

# CHAPTER 1: OVERVIEW OF THE PROGRAM



## CHAPTER PURPOSE & CONTENTS

This chapter provides a general overview of the Community Development Block Grant Program (CDBG), including a brief synopsis of the history of the program and a summary of the objectives of the program.

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### 1.1 Program History & Primary Objective

✓ This section explains the history of the CDBG program and its goals.

Key Topics in This Section	✓ Programs that preceded CDBG ✓ CDBG primary objective
Statutory Citations	Section 101(c)
Other Reference Materials on This Topic	Not applicable

✓ The CDBG Program is authorized under Title I of the Housing and Community Development Act of 1974, as amended (HCDA). Prior to this point in time, there were numerous federal programs which addressed community development issues. The State CDBG Administrative Rule was updated on April 23, 2012 and became effective on May 23, 2012.

✓ CDBG grew out of the consolidation of eight categorical programs under which communities competed nationally for funds. The consolidated programs include:

- Open Space;
- Urban Renewal;
- Neighborhood Development Program grants;
- Historic Preservation grants;
- Model Cities supplemental grants;
- Public Facilities loans;
- Neighborhood Facilities grants; and



- Water and Sewer grants
- ✓ The initial recipients of the CDBG program were local governments, which are known as entitlements. Entitlements may be metropolitan cities or urban counties and each receives annual CDBG funding via an established formula.
- ✓ From 1975 to 1981, states did not participate in CDBG program and HUD conducted an annual competition to fund small cities. Amendments to HCDA in 1981 permitted states to administer the CDBG program for small cities starting in 1982.
- ✓ Under the state CDBG program, states are responsible for:
  - Developing the consolidated plan;
  - Designing the CDBG program within statutory and regulatory parameters;
  - Setting priorities and deciding what activities to fund;
  - Distributing funding according to the method of distribution;
  - Establishing financial management, recordkeeping, reporting, monitoring, audit and close-out systems for their programs; and
  - Ensuring compliance by state grant recipients.
- ✓ Under the state CDBG program, non-entitlement localities are known as Units of General Local Government (UGLG) and they are responsible for:
  - Prioritizing the types of activities they apply for;
  - Handling local citizen participation;
  - Carrying eligible activities; and
  - Complying with federal and state requirements.
- ✓ The U.S. Department of Housing and Urban Development (HUD) is responsible for monitoring the states to ensure compliance with CDBG program requirements.
- ✓ The primary objective of HCDA is the development of viable communities.
- ✓ These viable communities are achieved by providing principally persons of low and moderate income:
  - Decent housing;
  - A suitable living environment; and
  - Expanded economic opportunities.
- ✓ To achieve these goals, the CDBG statutory and regulatory requirements set forth eligible activities and the national objectives that each activity must meet. As recipients of CDBG funds, states are charged with ensuring that these requirements are met.
- ✓ Under the state CDBG program, states are provided maximum feasible deference. This concept is stated in the regulations at 24 CFR 570.480(c); however, the term is not specifically included in the statute. It was created by HUD's General Counsel. This term:
  - Provides for minimal regulation beyond the statute; and



- Means that states can adopt more restrictive requirements provided they do not contradict or are inconsistent with the HCDA statute.
- ✓ States must adhere to the HCDA statute and the state portion of the CDBG regulations; however, the CDBG regulations for entitlements may be used as safe harbor. CDBG regulatory requirements are located at 24 CFR Part 570.
- ✓ Included as an Appendix to this manual is a copy of the CDBG regulations and statute.

## 1.2 States v. Entitlement Formula Allocations

- ✓ This section explains the CDBG program formula and its applicability to states v. entitlement programs.

Key Topics in This Section	✓ The Formula
Statutory Citations	Section 106
Other Reference Materials on This Topic	CDBG Formula Targeting to Community Development Need Study

### 1.2.1 The Formula

- ✓ After CDBG funds are distributed to Indian Tribes (i.e., 1% of the appropriations amount from Congress), the formula allocation is split among entitlements and states.
  - 70% is allocated to metropolitan cities and urban counties (entitlements); and
  - 30% is allocated to states.
- ✓ Congress designed a formula that is intended to provide larger grants to communities with relatively high community development needs and smaller grants to communities with relatively low community development need.
  - Nonentitlement areas use population instead of growth lag used by entitlement areas.
  - For entitlement grantees, the formula factor or percentage for each individual entitlement city or county is compared to the total number/average for all entitlement cities & urban counties.
  - For nonentitlement areas, the formula factor or percentage represents the sum of all nonentitlement areas in that state; the nonentitlement sum for each state is compared to the total number/average for nonentitlement areas in all states.
- ✓ The addition of new urban counties or entitlement cities doesn't affect state funding as much—state may lose less than the new entitlement gains as it's often one of the wealthier nonentitlement areas---and states still get 30% of the money.
- ✓ The study, CDBG Formula Targeting to Community Development Need, was released in early 2005. The study examined the current formula's targeting to need and analyzed four options for an alternative formula. Any change in the formula would need Congressional



approval. CDBG Reform proposal was submitted, Congress at this time has not taken any action on the proposal.

- ✓ The following chart illustrates these differences between states and entitlement formula allocations.

NON-ENTITLEMENT	ENTITLEMENT	WEIGHTING
<b>FORMULA "A"</b>		
Population	Population	x.25
Percent of population in poverty	Percent of population in poverty	x.50
Number of overcrowded housing units	Number of overcrowded housing units	x.25
<b>FORMULA "B"</b>		
Percent of population in poverty	Percent of population in poverty	x.30
Number of pre-1940 housing units	Number of pre-1940 housing units	x.50
Population	Growth Lag	x.20

- ✓ For nonentitlement areas, the formula factor number or percentage represents the sum of all nonentitlement areas in that state; the nonentitlement sum for each state is compared to the total number/average for nonentitlement areas in all states.
- ✓ In Hawaii, HUD gives each of the three counties that portion of the funding that they contributed to the state's total nonentitlement allocation.
- ✓ For entitlement grantees, the formula factor number or percentage for each individual entitlement city or county is compared to the total number/average for all entitlement cities & urban counties.
- ✓ The weighting of factors is the same for both the entitlement and nonentitlement programs.
- ✓ In both the entitlement and nonentitlement programs, northeastern and midwestern grantees tend to do better under formula B; southern and western grantees tend to do better under formula A. Because growth lag is not used in the state program, this pattern is somewhat less pronounced for the State CDBG program.
- ✓ The Census Bureau does not collect the same level and types of information in the U.S. territories, so HUD does not use these formulas for the Insular Areas. Insular Area funding is distributed among the territories based only on their relative population.



## 1.3 Key Definitions

✓ This section provides definitions of key CDBG topics and terms.

Key Topics in This Section	✓ Key definitions needed for entitlement programs
Statutory Citations	Section 102
Other Reference Materials on This Topic	Not applicable

**CDBG Recipient or State:** Under the State CDBG Program, states receive funding directly from HUD and provide it to non-entitled communities, also referred to as units of general local government.

**Community Development Financial Institution (CDFI):** An organization that: has as its primary mission the promotion of community development; serves an investment area or targeted population; provides development services and equity investments or loans; maintains accountability to residents within its investment area; and is not a public agency or institution.

**Consolidated Plan:** The Consolidated Plan is prepared by the state in accordance with 24 CFR Part 91, and describes needs, resources, priorities and proposed activities to be undertaken with respect to HUD's CPD formula programs, including CDBG. An approved Consolidated Plan is one which has been approved by HUD.

**Contractors:** A contractor is an entity paid with CDBG funds in return for a specific service (e.g., construction). Contractors must be selected through a competitive procurement process.

**Family:** Family, as defined in 24 CFR 5.403, includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- ✓ A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person (see further definitions in 24 CFR 5.403); or
- ✓ A group of persons residing together, and such group includes, but is not limited to: foster care is considered a member of the family);
  - An elderly family;
  - A near-elderly family;
  - A disabled family;
  - A displaced family; and
  - The remaining members of a family.

**Household:** means all persons occupying a housing unit. The occupants may be a family, as defined in 24 CFR 5.403; two or more families living together; or any other group of related or unrelated persons who share living arrangements, regardless of actual or perceived, sexual orientation, gender identity, or marital status.

**HUD:** As discussed previously, CDBG funds are provided to states through the U.S. Department of Housing and Urban Development (HUD). HUD established the regulations and



requirements for the program and has oversight responsibilities for the use of CDBG funds.

**Income:** States may select a definition of income. States commonly choose among three existing options: (1) Annual income as defined under Section 8; (2) Annual income as reported under the Census/American Community Survey long form; or (3) Adjusted gross income as defined by the IRS Form 1040. States may also develop their own definition of income.

**Live-in-Aide:** means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities (see regulatory reference above under family), and who:

- ✓ Is determined to be essential to the care and well-being of the persons;
- ✓ Is not obligated for the support of the persons; and
- ✓ Would not be living in the unit except to provide the necessary supportive services.

**Low – and Moderate Income:** Low- and moderate income (also referred to in this manual as LMI) means family or household annual income less than the Section 8 Low Income Limit, generally 80 percent of the area median income, as established by HUD.

- ✓ For the state CDBG program, the 80% limit is calculated as 80% of the non-metro statewide median or the county median, whichever is greater. In metropolitan areas, the median income for the entire metropolitan area is used.
- ✓ Below is a **sample** income chart indicating the Section 8 low income limits, as well as the 30% of median income and 50% of median income limits.

Area: <b>Sample</b>		FY 2014 Median Family Income: \$70,000						
	ADJUSTED INCOME LIMITS (by household size)							
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8+ Persons
30% Limits	\$14,700	\$16,800	\$18,900	\$21,000	\$22,700	\$24,400	\$26,050	\$27,750
Very Low Income (50% Limits)	\$24,500	\$28,000	\$31,500	\$35,000	\$37,800	\$40,600	\$43,400	\$46,200
Low & Moderate Income (80% Limits)	\$39,200	\$44,800	\$50,400	\$56,000	\$60,500	\$65,000	\$69,450	\$73,950

**Low-Income Household/Family:** A household/family having an income equal to or less than the Section 8 Very Low Income limit (50% of the area median income) as established by HUD.

**Microenterprise:** A business that has five or fewer employees, one or more of whom own the enterprise.

**Moderate-Income Household/Family:** A household/family having an income equal to or less than the Section 8 Low Income limit (80% of area median income) established by HUD, but



greater than the Section 8 Very Low Income limit (50% of area median income) established by HUD.

**Person with disabilities:** Means a person who:

- ✓ Has a disability, as defined in 42 U.S.C. 423;
- ✓ Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
  - Is expected to be of long-continued and indefinite duration;
  - Substantially impedes his or her ability to live independently, and
  - Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
  - Has a developmental disability as defined in 42 U.S.C. 6001.
- ✓ Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
- ✓ For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and
- ✓ Means “individual with handicaps”, as defined in 24 CFR 8.3, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

**State CDBG Program:** The State CDBG Program provides CDBG grants to state governments (except in the state of Hawaii where HUD directly administers the program). Under this Program, state governments then provide CDBG assistance to non-entitlement communities within their jurisdiction.

**Unit of General Local Government (UGLG):** Means any city, county, town, township, parish, village or other general purpose political subdivision of a state, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa or a general purpose subdivision thereof.

## 1.4 Introduction to Eligible Activities

- ✓ This section describes the range of activities that are eligible under the CDBG Program.

Key Topics in This Section	<ul style="list-style-type: none"> <li>✓ Activities Related to Housing</li> <li>✓ Other Real Property Activities</li> <li>✓ Public Facilities</li> <li>✓ Activities Related to Public Services</li> <li>✓ Activities Related to Economic Development</li> <li>✓ Other Types of Activities</li> <li>✓ Planning and Administration</li> <li>✓ Eligible Activities and National Objectives</li> </ul>
Statutory Citations	Section 105
Other Reference Materials on This Topic	<ul style="list-style-type: none"> <li>✓ Guide to National Objectives and Eligible Activities for States - Chapter 2</li> </ul>



- ✓ CDBG offers states a high level of flexibility in choosing program activities. States are free to select those activities that best meet the needs of their communities, in accordance with the national objectives and requirements of the CDBG Program.
- ✓ Please refer to Section 105(a) of the CDBG statute for a more complete description of each of these eligible activities. The Guide to Eligible Activities and National Objectives is another good resource for determining the eligibility of activities.
- ✓ Determining under which category of eligible activities an activity falls is very important for various reasons. The regulations and statutes place certain requirements and stipulations on certain categories and not others. For example, the regulations and statute cap the amount of CDBG funds that can be used for public service and program administration activities. Additionally, the category of eligibility may dictate the costs that are eligible, the national objective under which the activity falls, and the rules that are triggered.

### **1.4.1 Activities Related to Housing**

- ✓ There are many activities related to housing that are eligible under the CDBG Program. The list of eligible activities includes:
  - Housing services in connection with Home Investment Partnerships (HOME) Program activities (105(a)(20));
  - New construction of housing by eligible organizations (105(a)(15)) or as last resort housing under 24 CFR Part 42;
  - Homeownership assistance (e.g., homebuyer counseling [105(a)(8)] and down-payment assistance interest subsidies [105(a)(25)]);
  - Rehabilitation to buildings which are residential, low-income rental or homeowner housing (105(a)(4) and (a)(5)). This also includes conversion of non-residential structures for residential use. The following types of rehabilitation activities may be undertaken:
    - Acquisition for rehabilitation and rehabilitation for residential purposes;
    - Labor, materials, etc. for rehabilitation of properties;
    - Loans for refinancing existing secured indebtedness;
    - Energy improvements;
    - Water efficiency improvements;
    - Connection to water and sewer lines;
    - Some homeowner warranty, hazard and flood insurance premiums;
    - Testing for and abatement of lead-based paint;
    - Costs of acquiring tools to be lent for rehabilitation;
    - Rehabilitation services;
    - Assistance for the rehabilitation of housing under Section 17 of the United States Housing Act of 1937; and
    - Removal of material and architectural barriers that restrict accessibility.
  - Lead-based paint testing and abatement as a stand-alone program or included as rehabilitation as noted above (105(a)(25)); and



- Activities that support new housing construction such as acquisition (105(a)(1)), clearance (105(a)(4)), and street improvements (105(a)(2)).
- ✓ Additional information about these types of activities may be found in Chapter 4: Housing Activities.

### **1.4.2 Other Real Property Activities**

- ✓ In addition to the housing-related activities outlined above, many other real property activities are eligible to be funded by CDBG such as:
  - Acquisition (105(a)(1));
  - Disposition (105(a)(7));
  - Clearance and demolition (105(a)(4));
  - Rehabilitation of publicly- or privately-owned commercial or industrial buildings (105(a)(4));
  - Code enforcement (105(a)(3));
  - Historic preservation (105(a)(4));
  - Renovation of closed buildings (105(a)(2));
  - Interim assistance to arrest severe deterioration or alleviate emergency conditions (§ 570.201(f))—Note: this activity is not explicitly listed in the statute but states may refer to the entitlement regulations for guidance; and
  - Privately-owned utilities -- Note: this activity is not explicitly listed in the statute but states may refer to the entitlement regulations for guidance.
- ✓ Additional information about these types of activities may be found in Chapter 5: Other Real Property Improvements.

### **1.4.3 Public Facilities**

- ✓ CDBG funds may be used for the acquisition, construction, reconstruction, rehabilitation, or installation of public improvements or public facilities (105(a)(2)).
  - “Public improvements” includes, but is not limited to, streets, sidewalks, water and sewer lines, and parks.
  - “Public facilities” includes, but is not limited to, neighborhood/community facilities and facilities for persons with special needs (e.g. homeless shelters, group homes, and halfway houses).
- ✓ Additional information is provided in Chapter 6: Public Facilities, Special Assessments, and Privately Owned Utilities.

### **1.4.4 Activities Related to Public Services**

- ✓ Public services are also generally eligible under the CDBG Program (105(a)(8)). These public service activities may include, but are not limited to:
  - Job training and employment services;
  - Health care and substance abuse services;



- Child care;
  - Crime prevention; and
  - Fair Housing counseling.
- ✓ Additional information about the various types of public services is provided in Chapter 7: Public Services.

### **1.4.5 Activities Related to Economic Development**

- ✓ CDBG funds may also be used for activities related to economic development. The following are examples of eligible activities that can be funded by CDBG:
- Microenterprise assistance (105(a)(22));
  - Commercial rehabilitation (105(a)(4)); and
  - Special economic development activities (105(a)(17)) and 105(a)(14)).
- ✓ Additional information about economic development activities may be found in Chapter 8: Economic Development & Section 108.

### **1.4.6 Assistance to Nonprofit Development Organizations**

- ✓ CDBG recipients may also provide grants or loans to nonprofit development organizations to carry out the following types of projects (105(a)(15)):
- Community revitalization;
  - Community economic development; and
  - Energy conservation.
- ✓ Additional information about nonprofit development organizations may be found in Chapter 2: Activity Selection and Implementation.

### **1.4.7 Other Types of Activities**

- ✓ Certain other types of activities are also eligible under CDBG, including:
- Payment of non-Federal share of grants in connection with CDBG-eligible activities (105(a)(9));
  - Relocation assistance (105(a)(11));
  - Loss of rental income (related to relocation) (105(a)(6));
  - Technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities (105(a)(19)). Note that this activity is rare under the State CDBG program because technical assistance is also allowed under the 3% administrative cap; and
  - Assistance to institutions of higher education with the capacity to carry out other eligible activities (105(a)(21)).



### 1.4.8 Planning and Administration

- ✓ CDBG funds may be used for planning activities (105(a)(12)) and (105(a)(16)). Such activities might include:
  - Comprehensive plans;
  - Community development plans (including the Consolidated Plan);
  - Functional plans (for housing; land use and urban environmental design; economic development; open space and recreation; energy use and conservation; floodplain and wetlands management; transportation; utilities; historic preservation; etc.);
  - Other plans and studies (e.g., small area and neighborhood plans; capital improvements program plans; individual project plans; general environmental; urban environmental design; historic preservation studies; etc.); and
  - Policy planning, management, and capacity building activities.
- ✓ Finally, within certain caps and constraints, states may use CDBG funds for program administration activities (105(a)(13)). Such activities may include:
  - General management, oversight and coordination;
  - Public information;
  - Fair Housing activities;
  - Indirect costs;
  - Submission of applications for Federal programs.
- ✓ More details concerning planning and administration costs can be found Chapter 11.

## 1.5 Ineligible Activities

- ✓ This section describes activities that are not eligible under the CDBG Program.

Key Topics in This Section	✓ Ineligible Activities
Statutory Citations	NA (see below)
Other Reference Materials on This Topic	✓ Guide to National Objectives and Eligible Activities for States - Chapter 2

- ✓ The general rule is that any activity not specifically authorized under the CDBG regulations and statute is ineligible to be assisted with CDBG funds.
- ✓ The state CDBG program relies on the statute to describe eligible programs and its regulations do not directly address ineligible programs. States may use the entitlement program regulations as guidance.
- ✓ The entitlement regulations stipulate that the following activities may **not** be assisted with CDBG funds:
  - Buildings for the general conduct of government are ineligible. However, the removal of architectural barriers from government buildings is eligible under the category of public facilities and improvements.



- General government expenses are ineligible.
- Financing for political activities or to engage in other partisan political activities are ineligible. However, a facility assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, if the building is available to all community organizations on an equal basis.
- ✓ Per the entitlement regulations, the following activities may **not** be assisted with CDBG funds unless authorized as a special economic development activity or when carried out by an eligible nonprofit development organization as defined under 105(a)(15):
  - Purchase of equipment is generally ineligible.
    - Compensation for the use of construction equipment through leasing, depreciation, or use allowances is eligible.
    - Fire protection considered an integral part of public facilities is eligible. This includes fire engines and specialized tools such as “jaws of life” and life-saving equipment as well as protective clothing worn by fire fighters.
  - Purchase of personal property, including equipment, fixtures, motor vehicles, furnishings, or other personal property is generally ineligible.
  - Operating and maintenance expenses (of public facilities, improvements, and services) are ineligible.
    - Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program;
  - New housing construction except under certain conditions or when carried out by a Section 105(a)(15) nonprofit development organization as part of a neighborhood revitalization or community economic development project.
  - Income payments made to an individual or family for items such as food, clothing, housing, or utilities are ineligible. One time grants, emergency type grants, or loans for such purposes may be eligible under the category of public services.

## 1.6 CDBG Resources

The following resources are helpful to states and UGLG administering CDBG activities:

- ✓ Community Development Block Grant Program: Guide to National Objectives and Eligible Activities for the State CDBG Program.
- ✓ “A Guidebook for Grantees on Subrecipient Oversight: Managing CDBG.” (Revised March 2005).
- ✓ The resources listed above as well as websites, notices, guidebooks, and other documents may be found on the OneCPD Resources Exchange: <http://www.onecpd.info>.



## **Attachment 1-1: Glossary of Common Acronyms & Abbreviations in the CDBG Program**

ABA	Architectural Barriers Act of 1968
ADA	Americans With Disabilities Act
AFFH	Affirmatively Furthering Fair Housing
AI	Analysis of Impediments to Fair Housing
ARC	Appalachian Regional Commission
BNA	Block Numbering Area (now obsolete)
CAPER	Consolidated Annual Performance Evaluation Report (the annual Con Plan report)
CBDO	Community-based development organizations
Certs	Certifications
CDFI	Community Development Financial Institutions
CFR	Code of Federal Regulations (24 CFR is HUD regulations)
COG	Council of Governments
ConPlan	Consolidated Plan
CP	Citizen Participation
CPD	HUD Office of Community Planning & Development
CRSA	Community Revitalization Strategy Area
CT	Census Tract
ED	Economic Development
EZ/EC /RC	Empowerment Zones/Enterprise Communities/Renewal Communities
FHA	Federal Housing Administration –HUD Office of Housing
FmHA	Farmers Home Administration (sometimes also called FHA; both are obsolete), now the Rural Housing Administration in the Department of Agriculture
FHEO	HUD Office of Fair Housing and Equal Opportunity
FTE	Full-time equivalents of jobs
GoZone	Gulf Opportunity zone (hurricane recovery)
HCDA (or the Act)	Housing & Community Development Act of 1974, as amended
HoZo	Homeownership Opportunity Zone
IDIS	Integrated Disbursement & Information System



LBP	Lead-Based Paint
LDP	Limited Denial of Participation
LMI (or low/mod)	Low- and Moderate-Income person(s)
LMISD	Low and Moderate Income Summary Data (shows percent of low/mod persons by state, and by CT, BG)
MBE	Minority-owned Business Enterprise
MOD	Method of Distribution (part of the annual Action Plan for States)
NRSA	Neighborhood Revitalization Strategy Area
OGC	HUD Office of General Counsel
PER	Performance Evaluation Report
PDR	HUD Office of Policy Development & Research
PI	Program Income
PJ	Participating Jurisdiction (in the HOME program)
RLF	Revolving Loan Fund
Title VIII	Title VIII of the Civil Rights Act of 1968 (also known as the Fair Housing Act)
UGLG	Unit of General Local Government (“ug-lug”)
URA	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
WBE	Woman-owned Business Enterprise
105	Section of the HCDA which contains the list of eligible activities in the CDBG program
109	Section of the HCDA prohibiting discrimination

## **Attachment 1-2: Comparison of Entitlement and State Programs**

### **✓ Similarities:**

- HUD contractual relationship is with grantee, whether a state or a locality.
- Local governments decide what their needs are and select activities to address those needs, and carry out those activities (or subgrant/contract out).
- HUD oversight responsibilities (monitoring, ConPlan/CAPER review, TA, etc.).
- Consolidated Plan (certifications, housing conditions & needs, priority & goal setting).
- Same statutory basis for eligibility requirements.
- National objective requirements nearly identical (except no upper quartile, no urban renewal slum and blight).
- Most other applicable laws apply (Davis Bacon, URA, NEPA, Civil Rights Act, etc.).
- Many requirements flow down units of local governments.
- Sanctions process is essentially the same.

### **✓ Differences:**

- States don't carry out activities themselves—they must distribute about 97% of the funds as grants to UGLGs. The assistance must be in the form of grants to non-entitlement units of general local governments, not loans (except 3% for technical assistance and administration).
- HUD does not have a contractual relationship with units of general local government (UGLG).
- What they spend their money on – states often have different priorities than entitlements when using CDBG funds.
- Section 108: Recent changes now allow the state or the locality to be the borrower but the state pledges its CDBG allocation regardless of the applicant.

### **✓ Statutory/regulatory implementation differences:**

- States and entitlements use the statute and regulations differently. For the most part, states use the statute to govern eligible activities rather than the regulations.
- In the state's ConPlan, there is a method of distribution (MOD) that is described instead of list of activities; the ConPlan is completed at the state level rather than local level (entitlements); and certifies that they have consulted with localities in developing MOD but don't certify that they are following their Con Plan (because they don't do the activities themselves).

- Only subpart I and 570.606 (displacement/URA) and 570.200(j) (pursuant to 570.480 (e)) of Part 570 applies to State CDBG program.
- Timely distribution (states) vs. timely expenditure (entitlements).
- Colonias. Section 916 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (the Act) requires the states of Arizona, California, New Mexico, and Texas to set aside up to 10 percent (10%) of their CDBG annual allocations to be used for eligible activities that meet the needs of the Colonias. Pursuant to the Act, a colonia is an area within 150 miles of the United States-Mexico border regions of Arizona, California, New Mexico, and Texas that was in existence before November 28, 1990. Metropolitan statistical areas with populations exceeding one million are excluded.
- 1% TA set-aside for states, so there is not much reason to use §105(a)(19) provision provided in the Statute.

✓ **Differences in definitions or lack thereof:**

- Concept/contents of subrecipient agreements.
- The CBDO definition at 570.204 is not applicable to states.
- Income limits.
- Definition of income.
- Float loans - different concept for states.
- Pre-award costs.
- Community revitalization strategies concept for states rather than neighborhood revitalization strategy areas under the entitlement program.
- Lump sum drawdowns.
- “Persons developing a micro-enterprise”.

✓ **How various caps & requirements are applied:**

- Under the state program each grant is treated discretely – caps and reporting are by each year’s allocation of funds plus program income rather than to all activity within a 12 months period.
- Caps apply to state as a whole rather than a local government or their individual activities.
- The same is true for public benefit standards – the caps apply to everything funded out of a given year’s allocation.
- Caps determined based on “use” (expenditures) rather than obligations.
- States have a 3% cap on the state’s administrative/planning/technical assistance (TA) costs above \$100,000 and must match all admin/planning/TA costs above the \$100,000.

An overall cap of 20% applies to a state's and its UGLG's annual planning & administrative costs.

- States can make grants which are 100% public services to UGLGs; more than 20% admin to UGLGs; and can make planning-only grants to UGLGs provided a national objective is met.

✓ **Financial/administrative requirements & differences:**

- One of the areas of greatest divergence between entitlements and states.
- Lack of recordkeeping and reporting requirements in state regulation – required by OMB to negotiate with states collectively; however, makes it tougher to enforce compliance.
- Many parts of Part 570, Subpart J (Grant Administration) have no comparable, substantive state regulations.
- There is a statutory requirement keeping program income at the local level; program income returned to the state “belongs” to the year in which it is redistributed; not to year received; no requirement that excess program income must be returned to the line of credit.
- Cash Management Improvement Act requirements on drawdowns instead of Part 85 – negotiated by Treasury for state as a whole; state to ensure prompt disbursement at/to local level.
- 24 CFR Part 85's inapplicability to states as states have the option to allow state law requirements on financial management to prevail.
- States to have an established system for reviewing their grantees, audits, closing out grants, rather than HUD establishing requirements, HUD requires states to set their own.

## Attachment 1-3: Comparison of Entitlement and State Program Regulations and Requirements

Requirement	Entitlement Regulation	State Regulation
<b>SUBMISSION REQUIREMENTS</b>		
Waiver authority	24 CFR 570.5 & 24 CFR 5.110	24 CFR 570.480(b) & 24 CFR 5.110
Submission requirements & certifications	24 CFR 570.302, 570.303 & 24 CFR Part 91	24 CFR 570.485(a) & 24 CFR Part 91; state buy-in certifications at HCDA 106(d)(2)(C) & (D)
Making of grants	24 CFR 570.304 & 24 CFR Part 91	24 CFR 570.485(b) & 24 CFR Part 91
State election to administer program	N/A	24 CFR 570.497
<b>ELIGIBILITY &amp; NATIONAL OBJECTIVES</b>		
Eligible activities	24 CFR 570.201-.206	HCDA §105(a) & 24 CFR 570.482; states may use entitlement regs. as guidance
Ineligible activities	24 CFR 570.207	Whatever is not listed in HCDA §105(a); but states may use entitlement regs. as guidance
Maximum feasible deference	N/A	24 CFR 570.480(c), 570.481(a)
Public Benefit Standards	24 CFR 570.209(b), (c) & (d)	24 CFR 570.482(f) & (g)
Underwriting Guidelines	24 CFR 570.209(a), (c) & (d)	24 CFR 570.482(e) & (g)
National Objectives	24 CFR 570.209	24 CFR 570.483
TA set-aside	N/A	HCDA 106(d)(5); 24 CFR 570.489(a)
Assistance to religious entities	24 CFR 570.200(j), as revised by 09/30/03 "Faith Based Rule"	07/09/04 "Faith Based Rule" subjects states to 24 CFR 570.200(j) as revised on 09/30/03
Special Assessment definition	24 CFR 24 CFR 570.200(c)	24 CFR 570.482(b)
Pre-award costs	24 CFR 570.200(h)	24 CFR 570.489(b)

Definition of Low- and Moderate Income	24 CFR 570.3	HCDA §102(a)(20)
Definition of income	24 CFR 570.3	None
Fees for use of facilities	24 CFR 570.200(b)(2)	None. States may use entitlement regs. as guidance
Facilities containing eligible & ineligible uses	24 CFR 570.200(b)(1)	None. States may use entitlement regs. as guidance
20% limit on planning & administrative costs	24 CFR 570.200(g)	24 CFR 570.489(a)(1) and (3);
Activities outside jurisdiction boundaries	24 CFR 570.309	24 CFR 570.486(b) and (c)
Charging fees of UGLGs	None.	24 CFR 570.489(a)(2)
Float-funded activities	24 CFR 570.301	None
Escrow Accounts	24 CFR 570.511	None
Lump sum drawdowns	24 CFR 570.513	None. § 104(h) effectively requires states to follow 24 CFR 570.513 as they are the only standards set by HUD
Compliance with Primary Objective (Overall benefit)	24 CFR 570.200(a)(3)	24 CFR 570.484
<b>ADMINISTRATIVE REQUIREMENTS</b>		
Program Income	24 CFR 570.500(a); 570.504	24 CFR 570.489(e)
Closeout requirements	24 CFR 570.509	CPD Notice 14-02
Subrecipients	Definition: 24 CFR 570.500(c) Agreements: 24 CFR 570.503	None; the term "subrecipient" is generally not used in state CDBG
Use of real property	24 CFR 570.505	24 CFR 570.489(j)
Conflict of Interest	24 CFR 570.611	24 CFR 570.489(h) for state itself; states to establish requirements for UGLGs
Use of consultants	24 CFR 570.200(d)	None. Procurement & conflict of interest covered by 24 CFR 570.489(g) & (h)
Debarred & Suspended Contractors	24 CFR 570.609 & 24 CFR Part 5	24 CFR Part 5
Recordkeeping requirements	24 CFR 570.506	24 CFR 570.490(a) - HUD to negotiate record keeping requirements for states; 24 CFR 570.490(b) - states establish requirements for UGLGs

Reporting requirements	24 CFR 570.507; 24 CFR 91.520	24 CFR 570.491; 24 CFR 91.520
Access to records	24 CFR 570.508	24 CFR 570.490(c)
Uniform Administrative Requirements	24 CFR Part 85 as modified by 570.502	24 CFR 570.489(d) – States may establish their own systems
Cost principles	24 CFR 570.200(a)(5); OMB A-87, A-122, A-21	24 CFR 570.489(n) OMB Circulars A-87, A-122, A-21
Uniform Administrative Requirements & Cost Principles	24 CFR 570.610, 24 CFR Parts 84 & 85; OMB A-87, A-110, A-122, A-128, A-133	24 CFR 570.489(n), 24 CFR 570.489(d), OMB A-87, A-110, A-122, A-133
<b>OTHER APPLICABLE REQUIREMENTS</b>		
Civil Rights Act of 1964, Fair Housing Act, EO 11063, AFFH	570.601, EO 11063, EO 12259	24 CFR 570.489(a),(b), States to comply with the laws & EOs 11063 & 12259
HCDA Section 109 nondiscrimination	24 CFR 570.602	24 CFR 570.495(b) re: noncompliance by state or UGLG; otherwise, states to comply with law
Labor Standards	24 CFR 570.603	None. States to comply with HCDA §110 & Labor Stds. Laws
Lead Based Paint	24 CFR 570.608 & 24 CFR Part 35	24 CFR 570.487(c) & 24 CFR Part 35
Environmental Standards	24 CFR 570.200(a)(4); 570.604; 24 CFR Part 58	HCDA §104(g); 24 CFR Part 58
Flood Insurance Program	24 CFR 570.605; 44 CFR 59-79	None. States not required to participate in program
Floodplain Management	EO 11988 & 24 CFR Part 55	24 CFR Pat 58, EO 11988 & 24 CFR Part 55
Displacement, relocation, acquisition & replacement of housing	24 CFR 570.606; 24 CFR Part 42; 49 CFR Part 24	24 CFR 570.488; 570.606; 24 CFR Part 42; 49 CFR Part 24
Intergovernmental Review	24 CFR 570.612 & 24 CFR Part 52; EO 12372	States may choose to/not to apply EO 12372 to state CDBG per 24 CFR 52.6
Minority Business Enterprise	24 CFR 570.607(a) & EO 11246 et seq.	EO 11246 et seq., EO 12432
Section 3	24 CFR 570.607(b) & 24 CFR Part 135	24 CFR 570.487(d) & 24 CFR Part 135

ABA & ADA	24 CFR 570.614	24 CFR 570.487(e)
Section 504 Disability Non-discrimination	24 CFR Part 8	24 CFR Part 8
HUD Reform Act	N/A	24 CFR Part 4
Eligibility restrictions on resident aliens	24 CFR 570.613 & 24 CFR Part 49 are cited, but both are obsolete. HUD is awaiting further guidance from DOJ	24 CFR Part 49; note that 24 CFR 570.613 specifically addresses coverage of states; both are obsolete. HUD is awaiting further guidance from DOJ
<b>MONITORING &amp; SANCTIONS</b>		
Meeting Consolidated Plan responsibilities	24 CFR 570.903	None; HUD determines state compliance with certifications & method of distribution per 24 CFR 570.493(a)
Equal Opportunity & Fair Housing review criteria	24 CFR 570.904	None.
HUD determination of continuing capacity & timeliness	24 CFR 570.902 = timely expenditure; 24 CFR 570.905	24 CFR 570.494 on timely distribution; HCDA 104(e)(1) & (2) states are to make determinations of UGLGs' performance & capacity per 24 CFR 570.492 & HCDA 104(e)(2)
Corrective & remedial actions for noncompliance	24 CFR 570.910	24 CFR 570.495(a)
Sanctions for noncompliance	24 CFR 570.900, 570.911 & 570.913	24 CFR 570.496
Nondiscrimination noncompliance	24 CFR 570.912	24 CFR 570.495(b)

## Attachment 1-4: Activities Explicitly Listed as Eligible in HCDA Statute

<b>Eligible Activity</b>	<b>State Program: HCDA 105</b>
Acquisition of Real Property	105(a)(1)
Public Facilities and Improvements	105(a)(2)
Code Enforcement	105(a)(3)
Clearance	105(a)(4)
Rehabilitation	105(a)(4)
Reconstruction	105(a)(4)
Construction of Buildings (Housing included)	105(a)(4)
Architectural Barrier Removal	105(a)(5)
Loss of Rental Income	105(a)(6)
Disposition of Real Property	105(a)(7)
Public Services	105(a)(8)
Payment of Non-Federal Share	105(a)(9)
Relocation	105(a)(11)
Planning and Capacity Building	105(a)(12)
Program Administration Costs	105(a)(13)
Activities Carried Out through Private or Public nonprofits	105(a)(14)
Assistance to nonprofits serving development needs of nonentitled portions of the state	105(a)(15)
Energy	105(a)(16)
Economic Development Assistance to For-Profit Business	105(a)(17)
Additional Applicable Requirements Activities Funded Under Section 105(e)	105(a)(14), 105(a)(15), (17)
Technical Assistance	105(a)(19)
Housing Services	105(a)(20)
Assistance to Institutions of Higher Education	105(a)(21)
Microenterprise Assistance	105(a)(22)
In Rem Housing	105(a)(23)
Homeownership Assistance	105(a)(25)
Code Enforcement	105(a)(27)
Flood Insurance	105(a)(28)
New Housing Construction	105(a)(15)
Last Resort Housing	24 CFR Part 42
Brownfields Redevelopment Activities	FY99 HUD Appropriations Act
Interim Assistance	None

Generally, states can use entitlement regulations (24 CFR 570.201 – 206) for guidance