

# MEETING A NATIONAL OBJECTIVE

## Purpose

The purpose of this chapter is to describe the criteria that must be met and the records that must be maintained in order for an activity to be considered to have met a **national objective** of the CDBG program. Additional information in the form of examples and tips is also provided.

Note that states can be more restrictive than the requirements set forth in the national objectives, so long as the State requirements do not contradict federal requirements. For example, a state may choose to fund only low- and moderate-income benefit activities. In addition, documentation requirements for local governments meeting national objectives are set by the state.

## Basic Requirements

Section 101(c) of the authorizing statute sets forth the primary objective of the program as the development of viable communities by the provision of decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate- income. The statute further states in Section 104(b)(3) that this is to be achieved in the CDBG program by ensuring that each funded activity meets one of three named national objectives. Those three objectives are identified as: Benefiting Low- and Moderate-Income Persons; Preventing or Eliminating Slums or Blight; and Meeting Urgent Needs. The statute also states that each grant recipient must ensure that at least 70 percent of its expenditures over a particular time period must be used for activities qualifying under the first of those national objectives (that of Benefiting Low- and Moderate-Income Persons.) This chapter concentrates on what is required for CDBG-funded activities to meet each one of these national objectives.

As indicated above, the program rules state that in order to be eligible for funding, every CDBG-funded activity must qualify as *meeting one of the three national objectives* of the program. This requires that each activity, except certain activities carried out under the eligibility categories of Planning and Capacity Building, Program Administration, and Technical Assistance, meet specific tests for either:

- ❖ Benefiting low- and moderate-income persons,
- ❖ Preventing or eliminating blight, or

- ❖ Meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available to meet such needs.

**An activity that fails to meet one or more of the applicable tests for meeting a national objective is in noncompliance with CDBG rules.**

*Note:* The requirement that each activity must meet a national objective should not be confused with the requirement that at least 70 percent of a grant recipient’s funds over a particular time period must be used for activities that benefit L/M income persons.

This requirement, which is sometimes called the “overall benefit” requirement, together with the rules to be used in calculating the total percentage of funds actually expended for purposes of complying with this requirement, are both covered in Chapter 4.

Each of the three CDBG national objectives, and the subcategories of criteria for how that objective may be met, are described below. Because of statutory, and sometimes regulatory, limitations, certain of the subcategories may not be used for a particular type of activity. These limitations are also reflected in the guidelines shown in this chapter.

## **National Objective Categories and Subcategories**

The remainder of this chapter provides guidance on the national objective categories and subcategories, guidance on documenting compliance, and some thoughts about making the wisest choice among available alternatives, in the following order:

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# Activities Benefiting L/M Income Persons

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This is usually spoken of as the most important national objective of the CDBG program because of the related requirement that the vast majority of CDBG expenditures must be for activities that meet this objective.

## Definitions

Section 102(a)(20) of the HCDA defines the term ‘low- and moderate income persons’ as families and individuals whose incomes are no more than 80 percent of the median income of the area involved. The ‘area involved’ is determined for the CDBG program the same way it is determined for the Section 8 Housing program. The 80% of median income figure is determined by HUD based on a four-person family and is adjusted upward or downward for larger or smaller families.

The State CDBG program regulations do not contain specific definitions of the terms ‘family’ or ‘household,’ and do not contain a definition of what constitutes ‘income.’ States are free to develop their own definition of ‘income’ and can follow the CDBG Entitlement regulations for interpretive guidance (see 24 CFR 570.3). States may use the following definitions of ‘family’ and ‘household’ from the Entitlement program as interpretive guidance:

A **family** is defined in the Entitlement program as all persons living in the same household who are related by blood, marriage, or adoption. An individual living in a housing unit that contains no other person(s) related to him/her is considered to be a one-person family for this purpose. Adult children who continue to live at home with their parent(s) are considered to be part of the family for this purpose and their income must be counted in determining the total family income. A dependent child who is living outside of the home (for example, students living in a dormitory or other student housing) is considered for these purposes to be part of the family upon which he/she is dependent, even though he/she is living in another housing unit.

A **household** is defined in the Entitlement program as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

In metropolitan areas, Section 8 program income limits are established for an entire metropolitan area, which may include both Entitlement and non-entitlement jurisdictions. For any given state grant recipient located in a metropolitan area, the state must use the Section 8 income limits for that metropolitan area. In non-metropolitan areas, HUD establishes Section 8 program income limits on a county-by-county basis. HUD also determines equivalent figures for the entire non-metropolitan area of each state. For any given non-metropolitan state grant recipient, a state may apply either the Section 8 income limit for that county or the statewide non-metropolitan area figures.

*Persons vs. households:*

It is important to note that, for all but one of the subcategories under this national objective, the test of meeting the objective of Benefit to L/M Income Persons is to be met based on L/M **Persons**. Only with the subcategory of L/M Income Housing must the test be met based on L/M **Households**.

There are reasons for this distinction. First, the statute requires that the focus be on the occupants of a CDBG-assisted housing unit when determining whether the national objective of benefit to L/M income persons can be met. Secondly, there are two underlying assumptions in the CDBG regulations concerning this issue: 1) that all persons who reside in a housing unit that has been provided or improved with CDBG assistance will benefit from that housing unit; and 2) that the resources of all occupants could be brought to bear with respect to paying for the rental, improvement, or purchase of the unit.

For housing units receiving CDBG assistance which are occupied by persons of the same family, totaling the income of all occupants of a unit easily determines whether or not the family is a L/M income family. However, CDBG-assisted housing units can be occupied by persons who are not related to each other in the traditional family sense. Thus, there needs to be a way to determine whether the beneficiaries of such an assisted housing unit should be considered to be L/M income for purposes of meeting the CDBG national objective. In addressing this problem, the regulations provide first, that the income of all persons occupying a CDBG-assisted housing unit must be counted without

regard to their familial relationships, and secondly, by treating them (for this purpose only) as though they were all of the same family. If the “household/family” income qualifies it as L/M income, then the assisted housing unit would be considered to be occupied by a L/M income household.

To illustrate this point, assume that there are two assisted housing units, one of which is occupied by three, unrelated adults and the second of which is occupied by an unmarried couple. Also assume that in each of these two units, one of the occupants is currently jobless and has no income. For non-housing CDBG-assisted activities (such as a public service fair housing program), each of the two persons in these units who are without income would qualify separately as a L/M income person, eligible to receive the public service. (This is because the regulations treat them as though they are one-person families and, with no income, each is considered to be a L/M income family.)

For CDBG-assisted housing activities, however, the benefits of the assistance are shared with all of the occupants, and the regulations require that the income of all household members must be considered to determine the L/M income status of the beneficiaries. For the dwelling unit occupied by the three unrelated adults to qualify for CDBG housing assistance, the combined income of the two working adults could not exceed the limits for a three-person L/M income family. For the unit occupied by the unmarried couple to qualify for CDBG housing assistance, the income of the one working adult would have to be less than the limit for a two-person family.

It is, therefore, important to note that even though an individual may qualify as L/M income for certain CDBG-assisted activities, the household of which they are a part may or may not qualify as L/M income for assisted housing purposes, depending on the total combined income of all the household members.

## **Criteria Subcategories**

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The criteria for how an activity may be considered to benefit L/M income persons are divided into four subcategories:

- (1) Those based on *Area Benefit*,
- (2) Those serving a *Limited Clientele*,
- (3) Those involving *housing*, and
- (4) Those involving employment (*jobs*).

These subcategories are described in detail on the following pages.

### *Challenge to presumption:*

The program rules state that an activity that meets the specified criteria for a national objective will be presumed to have met that objective. However, it should be noted that, because almost all CDBG-assisted activities involve *some* benefit to L/M income persons or households, an “override” to a presumption that an activity meets the L/M Income Benefit national objective may come into play. The regulations provide that in any case where there is substantial evidence that an activity might not *principally* benefit L/M income persons, even though the activity conforms to a literal reading of L/M Income Benefit criteria, the presumption that the activity meets the national objective may be rebutted.

In such cases, HUD will consider *the full range of direct effects of the assisted activity*. This means that HUD will examine the extent to which the activity, in addition to benefiting the L/M income persons, either negatively affects such persons or provides direct benefits to a substantial number of other non-L/M income persons as well. When such a rebuttal is raised by HUD, the grant recipient will have to show why the activity should nevertheless be considered to meet the L/M Income Benefit national objective. *Reference: 24 CFR 570.483(b)*

It should be noted, however, that certain presumptions of a person’s L/M income status for job creation/retention activities are specifically authorized by Section 105(c)(4) of the CDBG statute. Insofar as this is a statutory provision, it overrides any presumption that may seem “unwarranted” in a specific case. Thus, the “evidence to the contrary” language in the regulations is not applicable to these L/M income job presumptions.

*Restriction on benefit to moderate income persons:*

The regulations require that each grant recipient ensure that moderate-income persons are not benefited to the exclusion of low-income persons (see 24 CFR 570.483(b)). This does not mean that each CDBG-assisted activity must involve both low- and moderate-income beneficiaries. However, it does mean that the grant recipient's CDBG program, as a whole, must primarily benefit low-income persons, and that moderate-income persons do not benefit to the exclusion of low-income persons.

*Planning-only grants:*

Planning-only grants can meet the L/M Income Benefit national objective if at least 51 percent of the people who would benefit from implementation of the plan are of low or moderate incomes. This is most commonly (but not exclusively) demonstrated by planning activities undertaken for an area or community wherein at least 51 percent of the residents are low- and moderate-income. *Planning-only* means that planning is the only activity, or the planning activity is unrelated to any other activity assisted by the grant. *Reference: 24 CFR 570.483(b)(5)*



## **L/M Income Area Benefit**

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### **Criteria**

For these purposes, an Area Benefit activity is an activity *that is available to benefit all the residents of an area* that is primarily residential. In order to qualify as addressing the national objective of benefit to L/M income persons on an area basis, an activity must meet the identified needs of L/M income persons residing in an area where at least 51 percent of the residents are L/M income persons. The benefits of this type of activity are available to all residents in the area regardless of income.

The requirement that an Area Benefit activity must qualify on the basis of the income levels of the persons who reside in the area served by the activity is statutory. (See HCDA Section 105(c)(2).) This means that the activity may not qualify as meeting the L/M Income Area Benefit national objective on any other basis. For example, if the assisted activity is a park that *serves* an area having a L/M income concentration below 51 percent, the activity may not qualify even if there is reason to believe that the park will actually be *used* primarily by L/M income persons.

For example, typical Area Benefit activities include:

- ✓ Street improvements,
- ✓ Water and sewer lines,
- ✓ Neighborhood facilities, and
- ✓ Facade improvements in neighborhood commercial districts.

#### *Determining the service area:*

As is probably evident, the determination of the area served by an activity is critical to this subcategory. The inclusion or exclusion of a particular portion of a community's jurisdiction can make the difference between whether the percentage of L/M income residents in the service area is high enough to qualify under the L/M Income Benefit national objective. The principal responsibility for determining the area served by an activity rests with the state. HUD will generally accept a state's determination unless the nature of the activity or its location raises serious doubts about the area claimed by the state. A state may use the HUD-provided data on percentage of L/M income residents by census tract/block numbering area, which is derived from census data; or a state may allow the use of methodologically sound local surveys to determine

the percentage of L/M income residents in activity service areas (*Reference: 24 CFR 570.483(b)(1)(i)*). If so, the state must decide which survey methodology is appropriate for determining the L/M income beneficiary area to be served.

The area that will be served by an activity need not be coterminous with census tracts, block numbering areas, or other officially recognized boundaries. It is critical, however, that *the service area determined by the state be the entire area served by the activity*. For example, even though a predominantly L/M income neighborhood may be one of several neighborhoods served by an activity (for example, a grocery store) the percentage of L/M income persons in the *total area served by the activity* is considered for this purpose.

However, the service area boundaries of State CDBG-funded activities frequently do not coincide with census or other official geographic boundaries. This is especially true in smaller communities and rural areas, where low population densities mean that block numbering areas or census tracts cover large areas. One census tract may cover an entire city; or there may be only two or three census tracts in an entire county. Scenarios which states and state grant recipients commonly face include:

- ❖ The service area comprises only a small portion of the unit of general local government, or of a block numbering area. In such situations, information on the percentage of L/M income persons in the unit of government or the block numbering area/census tract is not useful, because the service area residents make up a small fraction of the total, and their economic characteristics may not mirror those of the larger area. A survey of the service area residents may be the most appropriate way to determine whether the service area qualifies under the L/M Income Area Benefit criterion. Examples of such activities include: extending water lines to serve a small, unincorporated rural settlement in a county; construction of a neighborhood lot serving one subdivision in a city of 4,000, where the entire city is one census tract.

- ❖ The service area includes all or part of several units of general local government; the service area might contain both incorporated and unincorporated areas. The HUD-provided data may be usable for a portion of the service area, but may need to be supplemented by survey data for other portions of the service area. It may be necessary to survey a large area to determine the percentage of service area residents who are L/M income. Examples of such activities include: Construction of a rural water system which serves nine small incorporated towns plus portions of the surrounding unincorporated area of the two counties where the towns are located; construction of a new fire station in a city of 2,800, where the municipal fire department provides, through contract, fire protection service for two adjoining townships (one of which is in a different county).

For the most part, activities qualifying under the basic eligibility category of Public Facilities and Improvements provide a benefit to all the residents of an area and thus would be subject to meeting the criteria described here in order to meet the L/M Income Benefit national objective. A few activities that qualify as Public Services also provide an area benefit, most notably police or emergency medical/rescue services. CDBG assistance to a for-profit entity that is a commercial/retail establishment generally also provides an area benefit (see the Clearance, Rehabilitation, Reconstruction and Construction of Buildings category concerning eligibility of commercial rehabilitation; see Economic Development Assistance to Businesses category for eligibility of other assistance to a for-profit).

Certain activities that serve an area are designed to meet the needs of only some persons in that area. An example of this would be a facility that is used exclusively as a senior center for a particular neighborhood. Such Area Benefit activities serving special needs usually must qualify under the Limited Clientele subcategory of the L/M Income Benefit national objective.

Although public schools may not be used by all the residents of the area they serve, in the CDBG program they nevertheless are considered to benefit all the residents, not only because any household with children can avail themselves of the services of the school, but also because of the contribution schools make to determining the value of the residential property in that area.

## **Special Situations**

### *Activities outside the boundaries of the local government:*

Questions sometimes arise about an activity being physically located outside the jurisdictional boundaries of the unit of general local government receiving the State CDBG funding. If the activity exclusively serves the residents of the state grant recipient, there is no issue. (An example of this would be improvements to a village's sewage treatment plant, which is physically located outside the village's corporate limits.)

State CDBG-funded activities may serve beneficiaries outside the jurisdiction of the unit of general local government that receives the grant. In order to do so, the state grant recipient must determine that the activity meets its housing and community development needs, in accordance with HCDA Section 106(d)(2)(D). (An example of this would be the fire station example cited earlier in this section.) States and state grant recipients funding such activities need to include the extra-jurisdictional area in determining the service area of the activity. *Reference: 24 CFR 570.486(b)*

### *Activities benefiting Entitlement city residents:*

Questions also arise about State CDBG-funded activities benefiting residents of a CDBG Entitlement city located within a non-entitlement county. In most states, residents of incorporated cities are also residents of the county. So long as the Entitlement city residents are also considered residents of the county, there is nothing to prevent the county from carrying out a State CDBG-funded activity that serves Entitlement city residents. It is not necessary under State CDBG regulations, to show that a majority of the beneficiaries live in the nonentitlement portion of the county; however, some states have established such a policy for their programs.

An activity can even be located within the Entitlement city. (For example, a senior center or health clinic may be designed to serve residents throughout the county, but the most central and convenient location for the facility may be in the city, due to the availability of transportation or other services.) Although there is a "common sense" limit to this policy, the nature or location of an activity could result in the activity exclusively or predominantly benefiting Entitlement city residents. If this is so, the state and county should ask themselves why it is necessary to use funding intended by Congress to benefit nonentitlement areas; perhaps it is more appropriate for the Entitlement city to pay for some or all of the cost of the activity.

*Activities benefiting residents of Indian reservations:*

The issue of serving residents of a federally-recognized Indian Reservation is similar, but slightly more complicated. In most cases, Reservation residents are also residents of the county where the Reservation is located. Activities that benefit residents of Indian reservations that are contained within the boundaries of the unit of general local government that receives the grant are considered to benefit the residents of the grant recipient, as reservation residents are citizens of the unit of local government(s) that their reservation is located in. State CDBG funds may benefit residents of Indian reservations not contained within the state grant recipient's boundaries, as long as the state grant recipient determines that the activity meets its housing and community development needs, in accordance with HCDA Section 106(d)(2)(D).

Other federal and state laws dealing with the legal status of Indian Reservations could affect unique situations, such as locating a facility owned by a unit of general local government on tribally-owned land, or activities that would exclusively benefit Native Americans. (For example, so-called "Indian preference" provisions which apply to certain federal funding given directly to tribes do not apply to State CDBG program funding.) If any questions of authority exist, it is suggested that units of general local government determine that they have sufficient legal powers to implement community development activities on reservations before proceeding in unusual situations.

*Water and sewer hookups:*

Hooking residential buildings up to water and sewer lines cannot be undertaken as an L/M Income Area Benefit activity, because water and sewer hookups are not eligible under the public facility eligibility category. Water and sewer hookups are eligible under the Clearance, Rehabilitation, Reconstruction, and Construction of Buildings eligibility category, and must, therefore, meet the L/M Income Housing criteria.

**Special  
Situations  
Applicable  
to Specific  
Activities**

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The statute provides that certain kinds of Area Benefit activities may meet the L/M Income Benefit national objective when the general requirements cannot be met. These special situations are discussed below.

*911 systems:*

An activity to develop, establish, and operate for up to two years after the establishment of a uniform emergency telephone number system serving an area having less than the percentage of low- and moderate-income residents otherwise required under this subcategory may qualify as benefiting L/M income persons, provided the grant recipient obtains prior HUD approval. The details concerning what the grant recipient must show and what HUD must determine for this purpose can be found at 24 CFR 570.483(b)(1)(iii).

*Special assessments:*

When the **only** use of CDBG funds to assist in the financing of a public improvement is to pay special assessments (as defined in Appendix D, Special Assessments under the CDBG Program) levied against residential properties that are owned and occupied by L/M income persons, such use of the funds will qualify under this national objective subcategory even if the public improvement provides a benefit to all the residents of an area. Section 105(c)(2)(A)(iii) of the HCDA, authorizes the means of meeting the L/M Income Area Benefit requirement. *Reference: 24 CFR 570.483(b)(1)(ii)*

**Grant Recipient  
Options for Job  
Creation/  
Retention**

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There are two special situations that provide the grant recipient with the option to qualify activities that meet the job creation or retention national objective criteria under the Area Benefit criteria when program rules would otherwise require the activity to meet the criteria under the job creation or retention subcategory. These situations are:

- ❖ In the case where the state has approved a Community Revitalization Strategy (CRS) pursuant to the authority of 24 CFR 91.315(e)(2) of the regulations, activities undertaken pursuant to the strategy for the purpose of creating or retaining jobs may, at the option of the grant recipient, be considered to meet the *Area Benefit* subcategory criteria in lieu of the *Jobs* subcategory criteria (the area considered for this purpose is the CRS area); and *Reference: 24 CFR 570.483(e)(5)(i)*. (See Appendix E, Community Revitalization Strategies.)

- ❖ Where CDBG-assisted activities are carried out by a Community Development Financial Institution (CDFI) whose charter limits its investment area to a primarily residential area consisting of at least 51 percent L/M income persons, activities that the CDFI carries out for the purpose of creating or retaining jobs may, at the grant recipient's option, be considered to meet the *Area Benefit* subcategory criteria in lieu of the *Jobs* subcategory criteria. The area considered for this purpose is the CDFI's investment area. *Reference: 24 CFR 570.483(e)(4)(i)*

Remember, however, that even though the reporting requirements will focus on Area Benefit, it is still necessary to be able to show the basis upon which the above activities are creating or retaining jobs in order to be able to use the Area Benefit subcategory alternative.

## **Records to be Maintained**

The records that the grant recipient must keep to demonstrate compliance under this subcategory include:

- ❖ Boundaries of the service area and the basis for determining those boundaries, and
- ❖ The percentage of L/M income persons in the service area and the data used for determining that percentage.
- ❖ Documentation of survey results and methodology, if the percentage of L/M income area residents is determined by survey rather than by HUD-provided data.

If the activity is one of the special situations described above, the records must identify the unique aspects of the activity that make it qualify under this respective subcategory. (See Appendix I, Model Record-Keeping Requirements).

# **L/M Income Limited Clientele**

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## **Criteria**

A *L/M Income Limited Clientele activity* is an activity that provides benefits to a specific group of persons rather than everyone in an area generally. It may benefit particular persons without regard to the area in which they reside, or it may be an activity that provides benefit on an area basis but only to a specific group of persons who reside in the area. In either case, at least 51 percent of the beneficiaries of the activity must be L/M income persons. It should be noted, however, that, because of certain statutory limitations, the regulations preclude the following kinds of activities from qualifying under this subcategory:

- ❖ Activities involving the acquisition, construction, or rehabilitation of property for housing, including homeownership assistance (these must qualify under the Housing subcategory, because of Section 105(c)(3) of the authorizing statute) or
- ❖ Activities where the benefit to L/M income persons is the creation or retention of jobs (these must qualify under the Jobs subcategory with certain exceptions as noted under the previous Area Benefit section, because of the different presumptions provided under Sections 105(c)(1)(C) and (4) of the authorizing statute).

To qualify under this subcategory, a Limited Clientele activity must meet one of the following tests:

- ❖ Exclusively benefit a clientele who are generally *presumed by HUD to be principally L/M income persons*. The following groups are currently presumed by HUD to be made up principally of L/M income persons:
  - ✓ Abused children,
  - ✓ Elderly persons,
  - ✓ Battered spouses,
  - ✓ Homeless persons,
  - ✓ Adults meeting Bureau of Census' definition of severely disabled adults \*,
  - ✓ Illiterate adults,
  - ✓ Persons living with the disease AIDS, and
  - ✓ Migrant farm workers.

*Reference: 24 CFR 570.483(b)(2)(ii)(A)*



\* See discussion about the change from the term “handicapped” under the Architecture Barrier Removal section in Chapter 2, page 2-47.

(**Note:** this presumption may be challenged in a particular situation, however, if there is substantial evidence that the persons in the actual group that the activity is to serve are *most likely not* principally L/M income persons.)

**OR**

- ❖ Require *information on family size and income* so that it is evident that *at least 51 percent* of the clientele are persons whose family income does not exceed the L/M income limit. (This includes the case where the activity is restricted *exclusively to L/M income persons*). *Reference: 24 CFR 570.483(b)(2)(ii)(B) and (C)*

**OR**

- ❖ Be *of such nature and in such location* that it may reasonably be concluded that the activity’s clientele will primarily be L/M income persons (for example, a day care center that is designed to serve residents of a public housing complex). *Reference: 24 CFR 570.483(b)(2)(ii)(D)*

**OR**

- ❖ Be an activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of the Census’ Current Population Reports definition of “severely disabled,” **provided** it is restricted, to the extent practicable, to the removal of such barriers by assisting:
  - ✓ The reconstruction of a public facility or improvement, or portion thereof, that does not qualify under the L/M Income Area Benefit criteria;
  - ✓ The rehabilitation of a privately-owned nonresidential building or improvement that does not qualify under the L/M Income Area Benefit criteria or the L/M Income Jobs criteria; or

- ✓ The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under the L/M Income Housing criteria.

*Reference: 24 CFR 570.483(b)(2)(iii)*

**OR**

- ❖ Be a microenterprise assistance activity carried out in accordance with the provisions of HCDA Section 105(a)(22) or 24 CFR 570.482(c) with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity during each program year who are low- and moderate-income persons. (Note that, for these purposes, once a person is determined to be L/M income, he/she may be presumed to continue to qualify as such for up to a three-year period. This would enable the provision of general support services to such a person during that three-year period, without having to check to determine whether the person's income has risen.) *Reference: 24 CFR 570.483(b)(2)(iv)*

**OR**

- ❖ Be an activity designed to provide job training and placement and/or other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, in which the percentage of low- and moderate-income persons assisted is less than 51 percent which qualifies under the Limited Clientele national objective in the following **limited circumstance**:
  - ✓ In such cases where such training or provision of supportive services assists business(es), *and the only use of CDBG assistance is to provide the job training and/or supportive services; and the proportion of the total cost of the services borne by CDBG funds is no greater than the proportion of the total number of persons benefiting from the services who are L/M income.*

*Reference: 24 CFR 570.483(b)(2)(v)*

It should be noted that the so-called "presumed" categories were modified in the regulations in 1995. A new group has been added: "persons living with AIDS." The former category of "handicapped persons" has been replaced with "severely disabled adults." This latter change was made for two reasons. First, the word "persons" was replaced with "adults" to make it clear that an activity designed to treat

handicapped children would not qualify for the presumption, because HUD has been unable to find evidence that the majority of handicapped (or even severely disabled) children are members of a L/M income family. Moreover, the term “handicapped” has been replaced with “severely disabled” (which now will use the census definition of that term). This change was made because the term “handicapped” has been used in so many different ways for different federal programs and has taken on a much broader meaning than had been envisioned when it was originally introduced as a “presumed” L/M income group for CDBG purposes. A review of census data supports the presumption that adults (but not children, as mentioned above) having severe disability are predominantly L/M income persons.

The census definition of “severely disabled” follows:

- ❖ Persons are classified as having a severe disability if they: (a) used a wheel-chair or had used another special aid for six months or longer; (b) are unable to perform one or more “functional activities” or need assistance with an “ADL or IADL;” (c) are prevented from working at a job or doing housework; or (d) have a selected condition including autism, cerebral palsy, Alzheimer’s disease, senility or dementia, or mental retardation. Also, persons who are under 65 years of age and who are covered by Medicare or who receive SSI are considered to have a severe disability.

***Note:** For purposes of this definition, the term “functional activities” includes seeing, hearing, having one’s speech understood, lifting and carrying, walking up a flight of stairs, and walking. An ADL is an “activity of daily living” which includes getting around inside the home, getting in or out of bed or a chair, bathing, dressing, eating, and toileting. An IADL is an “instrumental activity of daily living” and includes going outside the home, keeping track of money or bills, preparing meals, doing light housework, and using the telephone.*

## Examples

Activities that would be expected to qualify under the L/M Income Limited Clientele subcategory include:

- ✓ Construction of a senior center,
- ✓ Public services for the homeless,
- ✓ Assistance to L/M income persons developing a microenterprise,
- ✓ Meals on wheels for the elderly, and
- ✓ Construction of job training facilities for severely disabled adults.

## Tips

Activities that serve an area generally cannot qualify under the Limited Clientele criterion. For example, while a clinic serving only persons with AIDS living in a particular area would clearly qualify as a Limited Clientele activity, a clinic providing CDBG-subsidized health services which are available to *all* persons in a neighborhood would not. It must instead meet the criteria for an Area Benefit activity. However, if the use of a clinic providing general health care were to be administered in a way such that the services are not available to everyone in the neighborhood, but only to L/M income persons, the activity would qualify under Limited Clientele. (This is, of course, because the benefits would not be available to all the residents of the area.)

## Records to be Maintained

For each activity, *one* of the following five types of documentation must be kept:

- (1) Documentation showing that the activity is designed to be used exclusively by a segment of the population presumed by HUD to be L/M income persons (for example, abused children); **or**
- (2) Documentation describing how the nature and the location of the activity establishes that it will be used predominantly by L/M income persons; **or**
- (3) Data showing the size and annual income of the family of each person receiving the benefit; **or**
- (4) Data showing that barriers to mobility or accessibility have been removed and how the barrier removal was restricted to the extent feasible to one of the particular cases authorized under this subcategory; **or**

- (5) Documentation showing that the activity qualifies under the special conditions regarding job services where less than 51 percent of the persons benefiting are L/M income persons.

*Reference: 24 CFR 570.483*

# **L/M Income Housing**

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## **Criteria**

Section 105(c)(3) of the authorizing statute requires that an activity which assists in the acquisition, construction, or improvement of permanent, residential structures may qualify as benefiting L/M income persons only to the extent that the housing is occupied by L/M income persons. (This includes activities directed towards homeownership assistance.) Thus, this subcategory provides that for such activities to qualify under the L/M Income Benefit national objective, it must result in housing that will be **occupied by** L/M income households upon completion. The housing can be **either** owner- or renter-occupied and can be **either** one family or multi-unit structures. When the housing is to be rented, in order for a dwelling unit to be considered to benefit a L/M income household, it must be occupied by the household at **affordable rents**. The grant recipient is responsible for establishing the criteria it will use to determine rent affordability for this purpose and must make these criteria public. *Reference: 24 CFR 570.483(b)(3)*

Note that L/M Income Benefit status for this purpose is based on *households* and not *persons*. This distinction is very important because there can be situations where the persons residing in an assisted housing unit are not all members of the same family. For example, consider the case where two working persons are sharing a housing unit but are not related by blood, marriage, or adoption, and their individual incomes qualify them both as L/M income persons. It is possible, however, that their combined income might exceed the applicable Section 8 income limit for a two-person family and thus their household income would not qualify them to be a L/M income household.

## **Occupancy Rule**

Occupancy of the assisted housing by L/M income households under this subcategory is determined using the following general rules:

- ❖ *All* assisted *single unit* structures must be occupied by L/M income households,
- ❖ An assisted *two-unit* structure (duplex) must have *at least one* unit occupied by a L/M income household, and
- ❖ An assisted structure containing *more than two units* must have *at least 51 percent* of the units occupied by L/M income households.

*Exception:*

The new construction of *non-elderly, multi-family rental* structures need only have at least **20 percent of the units** occupied by L/M income **households**. However, where L/M income occupancy of such housing falls between 20 and 50 percent, the CDBG portion of total development costs may not be greater than the portion of units occupied by L/M income households. (For this purpose, total development costs include the cost of all work from design and engineering through completion of the physical improvements and, if integral to the project, the cost of acquisition.) For example, if such a structure were to cost \$1 million and the occupancy by L/M income households were to be only 35 percent of the units, the grant recipient could not provide more than \$350,000 of CDBG funds to assist the structure. *Reference: 24 CFR 570.483(b)(3)(i)*

*“Presumed” single structures:*

In a few cases, CDBG assistance to two or more structures may be considered to meet the occupancy-by-structure test as though all of the assisted structures were in a single structure. These cases are:

- ❖ Buildings used for rental housing which are under common ownership and management and are located on the same or contiguous properties; *Reference: 24 CFR 570.483(b)(3); or*
- ❖ Where a state has approved a Community Revitalization Strategy pursuant to 24 CFR 91.315(e)(2) of the regulations, all housing activities undertaken in the strategy area may be considered to be within a single structure; *Reference: 24 CFR 570.483(e)(5)(ii); or*
- ❖ Where CDBG-assisted activities are carried out by a Community Development Financial Institution (CDFI) whose charter limits its investments to a primarily residential area that has at least 51 percent L/M income residents, all housing units for which CDBG assistance is obligated by the CDFI during the program year may be considered to be within a single structure; *Reference: 24 CFR 570.483(e)(4)(ii).*

*Condominiums:*

Where rehabilitation of one or more units in a multi-unit building that are owned on a condominium basis is limited to the particular unit(s) and does not involve rehabilitation of portions of the property that are held in common ownership, the unit(s) are considered to be separate structure(s).

*Architectural barriers:*

When removal of existing barriers to accessibility or mobility is undertaken in one or more units within a multi-unit structure, it is considered to be rehabilitation of the unit(s) and must qualify under the L/M Income Benefit national objective based on the housing criteria and not Limited Clientele. Removal of such barriers to the common areas of such structures would also qualify under housing criteria, provided that the percent of units occupied by L/M households is sufficiently high. Where the occupancy test cannot be met under the housing subcategory, removal of barriers from common areas could qualify under the Limited Clientele subcategory. (For purposes of satisfying the overall 70% L/M benefit requirement, it is advantageous for a state to qualify such activities under the housing criteria when it can legitimately do so.)

*Project administration for HOME:*

As noted in the discussion under the subsection entitled Housing Services in the preceding chapter, CDBG funds may be used to pay (in whole or in part) for staff costs involved in providing services for the construction or rehabilitation of housing or for tenant-based rental subsidies that are assisted under the HOME program. When CDBG funds are so used, the activity qualifies under the L/M Income Housing subcategory provided that the requirements of 24 CFR 92.252 or 92.254 are met.



## **Example**

CDBG-assisted activities that, in order to be considered as benefiting L/M income households, must qualify under the L/M Income Housing subcategory include:

- ✓ Acquisition of property to be used for permanent housing,
- ✓ Rehabilitation of permanent housing,
- ✓ Conversion of nonresidential structures into permanent housing,
- ✓ Newly constructed housing (when eligible),
- ✓ Assistance to a household to enable it to acquire ownership of a home (homeownership assistance), and
- ✓ Hookups to connect residential structures to water and sewer systems.

## **Tips**

For any type of housing activity, compliance with the L/M Income Benefit national objective is based on the *initial occupancy* of the housing *following completion* of the CDBG-assisted work; the CDBG program regulations do not contain any requirements for how long units must be occupied by L/M income residents in order to meet the national objective. Notwithstanding this, states and state grant recipients are urged to establish their own requirements for replacing such households with other L/M income households whenever the assisted unit becomes vacant within a period of time following completion that is commensurate with the amount of CDBG financial assistance that was provided to the housing unit.

For last resort housing provided pursuant to *24 CFR Part 42, Subpart I*, compliance with a national objective is based on the activity that caused the displacement, rather than the income of the occupants.

Note that the eligibility category of homeownership assistance at HCDA Section 105(a)(24) contains within it the requirement that *only* L/M income households may be assisted. The effect of this *eligibility* constraint serves to prohibit the use of any other L/M *national objective* option that is less restrictive than might have otherwise been applied.

A state grant recipient is responsible for determining and making public its standards for what constitutes “affordable rents,” for rental housing assisted with State CDBG funds. The CDBG program regulations do not contain any requirements for how long the affordable rents must be maintained. States are free to set standards regarding affordable rents in their program.

## **Records to be Maintained**

In order to demonstrate compliance, the grant recipient must maintain the following records:

- ❖ A copy of the written agreement with each landlord or developer receiving CDBG assistance indicating the total number of dwelling units in each multi-unit structure assisted and the number of those units which will be occupied by L/M income households after assistance;
- ❖ Total cost of the activity, including both CDBG and non-CDBG funds; and
- ❖ For each unit claimed to be occupied by a L/M income household, the size and combined income of the household.
- ❖ For rental housing only:
  - ✓ The rent charged (or to be charged) after assistance for each dwelling unit in each structure assisted and
  - ✓ Information as necessary to show the affordability of units occupied (or to be occupied) by L/M income households pursuant to criteria established and made public by the grant recipient.
- ❖ For each property acquired on which there are no structures, evidence of commitments ensuring that the above criteria will be met when the structures are built.
- ❖ Where applicable, records documenting that the activity qualifies under the special conditions regarding the new construction of non-elderly, multi-family housing that will have L/M income occupancy of less than 51 percent.
- ❖ Where applicable, information showing that the housing units assisted, although located in different structures, are authorized to be considered to be located in a single structure under one of the special situations described previously.
- ❖ For housing services undertaken under the authority of HCDA Section 105(a)(20) (activity delivery costs for HOME-assisted projects), evidence that the project(s) or assistance meet the HOME program income targeting requirements at 24 CFR 92.252 or 92.254.

## **L/M Income Jobs**

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### **Criteria**

Most (but not all) economic development activities are undertaken for the purpose of job creation or retention; conversely, most (but not all) job creation or retention activities are classified as eligible under one of several economic development-oriented eligibility categories. (However, there are several noteworthy exceptions: acquisition of land, clearance, and construction of public improvements may all be undertaken to facilitate economic development, though those eligibility categories do not exclusively focus on economic development.)

The statutory basis for the CDBG regulations concerning the L/M Income Jobs national objective criterion is found in HCDA Section 105(c)(1). This section describes three ways in which certain economic development activities may meet the L/M Income Benefit national objective; one of these is to “Involve the employment of persons, the majority of whom are L/M income persons.” The State CDBG program regulations extend the applicability of this provision to be available to a wide range of economic development activities.

This section of the Guide provides the criteria for the so-called “L/M Income Jobs” standard, which implements the above-referenced statutory provision. *Reference: 24 CFR 570.483(b)(4)*

A *L/M Income Jobs activity* is one which creates or retains permanent jobs, at least 51 percent of which, on a full time equivalent (FTE) basis, are either *held by* L/M income persons or considered to be *available to* L/M income persons.

### **General Rules**

*What jobs can be counted:*

In counting the jobs to be used in the calculation for determining the percentage that benefit L/M income persons, the following policies apply:

- ❖ Part-time jobs must be converted to full-time equivalents (FTE) (for example, a job that will require only working half time would count as only one-half a job);
- ❖ Only permanent jobs count; temporary jobs may not be included;

- ❖ Seasonal jobs are considered to be permanent for this purpose only if the season is long enough for the job to be considered as the employee's principal occupation;
- ❖ All permanent jobs created or retained by the activity must be counted even if the activity has multiple sources of funds; and
- ❖ Jobs indirectly created or retained by an assisted activity (i.e., "spin off" jobs) may not be counted (for example, jobs created by an unrelated company which supplies parts to the manufacturing firm being assisted).

*Jobs "held by" L/M income persons:*

A job is considered to be held by a L/M income person if the person is, at the time their employment commences, a member of a family whose income falls at or below the applicable Section 8 program income limits. The family's entire income must be counted. (This is particularly important when dealing with part-time jobs or jobs taken by students.) The annual salary or hourly wage of the job that the person fills is irrelevant.

*Jobs "available to" L/M income persons:*

Jobs that are not held (filled) by L/M income persons may be claimed to be "available to" L/M income persons *only* when *both* of the following are met:

- ❖ The jobs do not require special skills that can only be acquired with substantial (i.e., one year or more) training or work experience, and education beyond high school is not a prerequisite to fill such jobs, unless the business agrees to hire unqualified persons and train them and
- ❖ The state grant recipient and/or the assisted business takes actions to ensure that L/M income persons receive "first consideration" for filling such jobs.

Principles involved in providing "*first consideration*":

- ❖ The business must use a hiring practice that under usual circumstances would result in over 51 percent of L/M income persons interviewed for applicable jobs being hired,

- ❖ The business must seriously consider a sufficient number of L/M income job applicants to give reasonable opportunity to fill the position with such a person, and
- ❖ The distance from residence and availability of transportation to the job site must be reasonable before a particular L/M income person may be considered a serious applicant for the job.

*Special rules for retained jobs:*

In order to consider jobs *retained* as a result of CDBG assistance, there must be clear and objective evidence that permanent jobs will be lost without CDBG assistance. For these purposes, “clear and objective” evidence that jobs will be lost would include:

- ❖ Evidence that the business has issued a notice to affected employees or made a public announcement to that effect, or
- ❖ Analysis of relevant financial records which clearly and convincingly shows that the business is likely to have to cut back employment in the near future without the planned intervention.

To meet the L/M Income Jobs standard, 51 percent or more of the retained jobs must be either:

- ❖ Known to be held by L/M income persons at the time CDBG assistance is provided and/or
- ❖ Jobs not known to be held by L/M income persons, but which can be reasonably expected to “turn over” to L/M income persons within two years. (This would involve the grant recipient or business taking actions to ensure that such a job, upon turnover, will be either taken by or made available to a L/M income person in a manner similar to that pertaining to a newly created job, as discussed above.) *Reference: 24 CFR 570.483(b)(4)(iii)*

*Presumed L/M income status:*

HCDA Section 105(c)(4) provides that, for purposes of determining whether a job is held by or made available to a L/M income person, the person may be presumed to be L/M income in the following situations:

- ❖ The person resides within a census tract (or block numbering area (BNA)) that either:
  - ✓ Has at least 70 percent of its residents who are L/M income persons **or**
  - ✓ Meets the criteria related to “enterprise zones”

**-OR-**

- ❖ Both the assisted business and the created or retained job are located in a census tract or BNA that meets the criteria related to “enterprise zones.”

In order to qualify for one of the presumptions referred to above concerning “enterprise zone” criteria, the census tract or BNA must either:

- ❖ Be part of a federally-designated Empowerment Zone or Enterprise Community **or**
- ❖ Meet *all* of the following criteria:
  - ✓ Have a poverty rate of at least 20 percent as determined by the most recently available decennial census information;
  - ✓ Not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract/BNA has a poverty rate of at least 30 percent as determined by the most recently available decennial census information; and
  - ✓ Evidence pervasive poverty and general distress by meeting at least *one* of the following standards:
    - all block groups in the census tract have poverty rates of at least 20 percent;
    - the specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or

- upon the written request of the recipient, HUD determines that the census tract/BNA exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

*Reference: 24 CFR 570.483(b)(4)(iv) and (v)*

Note that, under these “locational presumptions,” the area involved does not necessarily have to be part of a formally-designated Empowerment Zone (EZ) or Enterprise Community (EC), nor must EZ/EC status have been applied for. The area in question simply has to meet the above-mentioned criteria for eligibility under the EZ/EC program.

A number of states have initiatives that qualify areas as “Enterprise Zones” or similar-sounding designations. Designation as a state “Enterprise Zone” does not automatically qualify an area for these CDBG “locational presumptions;” the Federal EZ/EC program criteria must be met.

*Provisions for aggregating jobs:*

As a general rule, jobs from each business receiving CDBG assistance must be considered separately for purposes of demonstrating compliance with the requirement that at least 51 percent of the resultant created or retained Jobs Benefit L/M income persons. Even if the state or its grant recipient considers the CDBG-funded activity to be a business loan fund, HUD generally considers assistance to each business as a separate activity. However, there are certain circumstances under which state grant recipients may aggregate the jobs created or retained by two or more assisted businesses for this purpose. The following describes those circumstances:

- ❖ Where CDBG funds are used to acquire, develop, or improve real property (for example, a business incubator, an industrial park, or shopping mall), jobs may be aggregated for all of the businesses which locate on the property, *provided such businesses are not otherwise assisted with CDBG funds.* *Reference: 24 CFR 570.483(b)(4)(vi)(A)*

- ❖ Where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses and where *no CDBG funds are used to make or guarantee the loans*, jobs created by all of the businesses receiving loans during any one-year period may be aggregated. *Reference: 24 CFR 570.483(b)(4)(vi)(B)*
- ❖ Where CDBG funds are used *solely to provide technical assistance* to businesses, jobs created or retained by all of the businesses receiving such technical assistance during any one-year period may be aggregated. *Reference: 24 CFR 570.483(b)(4)(vi)(C)*
- ❖ Where CDBG funds are used for activities meeting the criteria under the public benefit standard at 24 CFR 570.482(f)(3)(v), the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during any one-year period may be aggregated. The list of activities at 24 CFR 570.482(f)(3)(v) is sometimes collectively referred to as the “important national interests” activities. *Reference: 24 CFR 570.483(b)(4)(vi)(D) (Also see Appendix C, Public Benefits Standards, for further information on the public benefit standards in general and the activities mentioned here in particular.)*
- ❖ Where CDBG funds are used by a Community Development Financial Institution (CDFI) to carry out activities for the purpose of creating or retaining jobs, the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during any one-year period may be aggregated. *Reference: 24 CFR 570.483(b)(4)(vi)(E)*

**Note:** If assistance to a given business would qualify under both the CDFI aggregation provision and the “important national interests” aggregation provision (as discussed above), then the jobs created or retained by that business can be aggregated under one provision or the other, but can’t be counted under both.

**Note:** For the above-mentioned aggregation provisions, it is up to the state to establish the dates for the one-year period. Many states use the dates of their Consolidated Plan program year cycle for this purpose.



❖ Where CDBG funds are used for public facilities or improvements (infrastructure), that will result in the creation or retention of jobs by more than one business, the jobs created or retained by all such businesses as a result of the public facility or improvement may (and sometimes must) be aggregated, using the following ground rules:

- ✓ Where such an improvement is undertaken for the benefit of one or more specific businesses, but the improvement clearly benefits other businesses or allows other sites to be developed, jobs created or retained as a result of the public improvement, by *all businesses in the service area of the infrastructure*, must be aggregated.

(For example: A city's existing industrial park is fully developed and cannot accommodate a new metal stamping plant which wishes to locate in the city. The city buys an adjoining parcel, divides it into four lots, and uses CDBG funds to install water, sewer, and roads through the parcel to serve the new plant. However, the other three lots in the parcel are now developable because these improvements serve them too. The city must aggregate the metal stamping plant jobs plus any jobs which are created or retained as a result of other businesses subsequently locating on the other three lots—even if no other business had committed to locate there at the time the improvements were constructed.)

- ✓ Where such an improvement is undertaken principally for the benefit of one or a few particular businesses, **and** the cost (in CDBG funds) for the facility/improvement amounts to *less than \$10,000 per permanent full-time equivalent (FTE) job* to be created or retained by those businesses, only the jobs created or retained by those specific businesses for which the facility/improvement is principally undertaken need to be aggregated. The state grant recipient can disregard any incidental job creation that might occur because other businesses might also benefit from the improvement. *Reference: 24 CFR 570.483(b)(4)(vi)(F)(1)*

(For example: CDBG funds are used to widen and upgrade an access road to meet the needs of a manufacturing plant expansion that will create 175 new jobs. Other businesses located along or near the road may enjoy improved transportation access, but they did not request the improvements, have no known expansion plans, and have not committed to increase their employment levels.)

- ✓ Where the CDBG cost per FTE job expected to be created or retained (as determined under the paragraph above) is *\$10,000 or more*, jobs created or retained as a result of the public improvement, by *all businesses in the service area of the infrastructure*, must be aggregated. The aggregation must include all businesses which, as a result of the public improvement, locate or expand in the service area of the improvement *between the date the state awards the CDBG funds to the state grant recipient and the date one year after the physical completion of the facility/improvement*. In addition, the assisted activity must comply with the public benefit standards at 24 CFR 570.482(f). *Reference: 24 CFR 570.483(b)(4)(vi)(F)(2)*

(For example: A city needs to increase the capacity of its sewage treatment plant by 50 percent to accommodate the expansion of a poultry processing plant. The state provides a CDBG grant (which will allow the city to double the capacity of its sewage plant), at a cost of \$11,200 per new poultry plant job. Over the next 12 months, four new businesses decide to locate in town, because the city has sufficient sewage treatment capacity to handle their effluent. The increased economic activity prompts the local bank to hire more tellers and loan officers. The city must aggregate job creation figures for the poultry plant plus the four new businesses. The bank's jobs could arguably be excluded, as their contribution to the city wastewater flow is probably minuscule.)

## **Example**

Activities that could be expected to create or retain jobs include:

- ❖ Construction by the grant recipient of a business incubator which is designed to offer both space and assistance to new, small businesses to help them survive and grow;
- ❖ Loans to help finance the expansion of a plant or factory;
- ❖ Financial assistance to a business which has publicly announced its intention to close; and to help it update its machinery and equipment instead; and
- ❖ Installation of water and sewer lines to a site, and upgrading an access road, to serve a new distribution warehouse being built by a firm.

## **Records to be Maintained**

Maintaining records to demonstrate compliance with this subcategory can be quite challenging. Not only do businesses often dislike having to provide special reports or keep special records, but individuals who hold a job to be retained or who are taking or being considered for a newly created or a “turnover” retained job may resist providing information concerning their family income. The addition of the presumptions described earlier in this section were made in an effort to respond to this problem. Certain other requirements have also been modified over the past few years in an attempt to make this task less onerous.

The following outlines the records that must be kept with respect to the various aspects of this subcategory.

### *General:*

When assistance is provided to a business for the purpose of creating or retaining jobs, the grant recipient must have on file a written agreement with the business in which that business agrees to keep or create a specific number of jobs and identifies each such job by type and whether the job will be full- or part-time. The agreement must also specify the actions the business and the grant recipient will take to ensure that at least 51 percent of the jobs created or retained will benefit L/M income persons pursuant to the program rules.

The program records also must document which jobs were actually created and retained, whether each such job was held by, taken by, or made available to a L/M income person, and the full-time equivalency status of each job.

*Job creation:*

When demonstrating that at least 51 percent of the jobs created will be available to low- and moderate-income persons, documentation for each assisted business must include:

- ❖ A written commitment by the business that it will make at least 51 percent of the jobs on a full time equivalent basis available to low- and moderate-income persons and will provide training for any of those jobs requiring special skills or education;
- ❖ A listing by job title of employees at the time the application for assistance is submitted;
- ❖ A listing, by job title, of the total permanent jobs to be created, indicating which jobs will be available to low- and moderate-income persons, which jobs require special skills or education, and which jobs are part-time;
- ❖ Evidence supporting the estimate of the total number of jobs;
- ❖ A description of actions to be taken by the recipient and business to ensure that low- and moderate- income persons will receive first consideration for these jobs;
- ❖ A listing, by job title, race, ethnicity, gender and handicapped status of the permanent jobs created; which jobs were made available to low- and moderate-income persons, and a description of how first consideration was given to such persons for those jobs. That description should include the hiring process used; the number of low- and moderate- income persons considered for each job; and the number of low- and moderate-income persons actually hired;
- ❖ A description of how the low- and moderate-income status of those given first consideration was determined; and
- ❖ A description of how the total number of jobs was determined.

When demonstrating that at least 51 percent of the jobs will be taken by low- and moderate-income persons, documentation for each assisted business must include:

- ❖ A written commitment by the business that at least 51 percent of the jobs on a full-time equivalent basis, will be held by low- and moderate-income persons;
- ❖ A listing, by job title, of employees at the time the application for assistance is submitted;
- ❖ A listing, by job title, of the permanent jobs to be created;
- ❖ Evidence supporting the estimated total number of jobs to be created;
- ❖ A listing, by job title, race, ethnicity, gender and handicapped status of the permanent jobs actually created and those initially taken by low- and moderate-income persons;
- ❖ A description of how the low- and moderate-income status of those hired was determined by the state during the review of the recipient; and
- ❖ A description of how the total number of jobs was determined.

*Job retention:*

Following are record-keeping requirements for documenting records that support compliance with job retention goals.

- ❖ Clear and objective evidence that in the absence of the CDBG assistance the jobs will be lost;
- ❖ A written commitment by the business to meet the standard for retained jobs involving the employment of low- and moderate-income persons; and
- ❖ A listing by job title, race, ethnicity, gender and handicapped status of the employees at the time the assistance is provided;

For each activity determined to benefit low- and moderate-income persons based on jobs to be created for or retained by low- and moderate-income persons:

- ❖ The number of jobs to be created and the number of additional jobs expected to be created, if any;

- ❖ The nature of the jobs created to date (number skilled, semi-skilled, and unskilled, and for semi-skilled jobs, any special education or experience required) and the nature of additional jobs expected to be created; and,
- ❖ Any other evidence to support the conclusion that a majority of jobs will be filled by low- and moderate-income persons, such as:
  - ✓ Evidence to assure accessibility of the jobs to areas where substantial numbers of low- and moderate-income persons reside; and
  - ✓ Evidence to support any special outreach and/or training to be directed toward low- and moderate-income persons.

Refer to the Model Record-Keeping Requirements in Appendix I. Model Record-Keeping Requirements, for more information.

## **Tips**

The test for determining whether an employee or applicant is L/M income for the purposes of this subcategory must be made based on the person's family income status *at the time the CDBG assistance is provided*. One of the most important aspects of this is that the income the person would make from the assisted job under consideration is *not included in the calculation*.

Note that, since the determination of L/M income status is to be made based on income at the time the CDBG assistance is provided, a person who occupies a high-paying but low-skilled job may not qualify as a L/M income person in a retained job, but the same job might be filled by a L/M income person if it were to be created (instead of retained) or if it were to become available to be filled through turnover by a L/M income person.

Note that certain job creation or retention activities may also be undertaken by a CDFI or as part of a Community Revitalization Strategy and thereby could meet the L/M Income Benefit national objective based on Area Benefit in lieu of jobs. In such a case, the grant recipient will need to decide which subcategory it wants to qualify the activity under and record that decision in the program files. This is important so that both HUD and the grant recipient will know which criteria are being applied.

For created jobs, the benefit is intended for persons who are L/M income prior to being hired. For retained jobs, the family must be L/M income at the time the job is retained. Thus, a high-paying unskilled job might count as a created job but might not be counted for retention except for turnover purposes.

# **Prevention/Elimination of Slums or Blight**

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## **Introduction**

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The second of the CDBG national objectives has its roots in the Urban Renewal program, one of the major federal programs that were terminated and replaced with the CDBG program upon its formation in 1974. Although the vast majority of persons who resided in the areas that qualified for assistance under the Urban Renewal program were L/M income, the principal focus of that program lay in eliminating major slums and other areas of blight within the community and preventing the return of blight to the treated areas. Because of some concerns that the CDBG program might not allow the continuance of the type of projects that were funded under the Urban Renewal program, provision was made for this through the inclusion of the national objective concerning slums and blight.

In developing the criteria for qualifying under this national objective, HUD has taken considerable care to ensure that activities that qualify under the objective are either clearly *eliminating* objectively determinable signs of slums or blight in a defined *Slum or Blighted Area* or are *strictly limited to eliminating* specific instances of blight outside such an area (“Spot Blight”).

Accordingly, the subcategories under this national objective are:

- ✓ Addressing slums/blight on an area basis (24 CFR 570.483(c)(1)); and
- ✓ Addressing slums/blight on a spot basis (24 CFR 570.483(c)(2)).

*Planning-only* grants may be used if the plans are for a Slum or Blighted Area, or if all elements of the planning are necessary for and related to an activity that, if funded, would meet one of the other criteria of elimination of slums or blight. *Planning-only* means that planning is the only activity, or the planning activity is unrelated to any other activity assisted by the grant. *Reference: 24 CFR 570.483(c)(3)*



# **Addressing Slums or Blight on an Area Basis**

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## **Criteria**

To qualify under the national objective of slums/blight on an **area** basis, an activity must meet **all** of the following criteria:

1. The area must be officially designated by the grant recipient and must meet a definition of a slum, blighted, deteriorated, or deteriorating area under State or local law. (For these purposes, it is not necessary to formally designate/declare the area to be blighted, but the area must meet the definitions for designation.)
2. The area must exhibit at least one of the following physical signs of blight or decay:
  - A. There must be a substantial number of deteriorated or deteriorating buildings throughout the area. As a “safe harbor,” HUD will consider this test to have been met if *either*:
    - (1) The proportion of buildings in the area that are in such condition is at least equal to that specified in the applicable State law for this purpose; **or**
    - (2) In the case where the applicable State law does not specify the percentage of deteriorated or deteriorating buildings required to qualify the area, then at least one quarter of all the buildings in the area must be deteriorated or deteriorating.
  - B. The public improvements throughout the area must be in a general state of deterioration. (For this purpose, it would be insufficient for only one type of public improvement, such as a sewer system, to be in a state of deterioration; rather, the public improvements taken as a whole must clearly exhibit signs of deterioration.)
3. Documentation must be maintained by the grant recipient on the boundaries of the area and the conditions that qualified the area at the time of its designation.

4. Activities to be assisted with CDBG funds must be limited to those that address one or more of the conditions that contributed to the deterioration of the area. (Note that this does not limit the activities to those that address the blight or decay itself, but it allows an activity to qualify if it can be shown to address a condition that is deemed to have contributed to the decline of the area.)

It should be noted here that, once an area has been properly designated as a Slum or Blighted Area under these provisions, the grant recipient may continue to assist activities that are designed to address a condition that caused the decline of the area even if the area has been brought to a point where it could no longer meet the tests for physical evidence of blight needed for its initial designation. However, if the regulatory requirements have been revised to become more stringent since the area was designated, the area would need to be newly designated (for example, re-qualify) under the new criteria before new activities could be assisted with CDBG funds.

Where the assisted activity is *rehabilitation of residential structures*, two additional criteria must be met:

- ❖ Each such building must be considered substandard under local definition. (States are to ensure that state grant recipients have developed minimum building quality standards for this purpose. Local conditions may be taken into consideration; states are also free to set standards regarding building quality.)
- ❖ All deficiencies making the building substandard must be corrected before less critical work on the building may be undertaken.

**Note:** *These two criteria do not apply to nonresidential rehabilitation (rehabilitation of commercial or industrial buildings).*

*Reference: 24 CFR 570.483(c)(1)*

## **Examples**

Typical activities designed to address blight on an area basis include:

- ✓ Acquisition and clearance of blighted properties,
- ✓ Renovation and reuse of abandoned, historic buildings,
- ✓ Commercial revitalization through facade improvements, and
- ✓ Removal of environmental contamination on property to enable it to be redeveloped for a specific use.

When the assistance is designed to address one or more of the specific conditions which originally qualified the area.

## **Records to be Maintained**

The records must include:

- ❖ The boundaries of the area;
- ❖ A description of the conditions which qualified the area at the time of its designation in sufficient detail to demonstrate how the area met the criteria for designation;
- ❖ A description of the activity showing how it addressed a condition that led to the decline of the area. Each residential rehabilitation activity must also be supported by documentation that shows:
  - ✓ How the building qualifies under the state grant recipient's definition of "substandard" and
  - ✓ As applicable, information showing that any deficiencies making the building substandard were eliminated prior to less critical work being done.

## **Tips**

Just because an activity is located in a designated Slum/Blight Area does not mean that it must qualify only under this subcategory. If the activity would meet the criteria under the national objective of benefiting L/M income persons, the location of the activity in the blighted area would not preclude its qualifying under the L/M Income Benefit national objective. For example, rehabilitation of housing that is located in a designated Slum/Blight Area but will be occupied by a L/M Income Benefit household upon completion of the rehabilitation work could possibly meet both the criteria under this subcategory and the criteria under the L/M Income Housing subcategory. The state grant recipient should consider choosing the L/M Income Benefit national objective in this case, since it would help meet the state's certification

that at least 70 percent of CDBG expenditures will be for activities that meet the L/M Income Benefit national objective. The **lack** of public improvements in a designated Slum/Blight Area **cannot** be equated with general deterioration of public facilities throughout an area, in demonstrating physical signs of blight or decay in the area.

# **Addressing Slums or Blight on a Spot Basis**

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## **Criteria**

The elimination of specific conditions of blight or deterioration on a spot basis is designed to comply with the statutory objective for CDBG funds to be used for the prevention of blight, on the premise that such action(s) serves to prevent the spread to adjacent properties or areas.

To comply with the national objective of Elimination or Prevention of Slums or Blight on a Spot Basis, i.e., outside a slum or blighted area, an activity must meet the following criteria:

- ❖ The activity must be designed to eliminate specific conditions of blight or physical decay not located in a designated slum or blighted area and
- ❖ The activity must be limited to one of the following:
  - ✓ Acquisition (but see the discussion about this category under the section entitled Documenting Compliance later in this chapter);
  - ✓ Clearance;
  - ✓ Relocation;
  - ✓ Historic Preservation; or
  - ✓ Rehabilitation of buildings, but only to the extent necessary to eliminate specific conditions detrimental to public health and safety.

*Reference: 24 CFR 570.483(c)(2)*

## **Example**

- ❖ Elimination of faulty wiring, falling plaster, or other similar conditions from a residential building which are detrimental to all potential occupants.
- ❖ Historic preservation of a blighted public facility.
- ❖ Demolition of a vacant, deteriorated, abandoned building.
- ❖ Removal of environmental contamination on a property to enable it to be redeveloped for a specific use.

## **Records to be Maintained**

The records must include:

- ❖ A description of the specific condition of blight or physical decay treated and
- ❖ A description of the assisted activity showing that it falls under one of the activity types that are eligible to be carried out under this subcategory. For rehabilitation of a building carried out under this category, information showing how the activity eliminates conditions detrimental to public health and safety.

## **Tips**

To be considered to be detrimental to public health and safety, a condition must pose a threat to the *public in general*. A specific condition of a housing unit may be treated under this subcategory only if it poses a threat to any occupant. Thus, if a housing unit is occupied by a disabled person and a specific condition of the housing unit poses a threat to the health and safety only for the disabled occupant, it would not qualify (i.e., it would have to pose a threat to non-disabled occupants as well).

Housing that will be occupied by a L/M income household following rehabilitation should qualify under the L/M Income Housing criteria and should not be treated under this subcategory even though it might otherwise meet the tests to do so. This is because the state has an obligation to use a minimum of 70 percent of its funds for activities qualifying under the L/M Income Benefit national objective. (See Chapter 4 for further information on this requirement.)

Public improvements cannot qualify under this standard except for rehabilitation of public buildings (other than buildings for the general conduct of government) and historic preservation of public property that is blighted.

As a general rule, national objective compliance for the acquisition of real property must be based on the use of the property after the acquisition takes place. The initial determination is based on the *planned* use of the property, but the final determination is to be based on the *actual* use. However, when property is acquired for the purpose of clearance to remove specific conditions of blight or physical decay, the clearance is considered to be the actual use of the property, but any subsequent use made of the property following clearance must be considered to be a “change of use” under 24 CFR 570.489(j).

# Urgent Needs

## Criteria

To comply with the national objective of meeting community development needs having a particular urgency, an activity must be designed to alleviate existing conditions which the local government certifies and state determines:

- ✓ Pose a serious and immediate threat to the health or welfare of the community,
- ✓ Are of recent origin or recently became urgent,
- ✓ The state grant recipient is unable to finance the activity on its own, and
- ✓ Other sources of funding are not available to carry out.

A condition will generally be considered to be of recent origin if it is developed or became critical within 18 months preceding the state grant recipient's certification. *Reference: 24 CFR 570.483(d)*

## Example

An urgent community health crisis in which private wells are contaminated by failing septic systems. The community's other resources may well be depleted and other federal programs may not be sufficient to cover all the costs of replacing the septic systems.

## Records to be Maintained

The records should include:

- ❖ A description of the nature and degree of seriousness of the conditions requiring assistance;
- ❖ Evidence that the state grant recipient certified that the CDBG activity was designed to address the urgent need;
- ❖ Information on the timing of the development of the serious condition; and
- ❖ Evidence confirming that other financial resources to alleviate the need were not available.

## **Tips**

Planning–Only grants are not allowed under Urgent Needs.

States are free to establish criteria for what constitutes a “serious and immediate” threat. States are free to establish criteria or documentation requirements regarding the lack of other funding resources and local governments’ inability to finance activities on their own. Activities designated solely to prevent a serious health or welfare threat from developing in the future will not qualify under this criterion.



# Documenting Compliance

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## **Considering National Objectives First**

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It is useful to consider the record-keeping requirements that go with a particular national objective category or subcategory before deciding which one to use for the activity. Some discussion of what is involved in documenting compliance with those criteria for the various categories and subcategories is included in those respective sections of this chapter. Further guidance on this matter is provided in this section.

## **Choosing Among the Three National Objectives**

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A given activity may be able to meet the criteria for more than one national objective. In most such cases, it would be wise to use the L/M Income Benefit national objective because of the requirement that at least 70 percent of the funds must be used under that objective. Even where it seems clear that the 70 percent requirement will be met, based on the activities currently planned to be funded by the state, it may still be useful to choose the L/M Income Benefit national objective over the other two national objectives. An unexpected opportunity may arise to assist an activity that cannot qualify under the L/M Income Benefit national objective, but that may be of great importance. (This situation is most likely to occur when a state receives a request for “float loan,” Section 108 Loan Guarantee or “urgent need” assistance.)

There are also cases where it would be useful to keep records for a given activity so that it can be shown to meet more than one national objective if there is a high degree of uncertainty as to whether an activity might not meet one of the national objectives. Consider the case of an activity that is to qualify on the basis of creating jobs. If the nature of the project leaves some doubt that it may be able to create one or more of the planned jobs that may be critical to meeting the test that at least 51 percent of the Jobs Benefit L/M income persons, the state may be reluctant to fund it. If the activity could also qualify under the Slums/Blight Area criteria, the state grant recipient may want to consider keeping records to show that the activity meets both objectives. In this way, if the project does not proceed as planned and the L/M Income Jobs criteria cannot be met, the state could then switch the activity to the Slums/Blight national objective rather than have the activity in noncompliance with CDBG rules. States are free to establish their own policies in this area.

Some activities (especially providing assistance to commercial properties) can be carried out under either the L/M Income Jobs or L/M Income Area Benefit criteria (for example, expansion of a grocery store serving a poor neighborhood). Where this is the case, the record-keeping for national objectives purposes usually would be easier for the state grant recipient if it were to qualify the activity under Area Benefit. If the service area can be easily determined, the percent of L/M income residents can be quickly calculated for the area. If the resultant percent is high enough to qualify, there would be no further records needed to be kept for the activity to qualify under the L/M Income Benefit national objective. The activity might also be able to qualify based on jobs being created or retained that would principally benefit L/M income persons. But qualifying on this basis entails careful monitoring of the business to keep track of the jobs and securing income information from the employees or applicants. Before making this choice, however, one needs to consider the related requirement concerning public benefit, where that applies. It is likely that the national objective and public benefit requirements can be met using the same basis (i.e., Area Benefit vs. Jobs), but this is not always the case. If the nature of the planned activity is such that the business could not meet the public benefit test based on the area served, but the activity could meet the public benefits job standards, it might then be the best choice to qualify both tests (public benefit and national objectives) on the basis of jobs. This is because the grant recipient would have to keep track of the jobs created or retained for public benefit purposes, and would only have to add the information on income status of employees or applicants to qualify under L/M Income Jobs national objective.

Some activities—most commonly, the installation of certain utilities or public improvements such as water, sewer and roads to facilitate economic development--may seem to result in dual benefits. Installation of public improvements in a residential area may serve an industrial or commercial site that can then be developed. The state and the state grant recipient need to ask themselves: Does the activity, as designed, principally benefit the residential area (for example, potable water, improved municipal services), with only incidental job creation benefit resulting from the commercial/industrial development? Or, is the activity designed to principally serve the commercial/industrial development project, with neighborhood residents receiving only incidental benefit from the public improvement? In any case where CDBG funds are used for a public improvement activity which is clearly designed to serve a primarily residential area, the activity must meet the L/M Income Area Benefit criterion, regardless of whether the activity could also meet the L/M Income Jobs criterion. *Reference: 24 CFR 570.483(e)(1).*

As mentioned in the section of this chapter on L/M Income Jobs, there are cases where a person may be considered to be L/M income based on the census tract or BNA in which he/she resides, without having to check further for family size and income. If a state grant recipient typically uses a certification form for determining L/M income status, it might be wise to add the location of the person's residence if it is not already on the form. Since the presumptions are based on the census tract (or BNA), it is necessary that the state grant recipient maintain information showing addresses that fall within the census divisions in its jurisdiction. It should also be possible to use a computer program to determine whether a particular address falls within a tract/BNA that qualifies the person for the L/M income presumption.

Also, as mentioned earlier under the section on L/M Income Area Benefit, the proper identification of the area served by the activity is critical for purposes of complying under this subcategory. Records showing the factors considered by the state grant recipient in making this determination are important to showing compliance for this purpose.

## **Acquisition of Real Property**

24 CFR 570.483(e)(2) provides that, where the assisted activity falls under the basic eligibility category of Acquisition of Real Property (at HCDA Section 105(a)(1)), a preliminary determination of whether the activity meets a national objective may be based on the planned use of the property after acquisition. But a final determination must be based on the actual use. This means that the grant recipient's files must be able to show the actual use of the property after acquisition.

This same provision also states that, where the acquisition is for the purpose of clearance to eliminate blight, the clearance activity will be considered to be the actual use of the property for this purpose. However, any subsequent use or disposition of the cleared property is to be treated as a "change of use" under the provisions of 24 CFR 570.489(j).

## **Defining and Documenting “Blight”**

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When an activity is intended to meet the Slums/Blight national objective, it is necessary to be able to show that blight exists (either for an area or with respect to the property being assisted). In either case, one way that this may be documented easily is through the use of pictures. As the saying goes, “a picture is worth a thousand words.” Since the test for qualifying under this objective involves showing that “objectively determinable signs of blight” exist, it should be evident to the eye and a picture may be able to show this most clearly. The records should still, however, also include narrative information to supplement the pictures and complete the documentation requirements. In the end, it is up to each state to establish specific documentation requirements for their program.

Many local governments have expressed a concern about designating an area as a Slum or Blighted Area for CDBG purposes. The concern is that persons residing in that area might object to such a characterization of their neighborhood. It should be noted that the area has to be delineated (have recognized boundaries) and must meet a state or local definition of what constitutes a slum, blighted, or deteriorated/deteriorating area. For purposes of the CDBG regulations, it is not necessary for the local government to legally designate or declare the area under state or local law. (It may be legally necessary under provisions of the state or local law to do so.) Some state laws use less controversial terms, such as “redevelopment district,” rather than “slum” or “blighted.” However, in its record-keeping for activities in the area, a reference can be made to the applicable regulation citation in lieu of repeating the words used in the regulations in order to provide sufficient clarity for program monitors regarding the CDBG-qualifying classification.

Remember that it is not sufficient for a local government simply to determine that an area qualifies under state or local definitions; there are additional HUD criteria which must be met. Many state redevelopment laws have qualification criteria which are quite broad or vaguely defined; areas could meet many states’ definitions without having “objectively determinable signs of blight” (which is a statutory requirement of the HCDA). The HCDA sets a higher standard than is intended or required under some state laws, which have broader purposes. For example, “inappropriately zoned” or “underdeveloped” vacant land might qualify for Tax Increment Financing under state law, but HUD cannot accept inappropriate zoning or the presence of vacant land by themselves as evidence of blighted conditions.

# **National Objectives Compliance and Accomplishments Reporting**

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## **Documenting and Reporting**

It is worthwhile to discuss the relationship between documenting compliance with a national objective and reporting on accomplishments and beneficiaries. There can be subtle differences between the two, in terms of when performance must be shown, and in terms of what (or who) to count.

States and state grant recipients are to maintain documentation demonstrating how each funded activity meets a national objective. Refer to Appendix I, Model Record-Keeping Requirements.) The point at which national objectives compliance can be conclusively demonstrated will vary, depending on the type of activity. For example, an activity designed to meet the L/M Income Job Creation national objective cannot be shown to meet that criteria until all the jobs have been created; this may stretch out some months after physical completion of the activity. On the other hand, an architectural barrier removal activity could be shown to meet the L/M Income Limited Clientele criteria at the beginning of the implementation process.

## **State CAPER Report**

States report annually to HUD on their use of CDBG funds through a report called a CAPER. A CAPER is the mechanism by which states report on accomplishments and beneficiaries of activities, and documents what has been accomplished for each funded activity during the previous 12-month period for all open activities. While CAPERs provide valuable information about how individual activities are meeting program requirements, states' reports are not intended to be the sole vehicle by which a state demonstrates that activities comply with national objectives requirements.

When a state funds an activity, the first CAPER in which an activity appears will indicate projected performance outputs (for example, number of persons to be served, number of units to be built, number of businesses to be assisted, or number of jobs to be created). As an activity is carried out, subsequent reports show the cumulative, actual performance outputs achieved since initiation of the activity. State CAPERs also report the actual racial, ethnic and gender characteristics of applicants and beneficiaries for activities which provide direct benefits to L/M income persons, once those benefits have been achieved.

As a “point in time” snapshot of activity, CAPER data alone may not provide a complete picture of national objectives compliance. Taking the previously-cited example of an architectural barrier removal activity, construction might have barely begun at the end of the reporting period; the state may have no accomplishment information to report for this activity in its CAPER, even though it has all documentation on hand necessary to demonstrate that the activity meets the L/M Income Benefit national objective. Conversely, a state CAPER might show the aforementioned economic development activity to be physically completed; it might also show a large number of jobs as having been created. But until all job creation has occurred, neither the state nor HUD can conclude that the activity has met the L/M Income Benefit national objective requirement.

States report performance output data in terms of the number of persons assisted and the number of L/M income persons assisted for all activities regardless of the national objective the activity is to meet. There are two exceptions, however. For housing activities, states report the number of households, the number of L/M income households assisted, the number of persons and the number of low- and moderate-income persons; for economic development activities, states report the number of jobs and L/M income jobs created, loans given, and businesses assisted.

## **Flexibility in Measuring**

There are some situations where states have flexibility in deciding what to count as performance outputs to measure. This arises most commonly with ‘Area Benefit’ activities, in which all residents of the service area of the activity have equal opportunity to take advantage of the benefits of the activity. For example, a sewer project may be undertaken in a neighborhood in which over 51 percent of the service area residents are L/M income. The activity is designed to serve all area residents, but that doesn’t mean that all residents will choose to hook up to the sewer once constructed.

In reporting actual accomplishments for this activity, the state can choose whether to measure sewer benefits in terms of persons in the service area or in terms of persons whose houses are actually hooked up to the sewer. If the state uses the latter approach, the number of actual beneficiaries (and the percentage who are L/M income) will differ from the projected accomplishment figures, which were based on the characteristics of the entire service area.

Sometimes two different activities are carried out in the same service area, but might not have exactly the same beneficiaries. This most commonly occurs with public facility activities. Water and sewer improvements are two separate activities, even if they are undertaken in the same service area. Residents are receiving two different benefits, so the state will report these as separate activities. It's possible that some residents might choose to hook up to the water system but not the sewer system (or vice versa). While the same service area characteristics may be used to determine that both activities meet the L/M Income Area Benefit criterion, the number and income characteristics of the actual beneficiaries could be different for each activity.

## **Making the Best Choice**

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Making the wisest choice among available alternatives for meeting a national objective is highly dependent on the individual state grant recipient. While the relative burden of record-keeping requirements is an important factor to consider, it may also be important for the individual state grant recipient to be able to show how it is making progress against its own community development goals and objectives. Where, for example, economic empowerment of L/M income persons is one of the individual state grant recipient's highest goals, it would presumably want to be able to show progress in terms of number of jobs created and how many of those jobs are taken by L/M income persons. Thus, the state grant recipient may want to collect such information even for an activity that could qualify on an Area Benefit basis (assisting a grocery store that serves a L/M income neighborhood, but that also creates jobs that are taken by residents of that area).