activities to not be at the risk of the community and business, but rather, to be fully authorized to be paid under the CDBG award and reimbursed by the Department to the community (and further passed-through to the business).

The review process by the Department Project Review Committee is based on the individual and collective judgments of Committee members, in consultation with other Department staff as necessary, applying an objective scoring process based on various criteria. A group/consensus decision is reached evaluating the merits of each application and deciding whether to fund, and if positively determined, at what level of funding. Applications for CDBG ED awards are accepted and considered on a continuous, open cycle.

CDBG ECONOMIC DEVELOPMENT APPLICATION GUIDELINES APPLICATION UNDERWRITING GUIDELINES— DECISION-MAKING CRITERIA

The HCDA and HUD's CDBG regulations outline basic project "underwriting" guidelines/standards so that state programs administering federal CDBG funds will achieve the federal objectives of the CDBG program. The underwriting standards—the decision-making criteria—used in the Nebraska CDBG ED category are designed to address these federal guidelines.

The federal CDBG guidelines, as applied by the Department, may be summarized as follows:

1. Project costs must be reasonable, not excessive, and must be supported by cost analyses. Transactions must be carried out through arms-length transactions, not insider arrangements.
2. All proposed sources of financing necessary to carry out the project must be committed. This ensures that time and effort is not wasted on assessing proposals, or awarding funds to projects, that are not in a position to proceed to project completion within a reasonable time. To fulfill this requirement, the Department requires a written verification affirming the various funding parties' intentions to make funds available, and, depending on the nature of the funding party, a showing of their capacity to actually provide such funds.
3. To the extent practicable, CDBG funds are not to be substituted for other funds. This standard requires a financial underwriting analysis of the project. The level of analysis will vary with the nature and complexity of the project. Since projects in this category provide financing for for-profit businesses, appropriate levels of private source financing (e.g., bank loans) are expected to be present, and equity participation in the project must be sufficient given the financial capacity of those owning the enterprise.
4. Financial feasibility of the project. The public benefit expected from the investment of CDBG funds is the creation and maintenance of LMI jobs. That benefit will not materialize if the project is not financially feasible.
5. Avoidance of providing an unreasonable return on investment to the owner of the project. The availability of non-interest bearing loans and forgivable loans to for-profit businesses presents a potential for this to occur which must be addressed in analyzing, and in judging the merits of, each project.
6. To the extent practicable, CDBG funds should be disbursed on a pro rata basis with other project funding sources. CDBG money should not be the first money into a project, but rather should flow into a project in proportion to other project funding sources.

CDBG ED category applications to the Department should address these decision-making criteria. Item 1 is generally assumed by the Department to be true and demonstrable (by the applicant, if so requested by the Department). Some showing of cost estimates should obviously be made in the application. Detailed cost justification and detailed cost documentation are generally not required until the time when funds are actually requested from, and disbursed by, the Department—the so-called "drawdown" process. Item 2 commitments are normally demonstrated by having the funding parties sign an MOU wherein their commitment is detailed and agreed to. Items 3, 4, and 5 need to be clearly demonstrated by the facts, and the analysis of those facts. Favorable determinations concerning Items 3, 4, and 5 are very important in the Department's decision-making process, and a narrative discussing and justifying that these standards are indeed being met by the proposed project, should be included in every application. Item 6 is assumed and will be controlled via disbursement control by the Department in the drawdown process should the project be approved.

Applicants must recognize that CDBG ED funds are limited and not all applications are equally meritorious when viewed from the Department's state-wide perspective.

Decisions on applications by the Department Project Review Committee are based on the individual and collective judgment of Committee members, in consultation with other Department staff as necessary, applying analyses of objective criteria considered to be useful and important in assessing whether to spend scarce federal CDBG dollars on a proposed project and in distinguishing among competing applications. A group/consensus decision is reached evaluating the merits of each application and deciding whether to fund, and if positively determined, at what level of funding.

Application Decision-making Criteria.

The Department's Project Review Committee considers the following criteria, and uses the following scoring spectrum, when evaluating whether an application meets the minimum threshold requirement. A project scoring less than 25 points does not meet the minimum threshold for further consideration by the Project Review Committee. Scoring 25 points is a necessary condition for further consideration, but is a minimum threshold only and is not solely determinative of a favorable recommendation by the Project Review Committee for awarding CDBG funds based on the application.

• **CDBG \$ Utilization**→ **35 points possible for this component**

○ CDBG \$ invested per job created/retained→ 20 points possible

- 0 points = \$35,000 or more
- 4 points = \$30,000 to <\$35,000
- 8 points = \$25,000 to <\$30,000
- 12 points = \$20,000 to <\$25,000
- 16 points = \$15,000 to <\$20,000
- 20 points = <\$15,000

○ CDBG \$ compared to total project \$ (as %)→ 10 points possible

- 0 points = 50%
- 2 points = 33% to <50%
- 6 points = 20% to <33%
- 10 points = <20%

○ Aggregate wages (and benefits) paid to employees in created jobs within one year compared to CDBG \$ invested (as %)→ 5 points possible

- 0 points = 100% or less
- 2 points = >100% to <125%
- 5 points = 125% or more

• **Community Impact and Investment**→ **30 points possible for this component**

○ Location of community as more economically distressed than others, based on three broad location sectors→ 20 points possible

- 5 points = larger community locations:
Beatrice, Columbus, Fremont, Grand Island, Hastings, Kearney,
Norfolk, North Platte, Scottsbluff/Gering, South Sioux City,
Douglas County, Lancaster County, and Sarpy County
- 10 points = not one of the larger community locations, but in the Interstate-80 corridor
- 20 points = rural (encompassing all locations not within the two location sectors above)

○ Due to the nature of Speculative Buildings and Speculative Industrial Parks, 10 points are being awarded to these projects as other factors cannot be determined at this time → 10 points possible

- **Business Factors**→ **40 points possible for this component**
 - Owners' equity in project→ 12 points possible
 - 0 points = 10% or less
 - 4 points = >10% to 20%
 - 8 points = >20% to 33%
 - 12 points = >33%
 - Loan collateral, and loan guarantees→ 6 points possible
 - 0 points = unsecured, or a junior lien position offering little realizable value
 - 1-5 points = for the spectrum in between
 - 6 points = reasonably secured as to collateral value and liquidity, with guarantees in existence
 - Established business, or start-up venture→ 6 points possible
 - 0 points = start-up venture with all the usual risks of failure
 - 3 points = established business, but with negative trends
 - 6 points = established business with positive trends
 - Documentation of \$ commitments by all other project \$ sources→ 4 points possible
 - Duration of commitment to maintaining the created/retained jobs→ 2 points possible
 - 0 points = committing to maintaining only for the minimum required by the Department's guidelines
 - 2 points = committing to substantially more than the minimum
 - Targeted Industry→ 10 points possible
 - **Economic Development Certified Community**→ **5 points possible for this component**
 - If the applicant community is qualified as an Economic Development Certified Community, 5 bonus points are given→ 5 points possible
-
- **Total Project**→ **110 points possible for total of all components**

CDBG ECONOMIC DEVELOPMENT APPLICATION GUIDELINES PROGRAM SPECIFICS

Compliance with CDBG National Objective Requirements.

Your attention is directed to the general discussion of this subject in the Overview of General Requirements, found earlier in these guidelines. In that discussion, the CDBG national objective requirement of benefiting low-to-moderate income persons, principally through job creation, sometimes by job retention, by a benefited business, is cited. Such job creation (or job retention) must involve the employment of persons, the majority (51% or more) of whom are LMI persons.

- It is required for every project that a CDBG national objective be met. Failure to achieve a national objective has repayment consequences for the benefited business. In the case of public facilities projects, failure to achieve a national objective has repayment consequences for both the business and the applicant community.
- The CDBG national objective of benefiting LMI persons is the one normally applicable to CDBG ED projects.
- Benefiting LMI persons is normally achieved by creating jobs where more than half of such jobs (actually 51% or more) are held by LMI persons. The 51% LMI requirement applies to all jobs created as a result of project activities—it does not just apply to the number of jobs to be created which is agreed by the Department as the minimum number of jobs required to be created. **This is an important point often overlooked or misunderstood by parties to CDBG project agreements.**
- Occasionally, in limited circumstances, rather than the job being held by an LMI person, a lesser standard of compliance, called making the job available to LMI persons, may be substituted. However, this "available to" standard is a less satisfactory choice, and compliance with the "available to" standard requires compliance with fairly rigorous regulatory standards. Specifics about how an employment position is considered to be "held by" or "made available to" an LMI person, and other related definitional matters, may be found in the HUD CDBG regulations in 24 C.F.R. Part 570.
- Job Retention vs. Job Creation.
 - In order to consider jobs as being retained as a result of CDBG assistance, there must be clear and objective evidence that permanent jobs will be lost without CDBG assistance. The mere assertion of such a circumstance (by the business, or by representatives of the applicant community) is not sufficient to meet HUD CDBG requirements. Clear and objective evidence would include:
 - Evidence that the business has issued a notice to affected employees that their jobs are at risk
 - Evidence that the business has issued a public announcement to that effect
 - An analysis of relevant financial records of the business clearly and convincingly shows that the business is likely to have to cut back employment in the near future without the planned CDBG intervention
 - When job retention (rather than job creation) is invoked to meet the national objective, 51% or more of the retained jobs must be demonstrated (by employee certifications) as being held by LMI persons at the time of CDBG assistance.

Low-to-Moderate Income Person (LMI): LMI persons are defined as members of a family (single-person family or multi-person family) where the family has an income equal to or less than the most recent HUD-established income limits for the family residence location. In Nebraska (with some exceptions for metropolitan statistical areas) the income limits are determined for each county. These income limits may be found generally via the HUD national website. The specific webpage address (subject to change by HUD) at the time of this writing is:

→<http://www.huduser.org/datasets/il.html>←

At this webpage, select the current FY20(XX) Income Limits, and then further use the U.S. map provided to click on Nebraska. This will bring up a PDF file containing a table which contains the relevant income limits. The "LOW-INCOME" row on such table is the one applicable to the LMI definitions for the CDBG program.

Full-Time Equivalent Position (FTE): An FTE position represents a culmination of 2,080 work hours per annum per position by a person in a permanent position of employment with a benefiting business at the business' project location site in Nebraska.

Permanent FTE Jobs are Required.

Only permanent jobs count. Temporary jobs do not count. Permanent jobs are full or part-time positions at the benefited business at the specified project site, which can reasonably be expected to be occupied for at least six continuous months. Seasonal jobs may be considered to be permanent only if the season is long enough for the job to be considered as the employees' principal occupation. All permanent jobs must be converted to FTEs.

A job is considered to be held by an LMI person if the person is, at the time their employment commences, a member of a family whose income falls within the HUD determined income limits. The family's entire income must be counted. The salary or wage associated with the job the LMI person fills is irrelevant.

Department Expectations for the Normally Allowed "Ramp-up" Time to Create Jobs; and for the Normally Required Job Maintenance Period.

The Department's expectation for the normally allowed "ramp-up" time for the business to create the required jobs is 18 months from the Notice of Approval for the project. Longer durations of this ramp-up time are allowed in some project circumstances. Shorter durations may be imposed in some project circumstances, e.g., CDBG-funded job training projects involving only a few employees may well be allowed a ramp-up time of only 12 months. The normally required time for the business to maintain the created jobs is 24 months, usually measured from the date of hire for each respective job. More nuanced and complicated definitions of the beginning and ending dates of the job maintenance period have been used in the past, and may be invoked in project negotiations (and their resulting MOUs) in appropriate circumstances. These ramp-up times and job maintenance periods are established by agreement of the parties in the MOU for the project.

Aggregating Jobs.

As a general rule, jobs from each business receiving CDBG assistance must be considered separately for purposes of demonstrating compliance with the requirements that at least 51% of the resultant created or retained jobs benefit LMI persons. Certain fact settings, e.g., an industrial park, may allow job aggregation for all businesses located on the property. Particulars about such circumstances are found in the CDBG regulations and other HUD explanatory materials.

Regarding repayment by the business in the event of failure to fulfill: the national objective; or job creation requirements; or job maintenance requirements.

When the CDBG assistance provided to a business is in the form of a repayable loan, then full repayment of that loan is required per the terms of the promissory note. If the business with the repayable loan obligation fails to achieve a national objective, the consequence is that immediate acceleration of the note obligation will be declared, requiring immediate, full repayment of the note.

When the CDBG assistance provided to a business is wholly, or partly, in the form of a forgivable loan or a job training grant, then if the business fails to achieve a national objective, or otherwise fails to achieve related job creation or job maintenance requirements of the project award, the consequences vary depending on the nature of the failure:

- CDBG federal statutes and regulations require CDBG funded projects to meet the national objective of principally benefiting low-to-moderate income (LMI) persons. These statutes and regulations require that at least 51% of the created jobs benefit LMI persons; with such benefit achieved by having at least 51% of the created jobs either held by, or made available to, LMI persons. If the benefited business fails to meet the national objective by not having at least 51% of the created jobs benefit LMI persons (as a result of not having at least 51% of the created jobs either held by, or made available to, LMI persons), then the loan is not forgiven or the job training grant is not made unconditional, and full repayment of the CDBG funding is required.
- If the national objective (51% LMI benefit) is met, but the minimum job creation requirement (the number of such jobs varying with each individual project) is not achieved, then full repayment of the CDBG funding is required of the business absent other agreement by the Department.

- If the national objective (51% LMI benefit) is met, but the jobs are not maintained for the required job maintenance period (such period varying with each individual project), then full repayment of the CDBG funding is required of the business absent other agreement by the Department.
- If the national objective (51% LMI benefit) is met, but there is a failure as to both the job creation requirement and the job maintenance period, then full repayment of the CDBG funding is required of the business absent other agreement by the Department.

Jurisdictional Control Limitations for Activities by Eligible Applicants.

- Eligible applicants include every Nebraska incorporated municipality under 50,000 population; and every Nebraska county.
- An eligible municipality may apply only for project activities within its jurisdictional control (as defined below).
- An eligible county may apply only for project activities:
 - within its jurisdictional control (as defined below), **and**
 - which are in unincorporated areas of the county;
 - provided however, that project activities occurring at a site of public facilities owned or controlled by the county, even though within an incorporated area of the county, may be applied for.
- In this context, jurisdictional control means: property within corporate boundaries; property within zoning jurisdiction boundaries; property outside such boundaries which was acquired (through purchase or donation) prior to project activity implementation; and property controlled through permanent easements or other similar permanent land use/access control mechanisms.
- These jurisdictional control limitations and definitions are established by the Department under the Department's CDBG ED program, not by HUD CDBG regulations. Consequently, in circumstances deemed appropriate by the Department, exceptions to these requirements may be allowed.

Eligible Activities and Forms of CDBG Assistance.

Activities eligible for assistance under the CDBG ED guidelines are primarily (but not exclusively) authorized in Sections 105(a)(14, 15, 17) of the HCDA. All activities must meet the eligibility requirements, and avoid the prohibitions, in the HCDA and in the CDBG regulations. The forms of assistance available in the CDBG ED category are:

- Loans to businesses. The provision of "direct" assistance to eligible, private, for-profit businesses to carry out an economic development project. The assistance is not (and cannot be by the provisions of the HCDA and the CDBG regulations) provided directly to the business from the Department, but rather is passed through the applicant governmental unit. The assistance will be in the form of a loan from the applicant governmental unit to the business. Such loans may be used by the business for almost any legitimate business purpose. Examples of permitted uses include: purchasing land; constructing a building; renovating an existing building; purchasing machinery and equipment; purchasing inventory; and meeting working capital needs. Unless a compelling case, involving extraordinary circumstances, can be made by the applicant and the benefited business—refinancing/financial restructurings/"bail-outs" of existing debt are not favored by the Department as an appropriate use of CDBG funds.
 - Loans to businesses may be either low-interest or non-interest bearing, depending on: interest rate market conditions; the particular facts and circumstances of the business and the CDBG application; and the decision regarding loan terms (interest rate being among such loan terms) made by the entity which will be ultimately receiving loan repayments made by the business (which may be the applicant governmental unit, or the Department, or both in some instances).
 - Loan amortizations are to require monthly payments.
 - Other terms of the loan (such as appropriate loan maturity, payment deferrals, and collateral requirements) vary from project to project and will be subjects of negotiation among the parties.
 - Maximum allowed maturities are:
 - 15 years for real estate loans
 - 7 years for machinery/equipment loans
 - 5 years for working capital loans
 - Maximum time for deferral of the initial loan payment is one year from note inception. Such payment deferrals are not the norm.

- Forgiveness of loans. All, or a portion, of the first \$250,000 of such loans may be forgiven, depending on the decision of the applicant community and (in the instance of deciding to forgive) if the Department concurs with such decision to forgive.
 - The decision to forgive—or not—and if so, how much of this first \$250,000 to forgive—initially rests with the applicant community—but Department concurrence is required when the community's decision involves forgiving the loan (all, or a portion). The Department's concurrence is required to ensure compliance with HUD CDBG underwriting guidelines which prohibit the benefiting business, or its principals, from being unduly enriched or from receiving an unreasonably high rate of return on their investment, as a result of such CDBG loan forgiveness.
 - When a community chooses to have the benefiting business repay (rather than forgiving) some, or all, of this first \$250,000, the community is allowed to "keep" such funds for local reuse in future economic development projects in the community.
 - Of course, the repayments of the loan are CDBG program income, and the funds are subject to the program income requirements (explained elsewhere in these guidelines) and continue to be subject to CDBG requirements.
 - Loan forgiveness is conditional, and for a benefiting business to have its loan achieve the status of being unconditionally forgiven, the benefiting business must completely fulfill the requirements of the project (as they will be outlined in the MOU), particularly including meeting the national objective for the project.
- No loan forgiveness over \$250,000, and portions of loans over \$250,000 must be repaid to Department. If the amount of the CDBG loan for the project is more than \$250,000, such "excess" amount (over the first \$250,000) is not forgivable at all, and must be repaid by the business, and when such repayments are generated they must be timely returned by the community to the Department (as CDBG program income).
- Public facilities (infrastructure) construction or improvement projects, undertaken for economic development purposes. CDBG funds in these instances are granted directly to the community. In such projects, a business benefiting from the infrastructure project (e.g., from street construction to the proposed site of the business) agrees to locate or expand in the applicant community premised on the infrastructure project, and agrees to create jobs principally benefiting LMI persons (and to maintain those jobs).
 - The public facilities project must be essential to the business, and have a direct nexus to the business activities conducted by the business.
 - Typical examples of such public facilities include street construction, street improvements, water supply system improvements, sewer system improvements, and flood and drainage system improvements.
 - Communities should note that any costs for "oversizing" the project to meet community needs beyond the essential needs of the benefited business must be exclusively paid by the community, and such costs borne for "oversizing" will not count toward the required minimum 1:1 community match of CDBG funds.
 - Because the CDBG award in these projects is a grant directly to the community, the matching funds in these projects must come from the community itself and be invested directly into the project costs. Other "matching" which may be done by the business in its location/expansion, e.g., building a new plant, does not serve to fulfill the match requirement in this public facilities component of the CDBG ED program.
 - Even though the CDBG funds in these projects do not flow through to directly benefit the business, the business is benefited—is advantaged—by the project, and the granting of the CDBG funds to the community in the first place is premised upon the business' agreement to locate/expand and to create and maintain jobs thereby. Consequently, the business is required to agree (in the MOU for the project):
 - to carry out the location/expansion of its business facility.
 - to create and maintain jobs having the required LMI benefit.
 - to repay to the community the amount of the CDBG funds awarded to the community and invested in the public facilities project should the business fail to meet the requirements of the MOU.
 - to provide in the application and periodically into the future (for the duration of the job maintenance period) financial information to allow an evaluation of the condition of the business, the likelihood of achieving the job creation and job maintenance requirements; and the business' capacity to repay to the community the amount of the CDBG funds awarded should the business fail to meet the requirements of the MOU.
- Job training grants to eligible private for-profit businesses. The basic rationale of this component of the program is to use CDBG ED funds in assisting the business in meeting the well-recognized "on-the-job" training costs associated with hiring new employees.

- These grants are only available for newly created jobs, not for retaining jobs.
- The grants are conditional upon the business satisfying the requirements of CDBG regulations, and upon the business meeting its obligations as established in the MOU for the project. When the requirements and obligations are fully satisfied by the business, the grants are classified as unconditional and the business then has no further obligations to the Department.
- Those new jobs eligible for reimbursement under the grant award will be identified in the MOU for the project. All jobs are not necessarily eligible for reimbursement.
- Reimbursement of wages to the company is fundamentally based upon particular positions/jobs, as contrasted with the particular employees filling those positions/jobs. To illustrate this point, if an employee who has been filling a position, leaves the employ of the business, and his/her position is filled (replaced) by another existing employee, or by a new employee, this is fundamentally just continuing to fill the position, even though a different employee is involved. This distinction is made because neither a new "batch" of reimbursement money, nor a new "batch" of six-months of training time, is available for that position simply because a different employee fills that position—the previous "batches" of reimbursement money and training time, already associated with that position, simply continue.
- These job training grants are paid to the benefited business (through the applicant community), as reimbursements for wages paid by the business. Reimbursements mean after the fact of payment of the wages by the business to the affected employees. These reimbursements (and the project award from the beginning) are subject to the following amount limitations:
 - There is an absolute \$250,000 maximum award.
 - There is an absolute \$10,000 per job maximum award.
 - There will be established as part of the project award an aggregate limit for the entire project. Such aggregate limit is usually less than the \$250,000 absolute maximum mentioned above. Typically, this aggregate limit is simply the arithmetic product of the number of jobs agreed to be created for which training funds are being supplied—multiplied by—the "per job" limit for the project (explained just below).
 - There will be established as part of the project award a "per job" fixed dollar limit (applicable to each job for which job training funds are reimbursed), such limit applied no matter what the wages paid to an affected employee may be. The amount of this "per job" limit is heavily influenced by the most basic limitation—the 50% of the employee's wages for six months/1,040 hours—limit. In no event may the "per job" limit exceed the absolute \$10,000 per job maximum mentioned earlier.
 - The most basic limit is that the business will not be reimbursed for more than 50% of the particular employee's wages paid for the first six months/1,040 hours of employment.
- These job training grants require the business to:
 - Create jobs, and do so before the end of a "ramp-up" period.
 - (if the business is an existing business with employees) agree (via the MOU) to a baseline number for the number of present positions/jobs, above which baseline the created jobs will be considered to in fact have been created, and for which baseline the business will have an additional job maintenance responsibility (see below).
 - Achieve the CDBG LMI national objective by having at least 51% of all positions created (not just 51% of the minimum number of positions required to be created) be held by LMI persons.
 - Pay all employees at the business (not just the job training grant related employees) at the minimum rate set forth in the Eligibility Criteria for eligible businesses found elsewhere in these guidelines.
 - Maintain the created jobs for 24 months beginning with the date of hire for each respective job.
 - Maintain the agreed baseline of employment for 24 months beginning with the Notice of Approval for the project.
 - Satisfy all other project requirements as set forth in the MOU for the project.

Speculative buildings projects/speculative industrial park projects. This eligible activity and form of assistance provides loans or conditional grants to applicant communities for the development of so-called "spec buildings" or "spec industrial parks". These "spec" improvements must then be later occupied by a qualifying business which must agree to create sufficient jobs which principally benefit low and moderate income (LMI) persons, in order to fulfill the required CDBG national objective. If this CDBG national objective is not fulfilled, the loan or conditional grant made to the applicant community by the Department must be repaid by the applicant community to the Department. As a guideline, \$750,000 is the maximum level of assistance for a speculative industrial park project. The aggregate maximum the Department would award for all projects of this type for any one program year is \$5,000,000.

These projects bear much more than normal risk to the applicant community (almost by definition since they are speculative as to the occupancy of the building or park by a qualifying business which can generate

sufficient LMI qualifying jobs). As a consequence, a careful and sober assessment of the project and of its likely success will be made all along in the process of application. And because of this risk, the Department requires that there be consultation, involvement, and coordination with Department staff at all phases of the application, from the very beginning. This is not an endeavor where the applicant community is invited to simply develop and submit an application, on its own, and await an answer from the Department.

The application requirements, underwriting guidelines, and decision-making criteria generally described in these Guidelines are all applied to these "spec" projects.

Specifics on the Spec Building/Industrial Park program and required application information are as follows:

Speculative Building/Speculative Industrial Park Loan Program

Overview and General Requirements

The purpose of this program is to provide financing to either purchase and renovate an existing building, or construct a new building including the development of site infrastructure for a speculative industrial building or park.

Community Development Block Grant program (CDBG) applications will only be accepted from a local government.

The local government will loan the funds to an eligible economic development organization that will construct the speculative building.

Eligible uses of funds include the purchase of an existing building and improvements to an existing building, the construction of a new building, the purchase of land and development of infrastructure.

The benefiting business locating in the speculative building must be an eligible business ("the business") under the CDBG Economic Development program guidelines. These for-profit businesses include: manufacturing, services when the majority of sales are derived from interstate commerce, research and development, warehousing and distribution, administrative headquarters and transportation. (See section on Eligible Businesses)

The maximum CDBG loan amount under the Speculative Building/Speculative Industrial Park Loan Program is \$250,000 for a speculative building and \$1,000,000 for a speculative industrial park, and the maximum amount that can be forgiven will be determined by the Department on a project by project basis.

Other Economic Development CDBG funds may be loaned or granted for a specific project in addition to funds for the Speculative Building Loan Program. However, the maximum amount of CDBG funds available for any one project is as previously defined in the Application Guidelines.

The CDBG loan is based on one job created for every \$25,000 loaned.

At least 51% of the jobs created by the business that purchases or leases the building must be held by or made available to low-to-moderate income (LMI) persons.

The project must comply with the Davis-Bacon Act, Environmental Review and all other CDBG regulations.

Funds may not be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation from one area to another area if the relocation is likely to result in a significant loss of employment in the labor market from which the relocation occurs.

NOTE: ANY OBLIGATION OF PROJECT COSTS PRIOR TO AUTHORIZATION BY DED IN WRITING MAY RENDER THE PROJECT, IN WHOLE OR IN PART, INELIGIBLE FOR CDBG FUNDING.

PHASE ONE: Submit Preliminary Information for the Speculative Building Loan Program

1. The local government submits preliminary information through a DED Financial Packager.

The following information must be submitted:

- Name, address, telephone number and contact person for all participant organizations.
- History of demand for industrial/commercial buildings in the community/region;
- Marketing plan for the speculative building;
- Identify industries targeted and reasons for choosing these industries;

- The project's readiness to proceed and the ability to have a tenant in four years;
- The level of financial support (public and/or private) committed to the project;

2. If the preliminary is accepted by the Department, a complete application will be requested.

PHASE TWO: Submit an application

1. If the preliminary information is accepted by the Department, the local government has ninety (90) days to submit an application. The local government must publish a public hearing notice, hold a public hearing, perform an environmental assessment and fulfill all other CDBG requirements. A Memorandum of Understanding is negotiated with the project participants and completed by the Department.

Submit the following:

- Completed and signed Application.
- The application needs to include information on:
 - Square footage of the building
 - Dimensions
 - Ceiling Heights
 - Dock(s)
 - Truck Door(s)
 - Building Style (e.g. metal with pitched roof)
 - Column Spacing
 - Utilities Sizes/Capacities (e.g. electrical, natural gas, water, sewer, telecommunications)
 - Finish-Out Features (e.g. floor thickness, insulation)
 - Purchase option agreements, sale documents, purchase agreements
 - Building Construction Costs
 - Assessed Value of Land
 - Taxes (3 years)
 - Insurance-physical, liability, flood and title (3 years)
 - Utilities (4 years)
 - Marketing (4 years)
 - Maintenance (4 years)
 - Engineering
 - Grant Administration
 - Interest (4 years)
 - Contingencies

2. If the application is approved, the local government would receive a Notice of Approval letter and then have ninety (90) days to receive Release of Funds (includes any environmental review needed).

3. Once a Release of Funds has been granted, the project may begin.

PHASE THREE: Construction and Marketing of the Speculative Building Following Release of CDBG Funds

1. The community has six (6) months to award a construction contract from the date of the Release of Funds letter.
2. The community has twelve (12) months to complete construction of the building from the date of the Release of Funds letter.
3. The community has forty-eight (48) months to sell or lease the building from the date of the completion of construction. A lease must be a minimum of three (3) years.
4. If the project is for the construction of a shell building, any finishing costs must be paid for with local funds.
5. If the building is not sold or leased to an eligible business within the 60-month time period, the loan will become due.

PHASE FOUR: Sale or Lease of the Building to an Eligible Business

1. In order for the community to qualify for program incentives, the speculative building must be sold or leased to an eligible business.
2. The local government must take appropriate steps in order to secure its lien interest in the property.
3. The business has twenty-four (24) months from lease or purchase date to create the required jobs and maintain the jobs for 12 months.
4. At least 51% of the jobs created by the business that purchases or leases the building must be held by or made available to low-to-moderate income (LMI) people.
5. The business must provide semi-annual job creation reports for one (1) year following the date of hire.
6. The job creation and reporting requirements must be included in the sale/lease documents between the community and the business.
7. If the business creates and maintains the jobs as required (includes meeting the LMI requirement identified in #4 above), an amount to be determined by the Department on a project by project basis may be forgiven.

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CDBG ECONOMIC DEVELOPMENT APPLICATION GUIDELINES APPLICATION FORMS AND CONTENTS REQUIREMENTS

Application Contents Requirements Checklist

Application Form + Exhibits A, B, C, and D

- Application Form (Part I, General Information)
- Application Form (Part 2, Funding Summary)
- Exhibit A, Participation Identification + Project Summary
- Exhibit B, Project Financing
- Exhibit C, Job Creation/Retention
- Exhibit D, Statement of Assurances

Public Participation in the Project

- Public hearing notice (copy and proof of publication)
- Minutes of public hearing (with any citizens' comments)
- Authorizing resolution from local government
- Local government letter addressing intrastate relocation issues (if applicable)

Environmental Review Record

- Finding of appropriate category for project
- Necessary publications and certifications
- Other components of a complete environmental review record

Business and Financial

- Business plan
- Resumes of key business personnel
- Business financial statements (historical and pro forma)
- Guarantors' financial statements
- Map of location of the project in community-wide context
- Project cost documentation

Comprehensive Narrative Project Summary + MOU

- Comprehensive narrative project summary addressing:
 - Decision-making criteria scoring levels (applicant's assessment)
 - Project activities eligibility under CDBG program
 - How the CDBG LMI national objective will be met
 - Reasonableness of project costs
 - Readiness to implement the project
 - Terms of the CDBG loan
 - Loan repayment capacity of the business/collateral coverage
 - Risks and likelihood of project viability
- Memorandum of Understanding (MOU) [signed by all parties other than DED]
- Funding commitments (if not in MOU)

CDBG ECONOMIC DEVELOPMENT APPLICATION GUIDELINES APPLICATION FORMS AND CONTENTS REQUIREMENTS

Note that only one original of the entire application package must be submitted. No additional copies are required.

Note further that there are additional, major components of the required contents of the application set forth after the Application Form and after the Exhibits A, B, C, and D. Those additional components are to a large extent the "heart" of the application. The discussion of these additional components begins at the page entitled "APPLICATION FORMS AND CONTENTS REQUIREMENTS (CONT'D).

Note also the Application Contents Requirements Checklist (on the preceding page) as an overall summary of contents requirements.

Instructions for Parts I and II of the Application for CDBG Economic Development Category

Part I: GENERAL INFORMATION

Box 1: Enter the name, mailing address, and telephone number of the local government that is the applicant in an individual application or the lead applicant in a joint application. Enter the name and phone number of the local government contact person. Such person is the applicant's employee who is most familiar with the application.

Box 2: 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. Check the appropriate application preparer status box.

Box 3: Check the appropriate Type of Assistance box under which funds are being requested.

Box 4: Check the appropriate application type box under which funds are being requested.

Box 5: Enter the dollar amounts of CDBG funds requested. Enter the total matching and total other funds. 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. Round amounts to the nearest hundred dollars.

Box 6: Give a short description of the project for which funds are requested. Include a list of other applicants if a joint application is being submitted. For a joint application, attach a copy of the written agreement.

Box 7: Only the signature of the applicant's chief elected official will be accepted. 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, title, and the date of the signature.

Part II: FUNDING SUMMARY

Using the activity code number and description provided on the Funding Summary, enter the dollar amount budgeted by funding source for each activity to be undertaken. Round amounts to the nearest hundred dollars. Identify the sources of matching or other funds. Be certain that the figures are correctly added and are the same as provided in Box 5 of Part I.

APPLICATION FOR ECONOMIC DEVELOPMENT CATEGORY

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
Nebraska Department of Economic Development (DED)

DED USE ONLY
Application Number 10-ED-
Date Received

2010

PART I. GENERAL INFORMATION

TYPE OR PRINT ALL INFORMATION

1. APPLICANT IDENTIFICATION	2. PERSON PREPARING APPLICATION
Applicant Name	Name
Mailing Address	Address
(City) NE (ZIP)	(City) (State) (Zip)
Telephone Number	Telephone Number
Local Government Contact	Federal Tax ID # / SS#
Fax Number	Email Address
Federal Tax ID Number	Application Preparer (check one) <input type="checkbox"/> Local Staff <input type="checkbox"/> Out-of-State Consultant <input type="checkbox"/> Economic Development District <input type="checkbox"/> Non-Profit Organization <input type="checkbox"/> In-State Consultant <input type="checkbox"/> DED Staff
DUNS Number (Local Government)	
Email Address	
3. DEVELOPMENT CATEGORY <input type="checkbox"/> Direct Loan <input type="checkbox"/> Job Training <input type="checkbox"/> Spec Building/Park <input type="checkbox"/> Public Works <input type="checkbox"/> Entrepreneur Development	5. FUNDING SOURCES
4. APPLICATION TYPE <input type="checkbox"/> Individual <input type="checkbox"/> Joint (List other applicants in box #6)	CDBG Funds Requested \$
	Matching Funds \$
	Other Funds \$
	Total Project Funds \$
	<i>(Round amounts to the nearest hundred dollars.)</i>

6. PROGRAM SUMMARY: Brief narrative description of the project for which CDBG funds are requested:

7. CERTIFYING OFFICIAL: Chief elected officer of local government requesting CDBG funds

To the best of my knowledge and belief, data and information in this application are true and correct, including any commitment of local or other resources. This application has been duly authorized by the governing body of the applicant following an official public hearing. This applicant will comply with all Federal and state requirements governing the use of CDBG funds.

Signature in ink	Typed Name and Title	Date Signed
------------------	----------------------	-------------

Attest	Typed Name and Title	Date Signed
--------	----------------------	-------------

SUBMIT THE ORIGINAL OF THE ENTIRE APPLICATION (no additional copies are required) TO:

Nebraska Department of Economic Development
 Division of Community and Rural Development
 PO Box 94666 - 301 Centennial Mall South
 Lincoln, NE 68509-4666
 (402) 471-3119 (800)426-6505 Fax (402) 471-8405

Individuals who are hearing and/or speech impaired and have a TDD, may contact the Department through the Statewide Relay system by calling (800) 833-7352 (TDD). The relay operator should be asked to call DED at (800) 426-6505 or 402-471-3119.

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

Activity Code	CDBG Funds	Matching Funds	Other Funds	Total Funds	Sources of Matching or Other Funds
0010 Acquisition					
0020 Planning ¹					
0070 Public Fac. & Improvements					
0230 Streets					
0250 Storm Sewers					
0270 Sanitary Sewers					
0290 Sewage Treatment					
0310 Water Source/Well					
0330 Water Distribution					
0350 Water Storage					
0370 Flood & Drainage Facilities					
0600 ED Infrastructure Development					
0690 Fixed Assets / Land and Building					
0691 Speculative Building / Park					
0700 Direct Financial Assistance to For-Profit Biz					
0710 Job Training					
0730 Working Capital					
0750 Fixed Assets / Machinery & Equipment					
0770 Fixed Assets / Leaseholds Improvements					
0780 Entrepreneur Development					
0791 Microenterprise Lending					
0181 General Administration					
1000 TOTAL PROGRAM COSTS					

¹ Only allowable as an Activity when associated with a Speculative Park/Data Center project.

Exhibit A

Participation Identification and Project Summary

1. Name of Business _____
Address _____

(City) NE (Zip)
Telephone No. (____) _____
Fax No. (____) _____
Contact Person: _____
DUNS Number (Business) _____

2. Business Organization

Proprietorship
 Partnership
 Corporation
 Other

4. Business Classification

Administrative Technology
 Management Headquarters Tourism
 Manufacturing Transportation
 Retail
 Service Warehouse/Distribution

3. Business Type

Start-Up
 Existing
 Business Buy-Out
 Spec Building / Park

5. Project Location:

Within the City Limits of (Name of City) _____
 Outside the City Limits, but within the Zoning Jurisdiction of (Name and City) _____
 Outside the Zoning Jurisdiction of (Name of City) _____ in (County) _____
 Located in county (not in incorporated areas.) _____

Zoning Action Required? Yes No Project in 100 yr. floodplain? Yes No

If zoning action is required, please attach an explanation.

Attach a legal description of the project's location.

Attach a map of the applicant's jurisdiction, identifying the areas in which the project activity will occur.

6. Ownership Identification

A. Name _____ %

B. Percentage of Company Owned by:

Women _____ %

Minorities _____ %

Disabled Persons _____ %

7. Affiliated Businesses

A. Does the Company have a Parent or Subsidiary? Yes No

If Yes, Identify Name: _____

Address: _____

City: _____ State: _____ Zip: _____

B. Do the Owners of the Company have an Ownership interest in any Other Company? Yes No

If Yes to Either A or B Identify Below:

Company Name Relationship % Owned

8. Project Participation Identification: Identify All Entities Participating with the Financing of the Project.

A. Financial Institution(s)

Name: _____

Name: _____

Address: _____

Address: _____

(City) (State) (Zip)

(City) (State) (Zip)

Contact Person: _____

Contact Person: _____

Title: _____

Title: _____

Telephone: () _____

Telephone: () _____

B. Other Local, State or Federal Financing Sources

Agency Name: _____

Agency Name: _____

Address: _____

Address: _____

(City) (State) (Zip)

(City) (State) (Zip)

Contact Person: _____

Contact Person: _____

Title: _____

Title: _____

Telephone: () _____

Telephone: () _____

C. Source(s) of Equity/Investment Capital

Name: _____

Name: _____

Address: _____

Address: _____

(City) (State) (Zip)

(City) (State) (Zip)

Telephone: () _____

Telephone: () _____

Name: _____

Name: _____

Address: _____

Address: _____

(City) (State) (Zip)

(City) (State) (Zip)

Telephone: () _____

Telephone: () _____

9. State the project's overall objective, including a brief history of operations to date:

Exhibit B

PROJECT FINANCING AND USE OF LOAN PROCEEDS

I. Project Financing	Amount	Percent Project Cost	Annual Debt Service	Maturity	Interest Rate	Lien Position
1. CDBG Share of Project Cost	\$		\$			
2. Private Sector Financial Institution	\$		\$			
Other (Identify)	\$		\$			
Total Private Sector Financing	\$		\$			
3. Other Federal Sources	\$		\$			
4. Equity Injection	\$		\$			
5. TOTAL PROJECT FINANCING	\$		\$			

Job Creation / Retention Information

1. Total full time equivalent positions as of _____
(date) _____
2. Total new full time equivalent positions being **created** from the project which will be filled for one year or longer. _____
3. The total number of **retained** FTEs that will result from the project for which notification of lay-off or termination has occurred, or is apt to occur (provide explanation) if the project is not carried out. Classify retained FTEs as follows: _____
 - a. Total jobs known to be currently held by LMI people.
For each employee, submit the Employee Certification Form or _____
 - b. Total number of jobs that can reasonably be expected to become available through turnover to LMI persons within a two year period from an award of CDBG funds. The number of jobs should be based upon the historical turnover rate for each of the past two years converted to FTE positions. _____
4. (For seasonal hiring only). Total new full time equivalent positions being created from the project which will be filled for 3 months or longer. _____
5. Provide a job description for each new position. Complete all information for each job title and identify the number of positions to be created. (Use the attached list for job titles) _____
6. Describe training and recruitment opportunities that would make the retained jobs available to LMI persons. All CDBG funded projects may use Nebraska Workforce Development for their recruiting of new employees to assist in the documentation of first consideration being given to low and moderate income persons. Nebraska Workforce Development will obtain and keep on file for verification the necessary information about the person to determine low and moderate income status. The distance from residence and availability of transportation to the employment site should also be considered in determining whether a particular low and moderate income person can seriously be considered an applicant for the job.
7. Complete the projected hiring schedule for positions expected to become available through turnover.

Job Descriptions

No. of FTE Positions to be Created / Retained		Job Title	Skills (describe)	Education (indicate HS education, specialized training, 4-yr degree, other)	Experience (No. of yrs)	Wage / Salary	Benefit Package
<u>Created</u>	<u>Retained</u>						

Business Signature – Authorized Person _____

Date _____

Typed Name and Title _____

Exhibit C (continued)

Nebraska Department of Economic Development

TITLES FOR JOB CREATION/RETENTION

Economic Development Application

For each job retained or created, the following general titles are to be used. If additional titles are to be used for clarification, place in parentheses under these general titles.

1. **Officials and Managers** - Occupations requiring administrative personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operation.
2. **Professionals** - Occupations requiring either college graduation or experience of such an amount as to provide a comparable background.
3. **Technicians** - Occupations requiring a combination of basic scientific knowledge and manual skills which can be obtained through about two years of post high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training.
4. **Sales** - Occupations engaging wholly or primarily in direct selling.
5. **Office and Clerical** - Includes all clerical type work regardless of level of difficulty, where the activities are predominantly non-manual.
6. **Crafts Workers (skilled)** - Manual workers of relatively high skill level having thorough and comprehensive knowledge of the processes involved in their work; exercise independent judgment and usually receive extensive training.
7. **Crafts Workers (semi-skilled)** - Workers who operate machines or processing equipment or perform other factory type duties of intermediate skill level which can be mastered in a few weeks and require limited training.
8. **Laborers** - Workers in manual occupations which generally require no special training.

APPLICANT'S STATEMENT OF ASSURANCES AND CERTIFICATIONS

The _____ (Name of the Local Government Unit) (Applicant) hereby assures and certifies to the Nebraska Department of Economic Development (the Department) regarding an application for Community Development Block Grant (CDBG) funds, the following:

LOCAL GOVERNMENT CERTIFICATIONS

It has previously adopted, on _____, _____, an **Excessive Force Policy** which remains in effect.

1. It has previously adopted, on _____, _____, a **Code of Conduct** which remains in effect.
2. It has previously adopted, on _____, _____, **Procurement Procedures** which remains in effect.
3. It has previously adopted, on _____, _____, a **Residential Antidisplacement and Relocation Assistance Plan** which remains in effect.
4. It has previously adopted, on _____, _____, a **Citizen Participation Plan** which remains in effect. The adopted Citizen Participation Plan contains substantially similar language as the sample plan in these guidelines.
6. It has previously adopted, on _____, _____, and continues to pursue **Fair Housing Practices** which remains in effect.
7. It has previously furnished to the department a **Financial Management Certification** dated _____, _____, which remains accurate.
8. There are no significant unresolved audit findings relating to any prior grant award from the federal and/or state government which would adversely affect the administration of this grant.
9. No legal actions are underway or being contemplated that would significantly impact the Applicant's capacity to effectively administer the program, and to fulfill the CDBG program; and
10. No project costs have been incurred which have not been approved in writing by the Department.

FEDERAL COMPLIANCE CERTIFICATIONS

11. It will adopt and follow a residential anti-displacement and relocation assistance plan which will minimize displacement as a result of activities assisted with CDBG funds.
12. It will conduct and administer its programs in conformance with:
 - a. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), and the regulations issued pursuant thereto (24 CFR Part 1).
 - b. Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing and the provision of brokerage services.
 - c. The Fair Housing Act of 1988 (42 USC 3601-20) and will affirmatively further fair housing.
13. It will not attempt to recover any capital costs of public improvements assisted in whole or part by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless (1) grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than grant funds, or (2) for purposes of assessing any amount against properties owned and occupied by persons of LMI who are not persons of very-low income, the recipient certifies to the State that it lacks sufficient grant funds to comply with the requirements of clause (1).
14. It will comply with all provisions of Title I of the Housing and Community Development Act of 1974, as amended, which have not been cited previously as well as with other applicable laws.

SPECIAL REQUIREMENTS AND ASSURANCES.

15. The Applicant will comply with the Administrative Requirements of the program, those applicable items in the current Consolidated Plan, Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended, and 24 CFR Part 570 including parts not specifically cited below and the laws, regulations and requirements, both federal and state, as they pertain to the design, implementation and administration of the local project, including but not limited to the following:

CIVIL RIGHTS AND EQUAL OPPORTUNITY PROVISIONS.

- Public Law 88-352, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d), et. seq.) (24 CFR Part 1)
- Section 109 of the Housing and Community Development Act of 1974, As Amended
- Age-Discrimination Act of 1975, As Amended (42 U.S.C. 6101, et. seq.)
- Section 504 of the Rehabilitation Act of 1973, As Amended (29 U.S.C. 794) and the Americans with Disability Act
- Executive Order 11246, As Amended
- Executive Order 11063, As Amended by Executive Order 12259 (24 CFR Part 107)

ENVIRONMENTAL STANDARDS AND PROVISIONS.

- Section 104(f) of the Housing and Community Development Act of 1974, As Amended
- Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) and the Implementing Regulations found at 24 CFR Part 35
- The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et. seq., and 24 CFR Part 58)
- The Clean Air Act, As Amended (42 U.S.C. 7401, et. seq.)
- Farmland Protection Policy Act of 1981, (U.S.C. 4201, et. seq.)
- The Endangered Species Act of 1973, As Amended (16 U.S.C. 1531, et. seq.)
- The Reservoir Salvage Act of 1960 (16 U.S.C. 469, et. seq.), Section 3 (16 U.S.C. 469 a-1), As Amended by the Archaeological and Historic Preservation Act of 1974
- The Safe Drinking Water Act of 1974 [42 U.S.C. Section 201, 300(f), et. seq., and U.S.C. Section 349 as Amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e))]
- The Federal Water Pollution Control Act of 1972, As Amended, including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et. seq.)
- The Solid Waste Disposal Act, As Amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et. seq.)
- The Fish and Wildlife Coordination Act of 1958, As Amended, (16 U.S.C. Section 661, et. seq.)
- EPA List of Violating Facilities
- HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979)
- The Wild and Scenic Rivers Act of 1968, As Amended (16 U.S.C. 1271, et. seq.)
- Flood Insurance
- Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et. seq.)
- Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et. seq.)
- Environmental Protection Act, NEB. REV. STAT. 81-1501 to 81-1532 (R.R.S. 1943)
- Historic Preservation

LABOR STANDARDS AND PROVISIONS.

- Section 110 of the Housing and Community Development Act of 1974, As Amended
- Fair Labor Standards Act of 1938, As Amended, (29 U.S.C. 102, et. seq.)
- Davis-Bacon Act, As Amended (40 U.S.C. 276-a - 276a-5); and Section 2; of the June 13, 1934 Act., As Amended (48 Stat. 948.40 U.S.C. 276(c), Popularly Known as The Copeland Act
- Contract Work Hours and Safety Standards Act (40 U.S.C. 327, et. seq.)
- Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701(u)]

FAIR HOUSING STANDARDS AND PROVISIONS.

- Section 104(a)(2) of the Housing and Community Development Act of 1974, As Amended
- Public Law 90-284, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601, et. seq.). As Amended by the Fair Housing Amendments Act of 1988
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, As Amended (42 U.S.C. 4630) and the Implementing Regulations Found at 49 CFR Part 24
- Relocation Assistance Act, NEB. REV. STAT. 76-1214 to 76-1242 (R.S. Supp. 1989)
- Nebraska Civil Rights Act of 1969 20-105 to 20-125, 48-1102 and 48-1116
- Uniform Procedures for Acquiring Private Property for Public Use, NEB. REV. STAT. 25-2501 to 25-2506 (R.R.S. 1943)

ADMINISTRATIVE AND FINANCIAL PROVISIONS.

- U.S. Office of Management and Budget Circular A-87 "Cost Principles for State and Local Governments"
- U.S. Office of Management and Budget Circular A-102 "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments"
- 24 CFR 570.503 - Grant Administration Requirements for Use of Escrow Accounts for Property Rehabilitation Loans and Grants
- 24 CFR 570.488 to 570.499a - States Program: State Administration of CDBG Nonentitlement Funds
- Community Development Law, NEB. REV. STAT. 18-2101 to 18-2144 (R.S. Supp. 1982)
- Public Meetings Law, NEB. REV. STAT. 18-1401 to 18-1407 (R.R.S. 1943)

MISCELLANEOUS.

- Hatch Act of 1938, As Amended (5 U.S.C. 1501, et. seq.)

The Applicant hereby certifies that it will comply with the above stated assurances.

Signed _____

Title _____ Subscribed in my presence and sworn to before me.

Date _____
Notary Public (Not required if on letterhead)

CDBG ECONOMIC DEVELOPMENT APPLICATION GUIDELINES APPLICATION FORMS AND CONTENTS REQUIREMENTS (CONT'D)

To this point the application has required the completion of:

- Application Form (Part I)
- Application Form (Part II)
- Exhibit A
- Exhibit B
- Exhibit C
- Exhibit D

Of course, there are many more facts and circumstances surrounding a business economic development project which are not contained within the basic application form and the basic exhibits cited above. A complete application requires much more information in order for the Department to determine all applicable project eligibility requirements, and in order for the Department to apply its underwriting guidelines to further assess the merits of the application. Attention is directed to the decision-making criteria set forth earlier in these guidelines. Consequently, the applicant must provide additional, comprehensive information, in formats appropriate to the type of information (i.e., there are no "forms"), which information reveals and explains the project's: eligibility; viability; impact on jobs and ability to meet the LMI national objective; business component factors; and community impact and commitment.

Additional information/documentation required for every project includes: (the applicant may organize these and include them in the application materials in any logical manner).

- Memorandum of Understanding (MOU). Completed and signed by all parties (other than DED). The MOU's purpose, and its normal genesis, is discussed in the Overview of Process section earlier in these guidelines. The terms of the MOU serve to fulfill many CDBG regulatory requirements, so it's basic form and content need to conform to certain Departmental "must be included" clauses. These MOUs are drafted by DED project "packager" staff in conjunction with other stakeholders in the project. The MOU is a joint agreement among the parties—the drafting function is simply spearheaded by DED staff.
- The MOU normally serves as the funding commitment document for all project funding parties. It is necessary to adequately document the commitment to funding by the various funding parties. For those sources of funding which are not parties to the MOU (as might be the case for a bank), the application must include separate, satisfactory documentation of the commitment to the project by such funding sources who are not signatories to the MOU.
- A summary of the essential terms of the CDBG funded loan, including forgivability (or not), collateral requirements, maturity, and personal guarantees of the loan by principals of the business.
- A discussion of the reasonableness of project costs, including where appropriate for the particular project, cost estimates, appraisals, and engineering estimates.
- A showing of the citizen participation in the project required by the CDBG regulations, normally in the form of documents reflecting: the required Public Hearing Notice having been published/posted; the holding of the public hearing; and the outcome of the public hearing including a summary of any citizens' comments about the project.
- A showing of appropriate resolution of any intrastate relocation issues or national "anti-pirating" issues (refer to discussion of same earlier in these guidelines).
- A map of the location of the proposed project which shows the site in appropriate context for the community involved. This map does not have to be detailed. Its purpose is to provide the Department

with a rudimentary image of the business location which is often not obvious from site addresses and project narratives.

- The written business plan associated with the project.
- Resumes of principals and other key personnel of the business.
- Historical, and pro forma, financial statements for the business:
 - balance sheets for the current year and three years prior
 - pro forma balance sheets for two years into the life of the project
 - income statements for the current year and three years prior
 - pro forma income statements two years into the life of the project
 - cash flow statements for the current year and one year prior
 - pro forma cash flow projections for two years into the life of the project
- Financial statements of personal guarantors of the CDBG loan to the business.
- Copies of guarantors' federal income tax returns for three years prior to the application year.
- A written, comprehensive, narrative, project summary addressing project viability, eligibility, ability to fulfill the LMI national objective, ability to repay the CDBG loan, financing commitments having been achieved, and the basic readiness to implement the project. While the responsibility for providing this summary falls on the applicant, in most cases DED "packagers" will assist in the preparation of this summary.
- An assessment by the applicant, with brief accompanying narrative, specifically addressing all decision-making criteria factors for which points are accorded, assigning (and justifying by the applicant's narrative argument) the level of points (for each criterion) thought to be appropriate by the applicant. The decision-making criteria are set forth earlier in these guidelines.
- Any additional information which in the judgment of the applicant would be appropriate to fully support the application.

**CDBG ECONOMIC DEVELOPMENT
APPLICATION GUIDELINES
SAMPLES OF OTHER FORMS USED FOR PROJECTS**

SAMPLES ON PAGES FOLLOWING

[sample form]

NOTICE OF PUBLIC HEARING ON APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM GRANT

Notice is hereby given that on [date/time] at [location details] the [name of the governing board/council/other] of the [name of the applicant unit of general local government] will hold a public hearing concerning an application to the Nebraska Department of Economic Development for a grant under the Community Development Block Grant ("CDBG") program. Such grants are available to local governments for economic development activities in the local community.

The [name of applicant unit of general local government] is requesting [\$ amount of CDBG funds being requested from DED] for [description of project including name of benefited business; all project activities to be undertaken and the amount of funds associated with each activity]. All the CDBG funds will be used for activities that will meet the CDBG national objective of benefiting low-to-moderate income persons. The CDBG funded activities are unlikely to result in the residential displacement of people, and should such displacement occur it will be minimized and resolved pursuant to the [name of applicant governmental unit]'s antidisplacement and relocation plans. All interested parties are invited to attend this public hearing at which time you will have the opportunity to be heard regarding the grant application. Written testimony will also be accepted at the public hearing. Written comments addressed to [name of specific contact person with the applicant unit of general local government] at [address] will be accepted as part of the record of the hearing if received on or before the scheduled date of the hearing.

[here include the unit of general local government's customary language with respect to providing auxiliary aids or other reasonable physical, sensory, or language accommodations to those members of the public requiring same]

Dated at [location] on [date], by the [name of the governing board/council/other] of the [name of the applicant unit of general local government].

NOTE: This boxed area is informational, not part of the required form of the notice. The Department requires use of the form and substance of this sample to satisfy the State's requirements for the CDBG program. Language in [] requires insertion of appropriate wording and is not designed to be in the notice verbatim. The Department also requires: (1) submission of evidence of proof of publication (or certification of posting) which demonstrates that the notice requirements (of state law) for public hearings were met; and, (2) submission of a summary of citizens' comments at such hearing (if any).

Economic Development Administration (EDA) Job Category Definitions

1. **Officials or Managers** - Occupants requiring administrative personnel who set broad policies, exercise overall responsibility of execution of these policies, and individual departments or special phases of a firm's operations. This includes: Officials, Executives, middle management, plant managers and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, and kindred workers.

2. **Professional** - Occupants requiring either college graduation or experience of such kind and amount as to provide a comparable background includes: accountants and auditors, airplane pilots and navigators, architects, artists chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, professional and labor relations workers, physical scientists, physicians, social scientists, teachers, and kindred workers.

3. **Technicians** - Occupants requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post-high school education such as is offered in many technical institutions and junior colleges, or through equivalent on the job training. This includes: computer programmers and operators, drafters, engineering aides, junior engineers, mathematic aides, licensed practical or vocational nurses, photographers, radio operators, scientific assistants, surveyors, technical illustrators, technicians (medical, dental, electronic, physical science) and kindred workers.

4. **Sales** - Occupants engaging wholly or primarily in direct selling. This includes: advertising agenda and sales workers; insurance agents and brokers; real estate agents and brokers; sales workers; demonstrators and retail sales workers; and sales clerks, grocery clerks and cashiers; and kindred workers.

5. **Office or Clerical** - Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly non-manual though some manual work not directly involved with altering or transporting the products is included. This includes: bookkeepers, cashiers, collectors (bills and accounts), messengers and office helpers, office machine operators, shipping and receiving clerks, stenographers, typists, and secretaries, telegraph and telephone operators, and kindred workers.

6. **Craft Worker (skilled)** - Manual workers of relatively high level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. This includes: the building trades, hourly paid supervisors and lead operators (who are not members of management), mechanic and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors, and kindred workers.

7. **Operatives (semi-skilled)** - Workers who operate machines or other equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. This includes: apprentices (auto mechanics, plumbers, electricians, machinists, mechanics, building trades, metal working trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, dress makers and sewers (except factory), dryer's furnaces workers, heaters (metal), laundry and dry cleaning, operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (except construction and maintenance), photographic process workers, boiler tenders, truck and tractor drivers, weavers (textile), welders and flame metals workers, and kindred workers.

8. **Laborers (unskilled)** - Workers in manual occupations which generally require no special training perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. This includes: garage laborers; car washers and greasers; gardeners (except farm) and ground keepers; stevedores; wood choppers; laborers performing lifting, digging, mixing loading, and pulling operations; and kindred workers.

9. **Service Workers** - Workers in both protective and non-protective service occupations. This includes attendants (hospital and other institutions, professional and personal service, including nurses aides and orderlies), barbers, chairworkers and cleaners, cooks (except household), counter and fountain workers, elevator operators, firefighters and fire protection guards, door keepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses, and kindred workers.

HUD INCOME GUIDELINES

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