

CHAPTER 2

NATIONAL OBJECTIVES

INTRODUCTION

This chapter describes the federal requirement that all CDBG funded activities fulfill one of three National Objectives established by Congress. The following paragraphs discuss the process of selecting one of the three National Objectives. This includes the procedures for documenting that the UGLG's activities fulfill the selected objective.

As outlined in Funding Guide federal regulations stipulate that before any activity can be funded in whole or in part with CDBG funds, it must be determined that the activity (e.g., economic development, public infrastructure) is eligible under Title I of the Housing and Community Development Act of 1974, as amended. In addition, CDBG requirements mandate that each funded activity (except for program administration and some planning initiatives and described below) must meet one of the established three National Objectives. The three National Objectives are:

1. Benefiting Low and Moderate Income (LMI) persons.
2. Aiding in the prevention or elimination of slums or blight.
3. Meeting community development needs made urgent by conditions posing serious and immediate threats to community health or welfare, conditions that are of recent origin or recently became urgent, and where other financial resources are not reasonably available to meet such needs.

ADMINISTRATIVE ACTIVITIES

Activities that are performed to administer CDBG programs but are NOT a direct part of operating the program itself are termed "Administrative Activities." These activities support the UGLG's programs and, by extension, they are seen as furthering the National Objectives that are associated with those programs.

PLANNING ACTIVITIES

If a UGLG performs planning activities that facilitate or enable a specific eligible activity, such as infrastructure or economic development, then the planning activity can be deemed to support the same National Objective as the activity itself. The MEDC may award grants to UGLG who perform planning-only activities, or to fund planning activities that are unrelated to any other activity funded by the grant. These are often referred to as "planning-only grants" or "planning-only activities." Planning-only grants or activities must comply with the requirements of the LMI or slum or blight National Objectives.

It is not possible for a planning-only grant or activity to comply with the Urgent Needs National Objective. Planning-only grants or activities can meet the LMI benefit objective if it can be shown that at least 51% of the persons who would benefit from implementation of the plan are LMI persons. Planning-only grants or activities can meet the slum or blight National Objective if the plans are for a slum or blighted area, or if all planning elements are necessary for and related to an activity which, if implemented, could be shown to meet the slum or blight National Objective criteria. For either the LMI benefit or the slum or blight National Objective, such determinations are not dependent on the planned-for activity or project actually being implemented. Reference: 24 CFR 570.483(b)(5); 24 CFR 570.483(c)(3).

OTHER ACTIVITIES

There are a number of different criteria by which an activity can meet a National Objective, as shown in the Funding Guide. The following sections explain each of the National Objectives in detail, including the criteria for meeting each one, and the documentation that must be provided to comply with the HUD and the MEDC's requirements.

SECTION 1 – BENEFITING LOW/MODERATE-INCOME (LMI) PERSONS

INTRODUCTION

The LMI National Objective is often referred to as the primary National Objective as the regulations require that States expend at least 70% of their CDBG funds on activities that benefit low-and moderate-income people as defined below. In addition to ensuring that the required percentage of CDBG funds serve people in the overall LMI category, UGLGs must also ensure that the activities proposed, when taken as a whole, will not benefit moderate income people to the exclusion of low-income people (see definitions below).

Activities that benefit LMI people that are allowed by the MEDC are:

- Area-benefit activities
- Limited Clientele
- Job creation/retention activities
- Housing activities

DEFINITION OF LOW AND MODERATE-INCOME

The definition of LMI used in the MEDC's CDBG program is the same as that in Title I of the Housing and Community Development Act, as amended. These income limits are to be used to qualify persons/households as eligible LMI beneficiaries of CDBG-assisted activities.

Before discussing the specific income figures, it is important to note the difference between persons, families, and households. Most CDBG programs require that UGLGs target benefits to LMI people. **However, LMI people are in turn defined as individuals that are members of a low-income family.**

If one unemployed spouse received a job through a CDBG-funded venture, that spouse would not be considered a low-income person if the other spouse happened to be well employed and earned a large amount of money.

That is, the first spouse would not be considered a low-income person even though they themselves had little or no income. Rather, the person would be seen as a member of a family that was NOT low income – and therefore not a low-income person.

The one instance when HUD looks at households rather than families is in the case of CDBG-funded housing programs, because the beneficiary of the assistance is actually the entire household living in the unit that was assisted, regardless of whether they are in the same family. Thus if a person with little or no income was sharing a residence with an unrelated wealthy person, neither of them would be considered low -income people. Rather, they would both be part of a two-person household that did not qualify as LMI.

For purposes of determining CDBG eligibility and compliance with the LMI National Objective, family or household incomes are adjusted for family/household size.

A low-income family/household is one that has an income of less than or equal to 50% of the Area Median Income, as adjusted for family/household size. A moderate-income family/household is one that has an income of greater than 50% of the Area Median Income but less than or equal to 80% of the Area Median income, as adjusted for family/household size. The two categories are referred to as Low and Moderate Income, or LMI.

HUD provides specific income figures (e.g., median income, 80% of median income, 50% of median income) adjusted by household size for all counties and all metropolitan areas of the state. These figures are adjusted annually.

Note: The Consolidated Planning Regulations at 24 CFR Part 91 require the State to collect and report information on the number of extremely low, low, moderate, and middle-income persons served by each activity.

A married couple living together is a two-person family; and a couple with one child is a three-person family/household, etc.

A single person household, for HUD income eligibility purposes is considered to be a one person “family” and likewise two unrelated persons living together are considered to be a two person “family” for income determination purposes.

The larger the family/household size, the higher the applicable median income and, consequently, the higher the threshold to be considered LMI.

LMI AREA BENEFIT CRITERIA (LMA)

A LMI Area Benefit Criteria (LMA) Activity is one whose benefits are available to all the residents in a particular service area where at least 51% of the residents are LMI persons. The most readily available information on income is kept by the U.S. Census and is generally described by census tracts or larger aggregations of tracts. However, a CDBG-funded activity’s service area does not need to be consistent with census tracts or other officially recognized boundaries if statistics on income are available by some other geographic unit (see subsequent description). In all cases, however, the area used to determine LMI benefit, must be the entire area served by the activity. Activities of the same type that serve different areas must be considered separately on the basis of their individual service area.

An activity that serves an area that is not primarily residential in character (e.g., a commercial area with a handful of residences, or an area LESS THAN 51% in residential structures) CANNOT qualify under the Area Benefit National Objective.

Public infrastructure initiative (such as improvements or expansions to the public water and sewer system) in an LMI community or a LMI area within a community could qualify as an LMA Activity if the benefits of this type of activity are available to all persons in the area, regardless of income.

In determining whether an activity will actually benefit LMI residents, the net effect of the completed activity is considered. The mere location of an activity in an LMI area does not conclusively demonstrate that the activity benefits LMI persons. It is important to understand that not all activities that take place within a particular area will benefit that entire area. Similarly, in instances when a UGLG assists an affordable housing development, it is essential to consider the incomes of the residents of that development (i.e., those who are getting a direct benefit from the housing) rather than the incomes of the residents in the surrounding neighborhood, notwithstanding that it could be argued their lives are also improved due to the new project.

Examples of activities that may qualify as an Area Benefit Activity include:

- Adding or improving multiple facades for business along a local commercial district that serves a LMI neighborhood or community.
- Providing drainage improvements in an LMI neighborhood or community.
- Constructing a streetscape in a downtown that serves an LMI area or community.

Data establishing numbers and percentages of LMI persons in an area must be verifiable. Acceptable methods for establishing low- and moderate-income population in a particular area include:

- Census data provided by HUD.
- Methodologically-sound surveys conducted by the UGLG or a third party.

Both methods are described below.

CENSUS DATA

LMI limits by family size will be available from MEDC based on data updated by HUD. MEDC also has income data by cities and counties. If HUD data does not indicate that the service area contains at least 51% LMI persons, and if an UGLG has a compelling reason to believe the data is incorrect, then an UGLG may request to conduct household surveys based on a change in either population or income of the area since the census. If the service area is not generally the same as a census tract or block group, then an applicant should conduct household surveys to determine the LMI percentage for the area.

SURVEY DATA

An applicant may conduct a methodologically sound income survey to establish the LMI status of households or families in a CDBG project area, but must first submit an Income Survey Application (Form 2-A) to the MEDC, documenting the need for an income survey and requesting survey instructions.

All surveys must be completed and approved by a third party provided by the MEDC prior to submission of the Application in order to be eligible for funding.

The lifespan of a survey is dependent on when it was conducted and if HUD has updated the relevant economic data for that community. Completed surveys and documented approval by the MEDC must be accessible for review.

LOW MOD LIMITED CLIENTELE

The limited clientele category is another way to qualify specific activities under the LMI benefit national objective. Under this category, 51 percent of the beneficiaries of an activity must be LMI persons.

In contrast to the area benefit category, it is not the LMI concentration of the service area of the activity that determines whether the activity will qualify or not, but rather the actual number of LMI persons that benefit from the activity.

Activities in this category provide benefits to a specific group of persons rather than everyone in an area. It may benefit persons without regard to their residence, or it may be an activity that provides a benefit to only particular persons within a specific area.

With respect to determining the beneficiaries of activities as LMI and qualifying under the limited clientele category, activities must benefit a clientele that is generally presumed to be principally LMI. This presumption covers abused children, battered spouses, elderly persons, severely disabled adults (see the below), homeless persons, illiterate adults, persons living with AIDS and migrant farm workers.

DEFINITION OF SEVERELY DISABLED

Persons are considered severely disabled if they:

- Use a wheelchair or another special aid for 6 months or longer;
- Are unable to perform one or more functional activities (seeing, hearing, having one's speech understood, lifting and carrying, walking up a flight of stairs and walking);
- Need assistance with activities of daily living (getting around inside the home, getting in or out of bed or a chair, bathing, dressing, eating and toileting) or instrumental activities of daily living (going outside the home, keeping track of money or bills, preparing meals, doing light housework and using the telephone);
- Are prevented from working at a job or doing housework;
- Have a selected condition including autism, cerebral palsy, Alzheimer's disease, senility or dementia; or
- Are under 65 years of age and are covered by Medicare or receive Supplemental Security Income (SSI).

LMI JOB CREATION/RETENTION OVERVIEW

An LMI Job Creation/Retention (LMJ) activity is one that creates or retains permanent jobs, with 51% being held by persons from LMI families. Jobs indirectly created by an assisted activity (i.e., "trickle-down" jobs) may not be counted.

For job creation activities, the local government and the assisted business(s) must document that permanent jobs have been created, and that at least 51% of the jobs, computed on a full-time equivalent (FTE) basis, have been filled by LMI persons.

For job retention activities, the local government must document that the jobs would actually be lost without the CDBG assistance, and that either or both of the following conditions apply with respect to at least 51% of the jobs:

- The job is known to be held by an LMI person, or
- It can be reasonably expected that the job will turn over within the following two years and be filled by an LMI person upon turnover.

CALCULATING FTE JOBS

The Department of Labor allows jobs of 35 hours or more per week to be classified as full time positions. All such positions that were created through CDBG assisted initiatives should be broken out from the part time positions and counted fully. For instance, if a CDBG-assisted venture created 10 permanent jobs that involved 40-hour work weeks, and five more that involved 35-hour work weeks, the total number of full-time positions would be 15. If the same venture also created permanent part-time positions, these can also be counted once they have been converted to FTE positions. Notwithstanding the fact that 35-hour positions can be counted as full-time employment, any part-time positions requiring less than 35 hours per week must be converted to FTE positions using a factor of 40 hours for each full-time job.

Assume a firm added 20 new part-time employees, five of whom worked 30 hours, ten that worked 20 hours, and five that only worked ten hours each week.

The total amount of hours worked per week would be 400 hours (150+200+50), which divided by the factor of 40 hours per week yields the answer of ten FTE jobs.

JOB CREATION REQUIREMENTS

As part of the application process, each business requiring assistance must include a written commitment to hire or retain LMI persons. The business must also provide a hiring plan that details the number of jobs to be created, the number of jobs held or to be filled by LMI persons, the type of job, average wage, any special skills or training required, the timetable for hiring, and whether or not health care was offered to employees for the positions. The plan must indicate who will be responsible for hiring, collecting required data, and for training to be provided. Generally, it is expected that initial hiring by the business will be completed within 24 months from the time of CDBG assistance. Projections for future expansions or growth (i.e., those that are not directly related to the assistance) are generally not considered for purposes of determining the number of jobs to be created.

The job commitment should be realistic in determining the total number of jobs, the number of jobs to be filled by LMI persons, and the timeframe for hiring. Note that:

1. The MEDC uses the Application and other documents to qualify the proposed project under HUD regulations and will monitor the hiring to verify that job commitments have been fulfilled.
2. Failure to comply with the requirement to benefit at least 51% LMI persons could result in the State requiring repayment of all of CDBG funds spent on the project.
3. The UGLG must meet with appropriate business representatives to discuss hiring commitments, LMI job requirements and documentation prior to CDBG funds being awarded.
4. The business should track its employees by positions, such that when a position is created and an employee is hired, the LMI status of the employee in that position can be determined. Regardless of the number of jobs committed by the business, 51% of the total jobs actually created when hiring is complete must have been taken by LMI persons.

A CDBG-funded business is committed to creating 100 jobs and to filling 51% with LMI persons.
If the business actually creates 150 jobs, at least 76 must be filled by LMI persons.

5. The business should maintain applicant and employee income surveys, equal employment opportunity information, and payrolls or employee lists to document compliance with CDBG requirements. It is recommended that these records be maintained separately from a business's individual personnel records.

The UGLG is required to monitor on-site the business's progress in fulfilling the hiring and LMI job requirements and report to MEDC on a six-month basis. Every time a new job is filled, the employer must maintain documentation regarding the new job, demonstrating that it was not simply a re-hire for a position that had already been counted. The documentation for all first-time hires in new positions should include evidence that the new employee either met or didn't meet the LMI standard (Please see later sections of this chapter for more information on the protocol for determining LMI status of new employees.)

For job creation projects, the important fact is the status of the first employee to fill a new position. For example, assume a firm had 100 employees before deciding to participate in a CDBG-funded job creation initiative through which they then brought on 10 new full-time employees to give the firm a total of 110 FTEs. Next, assume that seven of the 10 new positions were originally filled by low-income workers. However, one of the seven new LMI employees was subsequently replaced by another worker that happened NOT to be low income. In this case, it is still appropriate to say that seven of the 10 new positions were **initially** filled by low-income workers, even though only six of the positions were held by low-income workers once the one employee left and was replaced by another individual that did not qualify as LMI.

When all of the intended jobs have been created, MEDC will monitor the hiring and LMI job documentation at the business. Records should continue to be kept by the business until notified by MEDC that the CDBG requirements have been fulfilled. These records should be retained for at least five years after the State has closed out a particular year's funding award with HUD. UGLGs must retain these records until the MEDC notifies them it no longer necessary.

The business must continue to collect income verifications from all applicants and employees hired until hiring is complete and the jobs are monitored or verified by the MEDC.

RULES FOR COUNTING JOBS

As a general rule, each assisted business will be considered individually for purposes of determining if at least 51% of the jobs created or retained will be for LMI persons. However, when CDBG funds are used to acquire, develop, or improve property (e.g., a shopping center or an industrial park), the 51% requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property as a direct result of the CDBG assistance.

Other businesses in the service area (or that may locate to the service area) that benefit from the public facility/improvement should not be considered. [Note: The principal business(es) must meet the 51% requirement when hiring is completed, and the total number of jobs actually created should not raise the cost per job to \$10,000 or more unless there are documented circumstances beyond the control of the business(es) that prevented the hiring of the total number of employees committed.] The general rule is that if the CDBG "cost per job" of the public facilities or improvements that are greater than or equal to \$10,000, then all jobs created or retained by all businesses in the service area must be tracked for the purpose of determining that at least 51% of the aggregate total jobs are for LMI persons.

This aggregation must include businesses that, as a result of the public facility/improvement, locate or expand in the service area of the public facility/improvement between the date the State awards the CDBG funds and one year after the physical completion of the public facility/improvement. This rule will rarely have any applicability, since it is not the State's intent to fund projects that are equal to or more than \$10,000 per job, except under special circumstances.

When counting jobs, the following policies apply:

1. Part-time jobs must be converted to FTE.
2. Only permanent jobs may be counted; temporary and contractual jobs are not allowed.
3. Transferred jobs may not be counted.
4. Seasonal jobs may be counted only if the season is long enough for the job to be considered the employee's principal occupation.
5. Jobs indirectly created by an assisted activity (i.e., "trickle-down" jobs) may not be counted.
6. Jobs must ultimately and within the term of work be located at the project site receiving the improvements

Jobs are only counted as newly created if they involve a new hire that joined the assisted firm after the effective date of the Grant Agreement. Firms are not able to claim any new positions that were created before the UGLG actually entered into an agreement with the State.

Any jobs that were eliminated prior to a firm entering into discussions to receive assistance are generally NOT considered for purposes of determining net job growth. Assume, for instance, that two months prior to engaging the UGLG to receive assistance, a firm terminates 20 positions. Then one month after the UGLG enters into a Grant Agreement to revitalize the firm's local operations, the firm improves its outlook and hires 15 new positions. In this instance, it is appropriate to count all of these 15 positions as new, rather than offsetting them by the 20 terminations that occurred prior to the effective date of the agreement. If, however, the firm cut positions after it knew it was going to receive assistance (even before it signed an official agreement), then these terminations should be considered as if they happened after the Grant Agreement (i.e., they must be subtracted out of any subsequent job additions in order to calculate a net new jobs total).

JOB RETENTION REQUIREMENTS

For projects proposing the retention of jobs that would otherwise be lost without CDBG assistance, at least 51% of the jobs to be retained must be held by persons from LMI families. HUD requires that there be clear, objective evidence and documentation that jobs would be lost without the CDBG assistance; therefore, using job retention as a basis for meeting the LMI National Objective is difficult. Consequently, in the past, few projects have qualified as benefiting LMI through job retention.

The business should track its employees by position, such that the LMI status of the employee in that position can be determined.

CERTIFYING LOW-INCOME STATUS OF EMPLOYEES FOR LMI JOBS

UGLGs must obtain individual income certifications from each employee claimed as filling a new low-income job. New employees should provide a sworn statement (using a standardized format) as to their actual family household income at the time the CDBG assistance is provided. This actual family household income figure will be used to project an annual income over a 12-month period.

LMI HOUSING OVERVIEW

An LMI Housing activity is one carried out for the purpose of providing or improving permanent, residential structures that will be occupied by LMI households upon completion. This would include, but not necessarily be limited to, the acquisition or rehabilitation of residential property, conversion of nonresidential property to residential.

Rental units occupied by LMI persons must be occupied at affordable rents as defined by MEDC as Fair Market Rent minus tenant paid utilities. Rental rehabilitation housing projects must demonstrate that there is a fair and equitable distribution of rental rehabilitation units.

Occupancy of housing shall be based on the household income of occupants using the following rules:

- If the structure contains two dwelling units, at least one must be occupied by LMI.
- For multi-unit structures that contain more than two dwelling units, at least 51% of the units must be occupied by LMI households after rehabilitation. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure.

LMI HOUSING

The following documentation of program benefit is required with the application for all CDBG-funded activities that are carried out under the LMI Housing National Objective:

1. For each unit to be assisted, the size and income of the occupant household.
2. A copy of a written agreement with each developer receiving CDBG assistance committing the total number of dwelling units in each multi-family structure assisted and the number of those units which will be occupied by LMI households after the assistance.

3. For rental housing, a description of how the affordability of units occupied by LMI households will be ensured.

The following documentation of program benefit is required for all CDBG-funded activities that are carried out under the LMI Housing National Objective. Additional back-up documentation must be kept on file.

1. For each assisted unit, the family size and income and ranges (30%, 50%, 80%) of occupant households and the amount of CDBG funds spent on rehabilitation.
2. For rental housing, documentation that the units occupied by LMI households are affordable.
3. Data on the racial, ethnic and gender characteristics of persons who are applicants for, participants in, and/or beneficiaries of CDBG activities. Regardless of whether the unit is affordable or market rate, HUD considers ALL units in the structure to be assisted, even unimproved units within the structure. Therefore, Grantees are required to report income and demographic information for the tenants living in all the units.

HOUSING – RENTAL REHABILITATION

Grantees that are assisting the construction of housing developments must also ensure that those developments comply with the Section 504 provisions regarding set asides of apartments for groups with specific disabilities. CDBG compliance related to Lead, Asbestos and Radon are addressed in the Environmental Review Chapter 5, Section 6. Lead and Asbestos testing costs and abatement costs may be covered by CDBG funds.

For CDBG assisted housing activities, the benefits of the assistance are shared with all of the occupants, and require that the income of all household members must be considered to determine the L/M income status of the beneficiaries at initial occupancy of the housing following completion of the CDBG assisted work. Each of the affordable unit occupants must sign a one-year lease.

Rental Rehabilitation Five Year Affordability Period

HUD issues rent limits annually and vary by jurisdiction. Housing Rental Rehabilitation Projects are monitored annually throughout the affordability period. There are Two phases of affordability targeting: – One-year lease at initial occupancy (program rule) – 5-year affordability period. The UGLG is responsible for informing building owner/manager of annual rent limit updates. Newly released CDBG rent limits include an effective date with the notice.

Rental affordability restrictions must be imposed on the property that run with the 5-year affordability period. If the property changes ownership during the affordability period, the new owner would be responsible for continuing the remaining years of the affordability period. Important to ensure that rental projects meet compliance requirements for affordability period include rents, property condition, and financial condition.

CDBG requires rental rehabilitation annual affordability report from owner to UGLG. The UGLG must verify occupancy and compliance with rental requirements each year – Owner Certification of property condition; might include pictures of property and rental inspections. An example of Non-Compliant Properties may include requiring specific repairs.

After completion of the rental rehabilitation project the MEDC/CDBG cannot pay for property repairs with CDBG funds during affordability period. If the property is not brought up to standard the UGLG must enforce their agreement with the owner or it may involve legal action.

Link to Income Limit Data: <https://www.huduser.gov/portal/datasets/il.html>

Rental units occupied by LMI households must be occupied at “affordable rents”. MEDC defines “affordable rents” as Fair Market Rent minus tenant paid utilities”.

Link to Fair Market Rents: <https://www.huduser.gov/portal/datasets/fmr.html>

Link to Utility Allowances: <https://www.huduser.gov/portal/datasets/husm/uam.html>

All rehabilitation must be in accordance with all locally adopted building and housing codes, standards and ordinances. If locally adopted and enforced building and housing codes do not exist, refer to the Housing Quality Standards (HQS) as set forth in 24 CFR 982.401. HQS define "standard housing" and establish the minimum criteria for the health and safety of program participants. Current HQS regulations consist of 13 key aspects of housing quality, performance requirements, and acceptability criteria to meet each performance requirement. HQS includes requirements for all housing types, including single and multi-family dwelling units, as well as specific requirements for special housing types such as manufactured homes, congregate housing, single room occupancy, shared housing, and group residences.

REQUIREMENTS FOR HOUSEHOLD ELIGIBILITY

Grantees must certify that CDBG program recipients meet the HUD eligibility requirements. The Grantee must follow the HUD guidance for income calculations, using **the IRS Form 1040 Adjusted Gross Income Calculation** method at <https://www.hudexchange.info/incomecalculator>

When using the IRS Form 1040 definition to determine an applicant's annual income, Grantees must use the **most current version** of the IRS Form 1040 – the version filed **for current year tax reporting purposes**. An example of the worksheet is Form 2-D.

Grantees are responsible for maintaining all documents used to determine and verify CDBG program recipient's income used with the HUD income calculator.

The MEDC has provided sample applications that can be used by Grantee for ALL rental applicants. If a Grantee chooses to use their application, it must capture the same information as the sample provided, Form 2-E and Form 2-F. Grantee must use the Rental Rehab Project Checklist, Form 2-G to ensure all required documents have been obtained. Forms 2-H through 2-L referenced within the Rental Rehab Project Checklist are listed below and posted on the website.

SECTION 2 – ELIMINATION OR PREVENTION OF SLUMS AND BLIGHT

AREA BASIS

To qualify under this National Objective on an area basis, an activity must meet the following:

The area must be designated as a slum or blighted area by the applicant and must meet the definition of a slum, blighted, deteriorated, or deteriorating area under a State or local law. A sample UGLG Ordinance Defining Slum and Blighted Area (Form 2-B) used to define slum or blighted areas is attached to this chapter. A sample resolution for a local government to use to declare a specific area as slum/blighted is also attached to this chapter, Form 2-B. Both are required and must be re-determined every ten years for continued qualification; AND

The area must exhibit at least one of the following physical signs of blight or decay:

1. Public improvements are in a general state of deterioration throughout the designated area, OR
2. There are a substantial number of deteriorated or deteriorating buildings throughout the designated area. For example, at least 25% of properties (or such other percentage determined to be significant as stipulated in the State or local law) throughout the area must have one or more of the following conditions:
 - a. Physical deterioration of buildings or improvements,
 - b. Abandonment of properties, chronic high-occupancy turnover rates or chronic high-vacancy rates in commercial or industrial buildings,

- c. Significant declines in property values or abnormally low property values relative to other areas in the community, OR
- d. Known or suspected environmental contamination, AND
- e. 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, AND
- f. 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.)

For rehabilitation of residential properties undertaken under this category, the following two conditions also apply:

1. Each deteriorated building must be considered substandard under local code. All deficiencies making such a building substandard and a blighting influence must be corrected before less critical work on the building may be undertaken. The unit of local government must develop minimum standards for building quality that take into account local conditions, AND
2. 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)

Grantees should classify an activity as addressing the Slums or Blight National Objective on an area basis only after receiving direct approval to do so by the MEDC prior to submitting a Part I Application.

SPOT BASIS

To qualify under this National Objective on a spot basis, an activity must be specifically designed to eliminate specific conditions of blight or physical decay on a spot basis (not located in a slum or blighted area). It must be limited to the following activities:

Acquisition. If acquisition or relocation is undertaken, it must be a precursor to other activities (funded with CDBG or other resources) that directly eliminate the specific conditions of blight or physical decay.

Clearance. Financial assistance offered to a business to demolish a decayed structure and construct a new building on the site.

Relocation. The State program generally does not involve relocation and, consequently, it is not anticipated that any UGLG would be called upon to use this eligibility category.

Historic Preservation. For Title I purposes, properties that qualify as historic properties are landmarks, districts, sites, buildings, structures or objectives which:

- Are listed in or eligible for listing in the National Register of Historic Places, or
- Are listed in a State or local inventory of historic places, or
- Are designated by State law or local ordinances as a State or local landmark or historic district.

Pursuant to 24 CFR 570.208(b)(2), CDBG funds may be used for acquisition, clearance, relocation, historic preservation and building rehabilitation activities which eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area. While rehabilitation done under this criterion is limited to the extent necessary to eliminate specific conditions detrimental to the public health and safety, this restriction does not extend to historic preservation carried out under the Spot Blight National Objective. Historic preservation activities are limited instead to activities that are determined to contribute to the conservation, and preservation of historic buildings, places, and areas.

Rehabilitation of Buildings. Only allowable to the extent necessary to eliminate specific conditions detrimental to public health and safety such as rehabilitation of a decayed community center that eliminates code violations that are detrimental to the health and safety of potential occupants like faulty wiring, falling plaster, or other similar conditions.

The State can approve no more than 30% of its funds for activities that address the Slum or Blight National Objective, according to requirements of Title I of the Housing and Community Development Act. UGLGs should classify an activity as addressing the Slums or Blight National Objective on a spot basis only after receiving direct approval to do so by the MEDC prior to submission of a Part I Application.

SECTION 3 – URGENT NEED

Use of the Urgent Need National Objective category is extremely rare. It is designed only for activities that alleviate emergency conditions. Urgent need activities must meet the following qualifying criteria:

- The existing conditions must pose a serious and immediate threat to the health or welfare of the community,
- The existing conditions are of recent origin or recently became urgent (generally, within the past 18 months),
- The recipient is unable to finance the activity on his or her own, and
- Other sources of funding are not available.

In recognition of the extraordinary circumstances that must be present in order to justify the use of this National Objective, UGLGs are generally not allowed.

SECTION 4 – ADDITIONAL NATIONAL OBJECTIVE CONSIDERATIONS

PUBLIC FACILITIES/INFRASTRUCTURE

In cases where the activity undertaken is a public improvement and the activity is clearly designed to serve a primarily residential area, the activity must meet the LMI Area Benefit criteria, whether or not the requirements for job creation/retention are also met, in order to qualify as benefiting LMI persons. Because it is required that all LMI persons be connected to water/sewer infrastructure at no cost, an infrastructure project must meet the 51% LMI area benefit test for persons and households.

ACQUISITION OF REAL PROPERTY

Qualifying an acquisition activity under one of the CDBG National Objectives depends entirely on the use of the acquired real property following its acquisition. A preliminary determination of compliance may be based on the planned use. The final determination must be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisition is for the purpose of clearance that will eliminate specific conditions of blight or physical decay, the clearance activity may be considered the actual or “end” use of the funds. However, any subsequent use or disposition of the cleared property must be treated as a “change of use” under CDBG regulations.

These requirements are for any single piece of real property, acquired or improved, in whole or in part, using CDBG funds of \$100,000 or more. Thus, if the UGLG were to obtain two properties for \$60,000 each with the intent of joining them for a single project that was later reconsidered and abandoned, the above rules would not restrict the subsequent sale/reuse of these two properties. If property is to be acquired for a general purpose, such as housing or economic development, and the actual specific project is not yet identified, the grant recipient must document the general use it intends for the property, identify the National Objective category it expects will be met, and make a written commitment to use the property consistent with CDBG requirements.

RELOCATION

Where CDBG funds are used for required relocation assistance, the relocation assistance is considered to address the same National Objective as is addressed by the displacing activity. Where the relocation assistance is voluntary, the applicant may qualify the assistance either on the basis of the National Objective addressed by the displacing activity or, if the relocation assistance is primarily to LMI persons, on the basis of benefiting LMI persons. The State program generally does not support projects that involved relocation.

DOWNTOWN/COMMERCIAL OR ESSENTIAL GOODS AND SERVICES PROJECTS

To qualify under the LMI Area Benefit National Objective, the service area for downtown or commercial area revitalization projects must be primarily residential in nature and have at least 51% LMI residents. These types of projects may also qualify as LMI Job Creation/Retention.

If assistance is provided to one or more businesses, then the project may qualify under LMI Area benefit if the service area is primarily residential and is 51% Low and Moderate Income. There must also be documentation that the business is providing essential goods and services to that service area's population. Goods and services might include grocery stores, dry cleaners, pharmacies, health care, etc. A high-end boutique or souvenir shop would not be considered as providing essential goods and services. Assistance to a local business providing essential goods and services may also qualify as a Job Creation/Retention activity that must comply with the requirements as specified in Funding Guide.

SECTION 5 – DOCUMENTING NATIONAL OBJECTIVES AND BENEFIT**LMI AREA BENEFIT ACTIVITIES**

The following documentation of program benefit is required at project completion for all CDBG-funded activities that are carried out under the LMI Area Benefit National Objective:

- As-built drawings of public improvements (if applicable) or other evidence showing the area actually served.
- Data showing the income characteristics of all families and unrelated individuals actually served.
- Data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the CDBG activities.
- Documentation of occupancy and income characteristics of all families and unrelated individuals receiving CDBG assistance for special assessments.

LMI JOB CREATION/RETENTION

The following documentation of program benefit is required with the application for all CDBG-funded activities that are carried out under the LMI Job Creation/Retention National Objective. Recipients are required to verify job creation/retention on-site on a semiannual basis.

Job Creation. For an activity that creates jobs, the UGLG must document that at least 51% of the jobs will be for LMI persons on the Job Creation Summary Report, Form 2-C.

Documentation for each assisted business must include a copy of a written commitment by each business that at least 51% of the jobs created (full-time or FTE) will be held by LMI persons. The business must also provide a hiring plan that details the number of jobs to be created, the number of jobs estimated to be filled by LMI persons, the types of jobs, any special skills or training required, the timetable for hiring, and whether or not healthcare will be provided for each type of position. The plan must indicate who will be responsible for hiring and collecting required data and for any training to be provided.

Job Retention. The following documentation of program benefit is required at project completion on the Job Summary Report form for all CDBG-funded activities that are carried out under the LMI Job Creation/Retention National Objective. Recipients are required to verify job creation/retention on-site on a semiannual basis.

After job creation and hiring is complete, copies of company payrolls or an employment listing (including a list of current employees), preferably by job title, of all permanent jobs filled and which were filled by LMI persons.

Information on the numbers of persons in the immediate family of all applicants and newly hired employees, and their annual (pre-employment) family income in ranges of 30%, 50%, 80% of median income.

For each retained job filled due to a turnover commitment, information on the size and annual income of the immediate family of all applicants (prior to being hired) for the job.

After completion of job retention commitments, copies of company payrolls or an employment listing, preferably by job title, of all permanent jobs filled through turnover, if applicable, and which were held by LMI persons.

Data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of CDBG activities.

SLUM OR BLIGHT

The following documentation of program benefit is required with the application for all CDBG-funded activities that are carried out under the Slum or Blight National Objective:

Area Basis. A resolution and ordinance from the applicant governing body designating the area as slum or blighted, providing a description of the conditions that qualified the area at the time of designation, and providing a description of how the conditions contributed to the area's deterioration.

A map and description of the boundaries of the designated area showing the location of all buildings and public improvements that are deteriorated.

Inventory and detailed description documenting those public improvements in a general state of deterioration. Deterioration of a single element of infrastructure, such as a road or a sidewalk, does not meet this criterion.

Inventory and detailed description of all buildings in the target area and their condition. Include the total number of buildings, the type of buildings, and the percentage of buildings that are deteriorated in the area as well as vacancy rates.

Evidence that the activity being proposed for CDBG assistance addresses one or more of the conditions that contributed to the deterioration of the area.

To document program benefit at project completion, the activities undertaken must address the identifying slum or blight conditions.

Spot Basis. A building inspection report or other evidence that describes the specific condition of slum or blight and how the activity to be assisted with CDBG funds will eliminate the blighted condition.

For rehabilitation, a description of how the assistance will be limited to the items necessary to eliminate specific conditions detrimental to the public health and safety. To document program benefit at project completion for activities qualifying under the Slum/Blight Area Basis National Objective, the unit of local government must:

- Identify all activities completed, and
- Provide evidence that the activity addressed one or more of the conditions that contributed to the deterioration of the area.

To document program benefit at project completion for those activities under the Slum or Blight Spot Basis National Objective, the unit of local government must provide evidence that the activities completed addressed the conditions that threatened the health or welfare of the community.

Urgent Need. Please note that the Urgent Need objective may only be used in exceptional instances, where the MEDC issues the UGLG authority to use this National Objective. In these instances, the MEDC will provide the UGLG further instructions on requirements.

CHAPTER 2 FORMS

- 2-A Income Survey Application
- 2-B Ordinance Defining Slum and Blighted Area
- 2-C Job Creation Summary Report
- 2-D RR Income Eligibility Calculation SAMPLE
- 2-E RR Tenant Application
- 2-F RR Authorization to Release Information, non-LMI units SAMPLE
- 2-G RR Project Checklist
- 2-H RR Land Contract Subordination SAMPLE
- 2-I RR Renovate Right, EPA-740-K-10-001
- 2-J RR Equal Opportunity for All, HUD-1686-1-FHEO
- 2-K RR Occupant Protection Plan, DCH-1109
- 2-L RR Annual Affordability Report