Board of County Commissioners of Santa Fe County
County Commission Chambers
County Administrative Building
102 Grant Avenue
Santa Fe NM 87501

SPECIAL MEETING
Community Development Block Grant (CDBG) Program

June 13, 2017, at 2:00 p.m.

Please turn off cellular phones during the meeting.

Agenda

I. **Opening Business**
- **A. Call to Order**
- **B. Roll Call**
- **C. Approval of Agenda (Action Item)**

II. **CDBG Program Overview**
- **A. CDBG Program Objectives, Requirements, and Limitations. (Growth Management Department/Paul Olafson)**
  1. **Program Objectives.**
  2. **Eligible Applicants.**
  3. **Eligible and Ineligible Activities.**
  4. **Program Requirements.**
  5. **Application Requirements.**
- **B. Current Application and Past CDBG Projects (Growth Management Department/Paul Olafson)**
- **C. Questions**
- **D. Citizen Input**

III. **Concluding Business**
- **A. Adjournment (Action Item)**

Santa Fe County makes every practical effort to assure that auxiliary aids or services are available for meetings and programs. Individuals who would like to request auxiliary aids or services should contact Santa Fe County Manager's Office at (505) 986-6200 in advance to discuss specific needs (e.g., interpreters for the hearing impaired or readers for the sight impaired).

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

Date: May 24, 2017

To: Board of County Commissioners

From: Tony Flores, Deputy County Manager
Paul Olafson, Planning Projects Manager

Via: Katherine Miller, County Manager

Item: **2017 Community Development Block Grant (CDBG) Program Overview Presentation and Discussion – Public Hearing**

BACKGROUND:

The Department of Housing and Urban Development's Community Development Block Grant (CDBG) program, administered by the New Mexico Department of Finance and Administration's Local Government Division (DFA), will be accepting applications for new CDBG projects in June of 2017.

Program Objectives:

Project applications shall be address one of three national program objectives:

1. Benefit principally low and moderate income families.
2. Aid in the prevention of slum or blight.
3. Meet urgent community development needs where an existing condition poses a threat to the health and welfare of the community and other financial resources are not available.

Eligible Applicants:

- All counties/incorporated municipalities except the cities of Albuquerque, Las Cruces, Santa Fe, Farmington, and Rio Rancho.
- Water and mutual domestic associations may apply for a planning grant through their county; sanitation districts, public nonprofit groups, etc. cannot apply directly for assistance but may apply through an eligible municipality or county.
- Indian Pueblos and tribes receive funding directly from HUD.

Eligible Activities/Categories:
Project funding may be used for the following purposes:

- ***Community Infrastructure*:** Water and sewer systems; street improvements consisting of roads, streets, curbs, gutter, sidewalks, traffic control devices; municipal utilities.
- ***Housing***: Real property acquisition; rehabilitation; clearance; provision of public facilities to increase housing opportunities; code enforcement; historic preservation activities; a maximum of $65,000 in CDBG funds per home can be used on rehab/repair activities.
- ***Public Service Capital Outlay***: Community centers; senior citizen centers; community facilities designed to provide health, social, recreational and other services to residents.
- ***Economic Development***: Assists communities in creating or retaining jobs for low and moderate income persons; creation or retention of businesses owned by community residents.
- ***Emergency:*** Addresses life threatening situations resulting from disasters or threats to health and safety; must have appropriate state agency concurrence; local resources must be non-existent or unavailable.
- ***Planning***: Grant assistance must be used for a comprehensive plan if there has not been a current or updated plan within the last five years; feasibility studies; base mapping, aerial photography, GIS systems; development of codes and ordinances; limit of $50,000.
- ***Colonias:*** Communities must be within 150 miles of the U.S. -Mexico border and be designated by the county or municipality where it is located. The criteria necessary to qualify are lack of potable water supply, inadequate sewage system and lack of decent, safe, and sanitary housing.

Ineligible Activities:
Project funding may not be used for the following purposes:

- City halls or county courthouses (the only exception is if city halls or county courthouses are not ADA compliant)
- General operation and maintenance expenses of public facilities
- Housing allowance payments and mortgage subsidies
- Expenditures for political purposes
- Costs involved in preparing applications and securing funding

Program Requirements:

- Applicants must conduct at least one public hearing prior to selecting a project to advise citizens of estimated CDBG funds available; types of projects available; obtain recommendations from citizens regarding community development and housing needs. (A minimum of three hearings is recommended.)
- Citizen participation must be encouraged with emphasis on low and moderate income persons by publishing public hearing notices in English and Spanish, and using other means such as media or posting flyers in an effort to reach the public.
- Recommendations from the public are to be considered and the project is selected at an official scheduled meeting of the governing body.
- Each CDBG application must address at least one of the three national objectives:
    1. Activities must benefit low and moderate income persons
    2. Prevention of slum and blight
    3. Must meet urgent or life-threatening community development need

Application Requirements

- Application requests are limited to $750,000 with certified cost estimates and $500,000 without certified cost estimates. You must also submit a phased request.
- Applicant must meet threshold requirements: Any grantee with one or more active grants in the infrastructure, public service, capital outlay categories, and Colonias projects, cannot apply for additional funding until the current project is fully closed.
- Rural applicants (3,000 or less population) must provide a minimum 5% cash match; Non-Rural applicants must provide a 10% cash match.
- Applicants may request a waiver of the matching requirements in the absence of local resources or apply for a loan to meet the matching requirement at appropriate interest rates.
- Applications are scored by rating certain criteria such as description and need; benefit to low and moderate income persons; leveraging; citizen participation; planning; feasibility and readiness; user fees and revenues; and cost benefit. The Community Development Council (CDC) also will take into consideration current economic situations, if the entity was funded last year and application presentation.

SUMMARY OF CDBG APPLICATION AND PROJECT SELECTION PROCESS:

At the March 28th and April 11th BCC meeting, staff presented an overview of the 2017 CDBG application process. The following bullet points identify key dates in the 2017 CDBG process:

- CDBG Application Workshop - March 15, 2017
- Low / Moderate Income (LMI) Survey Methodology submission deadline - April 14, 2017
- Application deadline- June 23, 2017
- Applicant notice of eligibility - July 5, 2017
- Selection of projects for grant award - September 2017

Along with the current DFA CDBG guidelines, the New Mexico Administrative Code 2.110.2 (NMAC) outlines the CDBG Rules and Regulations (effective November 15, 2016). Included within the NMAC are the program requirements including the application review and evaluation process. It is important to note the highest rated evaluation criteria are Benefit to Low/Moderate Income Beneficiaries and Appropriateness and Feasibility/Readiness.

As required within the CDBG guidelines, any local unit of government that contemplates submission of an application shall conduct a minimum of one (1) CDBG Public Hearing to solicit project ideas and to make a formal determination of the project to be submitted for consideration. The NMAC also requires a second public hearing following the selection of a project for application.

CURRENT AND PAST CDBG PROJECTS:

Currently the County has no open CDBG projects. Since approximately 2000, the County has completed several projects with CDBG funding, including:

- Greater Glorieta Mutual Domestic Water Association system improvements
- La Familia Medical Center
- Marcos P. Trujillo Teen Center
- Nancy Rodriquez Community Center
- Youth Shelters facility

CITIZEN INPUT:

The purpose of the CDBG Public hearings is to allow the Board to solicit citizen input regarding community development and infrastructure needs as well as other aspects of the County's participation in the CDBG program. This meeting is designed to provide opportunity for this public input and will include a public comment period.

ACTION REQUESTED:

This is the third of three Special BCC Meetings regarding the 2017 CDBG application process. New Mexico Administrative Code 2.110.2 (NMAC) requires a second public hearing following the selection of a project for application for CDBG funding. At the April 11th, 2017 BCC meeting the Board selected the East Mountain Health Facility as the County's project for 2017 CDBG project funding. This decision was memorialized with the Board's approval of Resolution 2017-34 (see attached).

No action is requested with this item.

EXHIBITS:

Exhibit A – New Mexico Administrative Code 2.110.2

Exhibit B – Resolution 2017-34



TITLE 2 PUBLIC FINANCE
CHAPTER 110 LOCAL GOVERNMENT GRANTS
PART 2 SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT

2.110.2.1 ISSUING AGENCY: Department of Finance and Administration Local Government Division, Suite 202 Bataan Memorial Building Santa Fe, New Mexico 87501.
[2.110.2.1 NMAC - Rp, 2 110.2.1 NMAC, 11/15/2016]

2.110.2.2 SCOPE: All counties and incorporated municipalities, except the cities of Albuquerque, Farmington, Las Cruces, Santa Fe and Rio Rancho.
[2.110.2.2 NMAC - Rp, 2 110.2.2 NMAC, 11/15/2016]

2.110.2.3 STATUTORY AUTHORITY: Title 1 of the Housing and Community Development Act of 1974, as amended.
[2.110.2.3 NMAC - Rp, 2 110.2.3 NMAC, 11/15/2016]

2.110.2.4 DURATION: Permanent.
[2.110.2.4 NMAC - Rp, 2 110.2.4 NMAC, 11/15/2016]

2.110.2.5 EFFECTIVE DATE: November 15, 2016, unless a later date is cited at the end of a section.
[2.110.2.5 NMAC - Rp, 2 110.2.5 NMAC, 11/15/2016]

2.110.2.6 OBJECTIVE: The objective of Part 2 of Chapter 110 is to establish procedures to be used by counties and incorporated municipalities when applying for a small cities community development block grant.
[2.110.2.6 NMAC - Rp, 2 110.2.6 NMAC, 11/15/2016]

2.110.2.7 DEFINITIONS:

A. "Asset management" means a systematic process of maintaining, upgrading, and operating physical assets cost-effectively. It combines engineering principles with sound business practices and economic theory, and it provides tools to facilitate a more organized, logical approach to decision making. It is a planning process that ensures the most value from each asset with a plan to rehabilitate and replace them when necessary. An accurate and up-to-date asset management plan will help communities comply with the government accounting standards board's statement #34 (GASB 34), an accounting standard for publicly owned systems.

B. "Blighted area" means, pursuant to the Metropolitan Redevelopment Act, Section 3-60A-4 NMSA 1978 (as amended), "an area within the area of operation other than a slum area that, because of the presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or lack of adequate housing facilities in the area or obsolete or impractical planning and platting or an area where a significant number of commercial or mercantile businesses have closed or significantly reduced their operations due to the economic losses or loss of profit due to operating in the area, low levels of commercial or industrial activity or redevelopment or any combination of such factors, substantially impairs or arrests the sound growth and economic health and well-being of a municipality or locale within a municipality or an area that retards the provisions of housing accommodations or constitutes an economic or social burden and is a menace to the public health, safety, morals or welfare in its present condition and use."

C. "CDBG" means the small cities community development block grant program.

D. "Council" means the New Mexico community development council.

E. "Council of governments" means a regional association of municipalities, counties and special districts formed to provide planning and other services to its member organization.

F. "Department" means the department of finance and administration.

G. "Division" means the local government division.

H. "Economic development" means an activity that improves a community's economic base by using private and public investments that provide expanded business activity, jobs, personal income and increased local revenues in a defined geographic area.

I. "Federal rules" means code of federal regulations, housing and urban development 24 CFR Part 570 which governs the CDBG program.

J. "ICIP" means an infrastructure capital improvement plan. An ICIP is a planning document developed by a unit of local government, water association, or land grant/merced that includes capital improvement priorities over a five year period and is developed and updated annually. An ICIP includes policy direction, funding time frames, estimated costs, justifications, and details of each specific infrastructure capital improvement project proposed, by year, over the five year period.

K. "Land grant/merced" means a political subdivision of the state organized under Section 49-1-1 through 49-1-23 NMSA 1978, and Grants General Provisions.

L. "Low and moderate income person" means a member of a household whose income would qualify as "very low income" under the Section 8 housing assistance payments program. Section 8 limits are based on fifty percent of the county median income. Similarly, CDBG moderate income is based on Section 8 "lower income" limits, which are generally tied to eighty percent of the county median low and

moderate income.

M. **"Non-rural"** means a county or an incorporated municipality that does not meet the definition of rural.

N. **"Program income"** means amounts earned by a unit of general local government or its sub recipient that were generated from the use of CDBG funds.

O. **"Rural"** means a county with a population of less than 25,000 and an incorporated municipality with a population of less than 3,000. For purposes of determining population a unit of local government, water association, or land grant/merced must use Attachment I at the end of 2.110.2 NMAC.

P. **"SBA"** means the United States small business administration.

Q. **"Set-aside"** means a portion of all CDBG funding received by the CDBG program that is annually allocated by the council to be used only for certain set-aside categories that are chosen by the council.

R. **"Slum area"** means, pursuant to the Metropolitan Redevelopment Act, Section 3-60A-4 NMSA 1978 (as amended), "an area within the area of operation in which numerous buildings, improvements and structures, whether residential or non-residential, which, by reason of its dilapidation, deterioration, age, obsolescence or inadequate provision for ventilation, light, air, sanitation or open spaces, high density of population, overcrowding or the existence of conditions that endanger life or property by fire or other causes, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime and is detrimental to the public health, safety, morals or welfare."

S. **"Units of local government"** means an incorporated municipality or county.

T. **"Water association"** means political subdivisions of the state organized under Section 3-29-1 through Section 3-29-20 NMSA 1978, the "Sanitary Projects Act" or Section 73-21-1 through Section 73-21-55 NMSA 1978, the "Water and Sanitation District Act".

[2.110.2.7 NMAC - Rp, 2 110.2.7 NMAC, 11/15/2016]

2.110.2.8 INTRODUCTION:

A. The council is responsible for allocating grants under the CDBG program to assist local communities with basic infrastructure and community development needs.

B. These application regulations will govern the CDBG appropriation allocated to the state from the United States department of housing and urban development.

C. As part of their administrative responsibility, the council and the division will continue to provide technical assistance to prospective applicants and grantees. The nature of these programs requires a thorough outreach effort to ensure that units of local government are aware of program requirements.

D. The council and the division assure local entities and citizens of the state of New Mexico that public comment will be solicited should the council choose to make any substantial changes to these application regulations.

110.2.8 NMAC - Rp, 2 110.2.8 NMAC, 11/15/2016]

2.110.2.9 PROGRAM OBJECTIVES:

A. The CDBG program was established under Title I of the Housing and Community Development Act of 1974, as amended, to assist communities in providing essential community facilities, providing decent housing for residents, promoting economic development, and maintaining a suitable living environment.

B. State and national objectives of the CDBG program require that assistance be made available for activities that address at least one of the following, which are described in greater detail in 2.110.2.16 NMAC:

(1) benefit principally low and moderate income families;

(2) aid in the prevention or elimination of slums or blight;

(3) meet other community development needs of recent origin having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community where other financial resources are not available to meet such needs.

C. The state encourages successful applicants to award a fair share of contracts and subcontracts to small, minority, and women's businesses and to commit itself to hire locally for any employment opportunities that will be created as a result of project funding.

[2.110.2.9 NMAC - Rp, 2 110.2.9 NMAC, 11/15/2016]

2.110.2.10 ELIGIBLE APPLICANTS:

A. All counties, incorporated municipalities, and New Mexico mortgage finance authority (MFA) are eligible to apply except: the city of Albuquerque, the city of Farmington, the city of Las Cruces, the city of Santa Fe and the city of Rio Rancho which cannot apply since they receive funding directly from the department of housing and urban development (Title I, Section 106) as entitlement cities.

B. Other entities such as water associations, sanitation districts, land grants, public nonprofit groups, council of governments, mutual domestic water consumer associations, etc., cannot apply directly for assistance, other than planning grants.

C. However, these entities may be involved in the execution of an approved CDBG project if the eligible applicant chooses to operate the program through such an entity under a contractual agreement.

D. Indian pueblos and tribes receive funding directly from the department of housing and urban development (Title I, Section 107). Native American tribes are encouraged to submit applications to the Albuquerque HUD Office of Native American Programs, 201 3rd St., N.W., ite 1830, Albuquerque, New Mexico 87102-3368, (505) 346-6923.

[2.110.2.10 NMAC - Rp 2 110.2.10 NMAC, 11/15/2016]

2.110.2.11 ELIGIBLE ACTIVITIES/CATEGORIES: Applicants may apply for funding assistance under the following categories:

A. **Community infrastructure:** Eligible activities may include, but are not limited to:
(1) real property acquisition;
(2) construction or rehabilitation of the following:
(a) water systems;
(b) sewer systems;
(c) municipal utilities;
(d) roads;
(e) streets;
(f) highways;
(g) curbs;
(h) gutters;
(i) sidewalks;
(j) storm sewers;
(k) street lighting;
(l) traffic control devices;
(m) parking facilities;
(n) solid waste disposal facilities.

B. **Housing:** Eligible activities may include, but are not limited to:
(1) real property acquisition;
(2) rehabilitation;
(3) clearance;
(4) demolition and removal of privately-owned or acquired property for use or resale in the provision of assisted housing;
(5) provision of public facilities to increase housing opportunities;
(6) financing the repair, rehabilitation and in some cases reconstruction of privately-owned residential or other properties through either loan or grant programs;
(7) certain types of housing modernization;
(8) temporary relocation assistance;
(9) code enforcement; and
(10) historic preservation activities;
(11) not to exceed sixty-five thousand dollars ($65,000) in CDBG funds per home can be used on home rehabilitation/repair ivities.

C. **Public facility capital outlay:** Eligible activities may include, but are not limited to:
(1) real property acquisition;
(2) construction or improvement of community centers;
(3) senior citizen centers;
(4) non-residential centers for the handicapped such as sheltered workshops;
(5) other community facilities designed to provide health, social, recreational or similar community services for residents.

D. **Economic development:** The economic development category is established to assist communities in the promotion of economic development and is described in 2.110.2.26 NMAC.

E. **Emergency:** The emergency fund provides funding for emergency projects that address life threatening situations resulting from disasters or imminent threats to health and safety.
(1) Applications under this category will be accepted throughout the year.
(2) Application shall include verification of emergency from an authoritative state agency documenting the need for the emergency project, and shall be submitted no later than 18 months from the date of the authoritative state agency's written verification of emergency.
(3) An applicant for emergency funding must verify that it does not have sufficient local resources to address the life threatening condition; and that other federal or state resources have been explored and are unavailable to alleviate the emergency.

F. **Planning:** Municipalities, counties, water associations, water and sanitation districts, and land grants are eligible to apply directly for planning grants. Municipalities or counties who have a comprehensive plan dated five years or greater from the date of application submission are required to use CDBG planning grant funds solely for the development of a comprehensive plan. A comprehensive plan must be focused on a community's physical development over the next 15-20 years related to the goals and policies of the community, developed with input from all segments of the community, adopted by resolution or ordinance, and include as a minimum the following required elements and may include the following optional elements:
(1) required elements:
(a) land use including:
(i) an analysis and mapping of existing land patterns and an inventory of the amount, type and intensity uses by land category;
(ii) a projection of the distribution, location and extent of future land uses by land use category over a 20-year period;
(iii) goals, objectives and policies that address maintaining a broad variety of land uses, including the

range of uses existing when the plan is adopted or amended; and

(iv) specific actions and incentives that the entity may use to promote planned development, reduction in greenhouse gas emissions, or otherwise encourage certain identified development patterns and the locations where such development patterns ›uld be encouraged;

(b) housing including:

(i) an analysis of existing housing supply and demand, and forecasted housing needs;

(ii) goals, objectives and policies for the improvement of housing quality, variety and affordability, for reduction of greenhouse gas emissions, and for provision of adequate sites for housing and housing opportunities for all segments of the community;

(iii) a description of the actions that may be taken to implement housing goals, objectives and policies; and

(iv) must comply with the affordable housing act.

(c) transportation including:

(i) description and assessment of the location, type, capacity and condition of existing transportation facilities, such as freeways, arterial and collector streets, mass transit or other modes of transportation as may be appropriate;

(ii) goals, objectives and policies for encouraging safe, convenient, efficient and economical transportation, including mass transit and facilities for bicyclists and pedestrians, for reduction of greenhouse gas emissions, and potential funding mechanisms; and

(iii) a description and assessment of proposed location, type and capacity of proposed transportation facilities designed to implement transportation goals, objectives and policies and a description of funding mechanisms that will be used to fund proposed transportation improvements;

(d) infrastructure including:

(i) a description and assessment of the location, type, capacity and condition of existing infrastructure, including emergency services, sewage, drainage, local utilities and other types of facilities;

(ii) goals, objectives and policies for promoting the efficient provision of infrastructure; and

(iii) a description and assessment of proposed facility expansion and improvements designed to support planned uses and implement infrastructure goals, objectives and policies;

(e) economic development including:

(i) a description of existing job composition and trends by industry and location characteristics, such as ›cess to transportation or proximity to natural or human resources, that influence the economic development potential of the entity;

(ii) goals, objectives and policies for promoting economic development; and

(iii) a description of the actions that the entity will take to implement economic development goals, objectives and policies;

(f) water including:

(i) description and assessment of the sources of water supply;

(ii) the existing demand for water by residential, commercial, institutional, industrial and recreational sectors;

(iii) assessment of the unaccounted for water losses due to leaks, theft or other reasons;

(iv) goals, objectives and policies for promoting the efficient use of water and for managing periods of drought; and

(v) an analysis of the demand for water that will result from future growth projected in the plan, when added to existing uses, and how the demand for water that will result from future projected growth will be served by current water supplies, water conservation, water reuse or a plan to obtain additional water supplies or increase water use efficiencies;

(g) hazard including:

(i) an analysis of the risks of hazards such as wildfire, floods, extreme weather conditions, accidents, and terrorism;

(ii) goals, objectives and policies for hazard mitigation; and

(iii) a description of the actions that will be taken to mitigate hazards; and

(h) implementation; a compilation of the plan's goals, objectives, policies, standards or guidelines, along with specific actions to be completed in a stated sequence, which start with adoption of the comprehensive plan by ordinance;

(2) optional elements:

(a) drainage;

(b) parks, recreation and open space;

(c) tourism;

(d) growth management;

(e) fiscal impact analysis;

(f) intergovernmental cooperation;

(g) social services;

(h) historic preservation;

(i) asset management plan.

(3) if the entity has a comprehensive plan that is not more than five years old at the date of application, it may apply for funding assistance for any of the following planning activities:

(a) data gathering analysis and special studies;
(b) base mapping, aerial photography, geographic information systems, or global positioning satellite studies;
(c) improvement of infrastructure capital improvement plans and individual project plans;
(d) development of codes and ordinances, that further refine the implementation of the comprehensive plan;
(e) climate change mitigation and adaptation plan;
(f) preliminary engineering report (according to United States department of agriculture/rural utilities service (USDA/RUS) guidelines);
(g) related citizen participation or strategic planning process;
(h) other functional or comprehensive planning activities;
(i) asset management plan; or
(j) regionalization of infrastructure and service delivery.

(4) applicants may apply for planning assistance throughout the year.

G. Colonias:

(1) The Colonias category is established in the amount of ten percent of the annual CDBG allocation for specific activities including water, sewer and housing improvements, which are the three conditions that qualify communities for designation to be carried out in areas along the U.S. - Mexican border.

(2) Eligible applicants for the Colonias set aside are municipalities and counties located within 150 miles of the U.S. - Mexico border.

(3) Colonias must be designated by the municipality or county in which it is located. The designation must be on the basis of objective criteria, including:

(a) lack of potable water supply; or
(b) lack of adequate sewage systems; or
(c) lack of decent, safe and sanitary housing.

(4) Appropriate documentation to substantiate these conditions must be provided along with the application for funding.

[2.110.2.11 NMAC - Rp, 2 110.2.11 NMAC, 11/15/2016]

2.110.2.12 OTHER ELIGIBLE ACTIVITIES:

A. Administrative costs associated with implementing a program such as preparing environmental reviews, and other costs for ...vices are eligible activities.

B. Although the costs of conducting program audits are considered an eligible activity, it is recommended that they be paid by the applicant to expedite grant closeout.

C. Applicants may use fifteen percent of a CDBG grant for public facility program activities including:

(1) employment;
(2) crime prevention;
(3) child care;
(4) drug abuse prevention;
(5) education;
(6) energy conservation;
(7) welfare and recreation.

D. The council may pledge future CDBG allocations to guarantee repayment of loans to non-entitlement municipalities and counties for CDBG eligible projects in accordance with Section 108 of the Housing and Community Development Act of 1974, as amended.

[2.110.2.12 NMAC - Rp, 2 110.2.12 NMAC, 11/15/2016]

2.110.2.13 INELIGIBLE ACTIVITIES: The following are among the activities that are not eligible for CDBG funding assistance:

A. construction or rehabilitation of buildings used for the general conduct of government, such as city halls or county courthouses; compliance with the Americans with Disabilities Act is an eligible activity;

B. general operation and maintenance expenses associated with public facilities or services;

C. income maintenance;

D. housing allowance payments and mortgage subsidies;

E. expenditures for the use of equipment or premises for political purposes, sponsoring or conducting candidates' meetings, engaging in voter registration, voter transportation or other political activities;

F. costs involved in the preparation of applications and securing of funding.

[2.110.2.13 NMAC - Rp, 2 110.2.13 NMAC, 11/15/2016]

110.2.14 RURAL ALLOCATION:

A. A minimum of fifteen percent of the CDBG allocation will be awarded to rural counties and municipalities.

B. Rural applicants will compete for funding from the community infrastructure, housing, Colonias, and public facility capital outlay categories.

C. Rural and non-rural applicants will compete for funding from the economic development, emergency and planning categories.
[2.110.2.14 NMAC - Rp, 2 110.2.14 NMAC, 11/15/2016]

10.2.15 PROGRAM PUBLIC PARTICIPATION REQUIREMENTS: Applicants must provide opportunities for public participation the development of community development goals, objectives, and applications for funding assistance by undertaking the following activities:

A. provide for and encourage citizen participation within their areas of jurisdiction with particular emphasis on participation by persons of low and moderate income;

B. provide citizens with reasonable and timely access to local meetings, information, and records relating to proposed and actual use of funds;

C. provide for technical assistance as determined by the applicant, groups and representatives of low and moderate income persons that request assistance in developing proposals; the level and type of assistance is to be determined by the applicant.

D. provide for public hearings to obtain citizen participation and respond to proposals and questions at all stages;

E. prior to selecting a project and submitting an application for CDBG funding assistance, conduct at least one public hearing for the following purposes:

(1) to advise citizens of the amount of CDBG funds expected to be made available for the current fiscal year;

(2) to advise citizens of the range of activities that may be undertaken with the CDBG funds;

(3) to advise citizens of the estimated amount of CDBG funds proposed to be used for activities that will meet the national objective to benefit to low and moderate income persons;

(4) to advise citizens of the proposed CDBG activities likely to result in displacement, and the unit of general local government's anti-displacement and relocation plans;

(5) to obtain recommendations from citizens regarding the community development and housing needs of the community;

F. After considering all recommendations and input provided at the public hearing(s), the governing body must select one project for which to submit an application for funding assistance at an official public meeting.

G. The applicant must conduct a second public hearing prior to the submission of the application. Public hearing notices must be published in the non-legal section of newspapers, or posted in a minimum of three prominent public places within the project area, with public access. Notice of any public hearing must be published or posted at least 10 days in advance of the hearing date. Emergency hearings may be called upon 72 hour's notice unless threat of personal injury or property damage requires less notice. Emergency hearings may be called only under unforeseen circumstances, which demand immediate action to protect the health, safety and property of citizens or to protect the applicant from substantial financial loss. All applicants must be in compliance with all provisions of the Open Meetings Act Section 10-15-1 NMSA 1978 ', seq.

H. Evidence of compliance with these public participation requirements must be provided with each application, i.e., hearing notice, minutes of public meetings, list of needs and activities to be undertaken, etc.

I. Amendments to goals, objectives, and applications are also subject to public participation.

J. Applicants must provide for timely written answers to written complaints and grievances within 15 working days where practicable.

K. Applicants must identify how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.
[2.110.2.15 NMAC – Rp, 2 110.2.15 NMAC, 11/15/2016]

2.110.2.16 PROGRAM REQUIREMENTS FOR MEETING NATIONAL PROGRAM OBJECTIVES: Each CDBG application must meet at least one of the following three national objectives.

A. Low and moderate income benefit - an activity identified as principally benefiting fifty one percent persons of low and moderate income will be considered eligible only if it meets one of the following criteria:

(1) the activity must be carried out in a neighborhood or area consisting predominantly of persons of low and moderate income and provide services to such persons; or

(2) the activity must involve facilities designed for use by a specific group of people or clientele predominantly of low and moderate income; or

(3) the activity must add or improve permanent residential structures that will be occupied by low and moderate income households upon completion; or

(4) the activity must involve creating or retaining jobs, the majority of which must be for persons of low and moderate income.

B. Prevention or elimination of slums or blight - an activity identified as aiding in the prevention or elimination of a slum or blighted area must meet all of the following five criteria.

(1) The area must be designated by the applicant and must meet a definition of a slum, blighted area.

(2) The area must exhibit at least one of the following physical signs of blight or decay.

(a) At least one quarter of all the buildings in the area must be in a state of deterioration.

(b) Public improvements throughout the area must be in a general state of deterioration. For example, it would be insufficient for only one type of public improvement, such as the 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 applicant on the boundaries of the area and the condition that qualified the

area at the time of its designation.

(4) The activity must address one or more of the conditions that contributed to the deterioration of the area.

(5) To comply with this objective on a spot basis outside of a slum or blighted area the proposed activity must be designated to eliminate specific conditions of blight or physical decay including:

(a) acquisition and clearance of blighted properties;

(b) renovation and reuse of abandoned, historic properties;

(c) commercial revitalization through façade improvements; or

(d) removal of environmental contamination on property to enable it to be redeveloped.

C. Urgent need - planning grants are not allowed under urgent need. Verification of the urgency of the need must be provided with written documentation by the appropriate authoritative state agency. An activity identified as having urgent community development needs will be considered only if the applicant verifies the following:

(1) that the activity is designed to alleviate existing conditions that pose a serious and immediate threat to the health and welfare of the community;

(2) that the condition(s) to be alleviated is of recent origin, i.e., it developed or became critical within 18 months preceding the certification by the applicant; and

(3) that the applicant is unable to finance the activity on its own and other sources of funding are not available.

[2.110.2.16 NMAC - Rp, 2 110.2.16 NMAC, 11/15/2016]

2.110.2.17 APPLICATION REQUIREMENTS:

A. Number of applications - all eligible applicants may submit one application for CDBG funding assistance in the community infrastructure, public facility capital outlay, or Colonias categories.

B. Planning applicants may submit at any time an additional planning application that shall not exceed fifty thousand dollars ($50,000).

C. Applications for the economic development and emergency categories may be submitted at any time and shall be limited to a maximum of five hundred thousand dollars ($500,000.00) for applications without certified cost estimates; and a maximum of seven hundred fifty thousand dollars ($750,000.00) for applications accompanied by a certified cost estimate from an engineer, architect, or landscape architect licensed to do business in the State of New Mexico, which must be certified no more than 120 days prior to application submission.

D. Counties may submit multiple applications for planning grants on behalf of eligible applicants.

E. Planning, economic development, and emergency applications may be submitted even if the applicant has not completed previously awarded CDBG projects.

F. Single purpose application -an application must be limited to a project specific activity or set of activities that address a particular need in a designated target area of a unit of local government.

G. Joint applications - Joint applications are allowed when two or more eligible applicants within reasonable proximity of each other wish to address a common problem.

(1) Joint applications must satisfy certain criteria found in federal rules and must receive division approval prior to submitting an application for funding assistance.

(2) One community will be designated to serve as the lead applicant and will be subject to administrative requirements and to the application limit requirements.

(3) Other parties to the joint application may submit another application.

H. The following minimum requirements apply to all applications for CDBG funding:

(1) Applications must involve a project that will be fully functional on a stand-alone basis once awarded CDBG and other committed funds have been expended.

(2) Projects shall be completed within 24 months of an executed grant agreement signed by both parties.

(3) Applications shall be limited to a maximum of five hundred thousand dollars ($500,000.00) for applications without cost estimates; and a maximum of seven hundred fifty thousand dollars ($750,000.00) for applications accompanied by a certified cost estimate from an engineer, architect, or landscape architect licensed to do business in the State of New Mexico, which must be certified no more than 120 days prior to application submission.

(4) Application must be complete, with all documentation provided as listed on the submission and attachment checklist included in the application, otherwise application will be deemed ineligible and the application will be returned to the applicant and will not be considered for funding.

(5) Applications must include a determination of rural or non-rural status.

(6) Applications must include estimates of both full and phased project costs.

I. Threshold requirements - a project must be completed by the deadline for threshold compliance.

(1) Any open CDBG project must be completed at the time of application (certificate of occupancy or certification of operation must be in place).

(2) Any previous CDBG project's monitoring findings and concerns must be resolved.

(3) The current applicant's fiscal operating budget must be certified by the division.

(4) The applicant's quarterly/monthly financial reports to the division must be current.

(5) An applicant must have submitted to the New Mexico state auditor its most current audit(s) that were required to be conducted and submitted for review per the New Mexico state auditor's required report due dates for the previous fiscal year(s) and an applicant

must be in compliance with the budget certification rule, 2.2.3 NMAC.

(6) The set aside categories; planning, economic development and emergency, are exempt from threshold requirements set forth in Subsections I of 2.110.2.17 NMAC.

J. Matching requirements - to extend available resources and to ensure applicants are invested in projects, the following matches shall be required.

(1) Rural applicants must provide, at a minimum, a five percent cash match during the project period from local, state or other public resources, excluding local work force or local equipment.

(2) Non-rural applicants must provide, at a minimum, a ten percent cash match during the project period from local, state or other public resources, excluding local work force or local equipment.

(3) An application in the economic development category must provide at least one private dollar in match for each dollar of CDBG funds requested.

(4) Local funds expended by an eligible applicant for engineering, architectural design or environmental review prior to project approval can be applied towards the required match.

(5) Applicant may request a waiver of the matching requirement if documentation can be provided to demonstrate the absence of local resources to meet the required match. Criteria used by the division to recommend council approval/disapproval will be as follows:

(a) the required match must exceed five percent of the applicant's general fund budget;

(b) the required match must equal or exceed the available balance of funds in the applicant's overall budget.

K. Other funding commitments - if other funding is necessary to make a proposed project feasible, funding commitments must be in place and letters of commitment or grant agreement from the funding agency must be submitted with the application.

L. Asset management - communities that implement an asset management program and use that approach as the basis for their rate analysis will be credited in the application process for their achievement. To support the long term operation, maintenance, repair and replacement of system facilities, infrastructure, public facilities, or other eligible activities the following will be required to be submitted at the time of application. The model for the asset management program is the international infrastructure asset management model. This approach includes five core components:

(1) current state of the assets: an asset inventory that includes at a minimum: asset name, asset location, asset condition, useful life, and an estimate of replacement value;

(2) level of service: a description of type and level of service provided;

(3) criticality: an evaluation of which assets are critical to sustaining the operation;

(4) life cycle costing: at a minimum, a capital improvement plan that describes the replacement of assets and some consideration of operation and maintenance of the assets;

(5) financing plan: a description of the funding sources that will be used to pay for capital and operational needs.

[2.110.2.17 NMAC - Rp, 2 110.2.17 NMAC, 11/15/2016]

2.110.2.18 APPLICATION SUBMISSION PROCEDURES AND CONTENT: The application packet provided by the division must be used. It is only necessary to answer the questions on the application that pertain to the relevant single project category.

A. An applicant must submit an original (hard copy) and two separate electronic copies of each application to the division, and one electronic copy to the appropriate council of governments.

B. Applications for community infrastructure, housing and public facility capital outlay must be date stamped by the division on or before 5:00 p.m. on the designated application deadline. Applications received after that time will not be processed.

[2.110.2.18 NMAC - Rp, 2 110.2.18 NMAC, 11/15/2016]

2.110.2.19 APPLICATION REVIEW AND EVALUATION PROCESS:

A. Upon receipt of an application, division staff will review for eligibility, completeness, feasibility, and compliance and ensure that all other funding necessary to make the project functional is in place. Applications not meeting the criteria will be returned to the applicant and will not be considered for funding.

B. Applications will be forwarded to appropriate state agencies for technical review and comment. Review agencies may include, but are not limited to, the environment department, department of transportation, department of health, state engineer's office, agency on aging and long term services, economic development department, state fire marshal and governor's commission on disability.

C. An eligible applicant will be allowed to make a presentation to the council and division staff at the official hearing. Testimony related to the application will be presented by an official or designee of the applicant who may be assisted by technical staff.

D. Community infrastructure, housing, public facility capital outlay, emergency, and Colonias rating criteria: The following rating criteria will be used to evaluate and score CDBG applications for the community infrastructure, housing, public facility, capital outlay, emergency, and Colonias categories.

(1) **Description and need** - (10 points) the more severe the need as documented in the application, the higher the score.

(2) **Benefit to low and moderate income beneficiaries and appropriateness** - (20 points) extent to which the CDBG application:

(a) documents the number and percentage of low and moderate income beneficiaries, also include race and gender; or

(b) addresses the prevention or removal of slum or blighting conditions; or

(c) addresses conditions that pose a serious and immediate threat to the health and welfare of the community (for

emergency applications only).

(3) **Leveraging** - (10 points) extent to which state, local and other public resources, in addition to the required match, will be used by the applicant for the proposed project.

(4) **Citizen participation** - (10 points) extent to which the applicant evidences opportunity for citizen activities related to the proposed project:

(a) (10 points) has provided four or more citizen activities;

(b) (7 points) has provided three citizen activities;

(c) (5 points) has provided two citizen activities.

(5) **Planning** - (10 points) extent to which:

(a) (3 points) applicant has adopted a local ICIP, which has qualified for publication in the most recent state published prior to the CDBG application deadline. Evidence of the adopted ICIP for the current year must be provided as part of the application;

(b) (3 points) project has qualified for publication in the most recent state ICIP prior to the CDBG application deadline and applicant has selected CDBG as one of its possible funding sources. Evidence of such publication identifying the project and selecting CDBG funds as a possible funding source must be provided with application;

(c) (1 point) project shows consistency with applicant's comprehensive plan;

(d) (1 point) applicant has adopted a drought contingency plan, setting in place various drought management stages and accompanying restrictions on water use;

(e) (1 point) applicant has adopted a water conservation ordinance, setting in place various methods for conserving potable water;

(f) (1 point) applicant has implemented a water conservation ordinance, accompanied by evidence of exercising at least two various methods for conserving potable water.

(6) **Feasibility/readiness** - (20 points) extent to which the project is technically and economically feasible and ready to be implemented;

(a) (5 points) necessary real property or easements acquired;

(b) (5 points) professional services contract executed;

(c) (5 points) completed plans, specifications, bid documents, or preliminary engineering reports; and

(d) (5 points) completed environmental review process.

(7) **Cost benefit** - (10 points) the amount of funds requested divided by the number of direct low and moderate income beneficiaries of the project; the lower the ratio, the higher score.

(8) Asset management plan - (maximum of 10 points).

(a) (1 point) attendance within the last three years at an asset management training that includes the five core components as described in the international infrastructure asset management model;

(b) (2 points) development of an asset management plan that includes some, but not all, of the five core components;

(c) (10 points) development of a complete asset management plan with all five core components.

(9) **Council application scoring** - (10 points) Each member of the council shall be allowed to award up to 10 points per application in the application rating process, with one point for a low priority, five points for a medium priority and 10 points for a high priority project based on the criteria used for rating. The points will be averaged by totaling the individual member scores and dividing by the number of members who scored the project.

(10) **Additional Colonias criteria** - When submitting a Colonias applicant shall prove documentation of the Colonias designation and documentation that the project shall address one of the following conditions:

(a) lack of potable water; or

(b) lack of an adequate sewage system; or

(c) lack of safe, sanitary housing.

E. **Planning grant criteria:** The following rating criteria will be used to evaluate and score CDBG applications for the planning category.

(1) **Description and need** - (20 points) extent to which the application:

(a) provides detail for and documents community need for the project; and

(b) describes the impact that the project will have on the community; and

(c) is determined to be feasible.

(2) **Benefit to low and moderate income beneficiaries and appropriateness** - (20 points) extent to which the CDBG application:

(a) documents the number and percentage of low and moderate income beneficiaries, including race and gender; and

(b) is in alignment with existing planning documents, or proposes the development of a new comprehensive plan.

(3) **Leveraging** - (15 points) extent to which federal, state, and local resources in addition to the required match, will be used by the applicant for the proposed project.

(4) **Citizen participation** - (10 points) extent to which the applicant evidences opportunity for citizen activities related to the proposed project:

(a) (10 points) has provided 4 or more citizen activities;

(b) (7 points) has provided 3 citizen activities;

(c) (3 points) pledges opportunities for actives;

(d) (2 points) has provided 1 citizen activity;

(5) Planning - (20 points) extent to which:

(a) (5 points): applicant has adopted a local ICIP, which has qualified for publication in the most recent state ICIP published prior to the CDBG application;

(b) (5 points): the proposed project has qualified for publication in the most recent state ICIP prior to the CDBG application and applicant has selected CDBG as one of its possible funding sources;

(c) (2.5 points): applicant's proposed project shows consistency with applicant's comprehensive plan;

(d) (2.5 points): applicant adopts a drought contingency plan, setting in place various drought management stages and accompanying restrictions on water use;

(e) (2.5 points): applicant adopts a water conservation ordinance, setting in place various methods for conserving potable water;

(f) (2.5 points): applicant implements a water conservation ordinance, accompanied by evidence of exercising at least two various methods for conserving potable water.

(6) Cost benefit - (10 points) the amount of funds requested divided by the number of low and moderate direct beneficiaries of the project. The lower the ratio the higher the score.

(7) Comprehensive plan - (5 points) whether the community has an updated comprehensive plan that is not more than five years old.

F. Economic development rating criteria is included in 2.110.2.26 NMAC.

G. Site visits will be conducted as needed to verify or review information presented.

H. Emergency, economic development and planning applications that are in compliance with all applicable rules and regulations are received and evaluated throughout the year.

I. The council delegates to the division director the authority to award, in the division director's discretion, funding for applications for emergency, economic development, and planning projects in compliance with applicable rules and regulations. The division will provide the council with an update on all such awards at each council meeting.

[2.110.2.19 NMAC - Rp, 2 110.2.19 NMAC, 11/15/2016]

2.110.2.20 SELECTION OF CDBG GRANTEES BY COUNCIL:

A. Division staff will present its recommendation to the council at least seven days prior to each allocation meeting.

(1) Staff recommendation will present projects in high, medium and low groupings.

(2) Staff recommendation will include specific funding allocation amount to each project, within total available funds.

B. The council will review staff recommendation and funding allocation and make funding decisions in an open public meeting.

C. The council, in making its final decisions, will consider the past performance of the applicant in administering CDBG projects.

D. The council may adjust the scope and dollar amount to stay within available funding or for purposes of consistency.

E. The council may deviate from staff recommendation and funding allocation, if the council by majority vote determines and substantiates that any of the following conditions apply:

(1) To not fund a project recommended by the division staff other funding sources for the project are available or other applications were deemed to be a priority or circumstances have changed since the application was submitted.

(2) To fund a project not recommended by division staff.

(a) the health and safety of area residents is at stake;

(b) funding committed to the project from other sources may be jeopardized;

(c) significant economic benefits will be realized if the project is implemented; or

(d) the need for the project is critical.

F. The council will make funding determinations by a majority vote.

G. The council may waive or adjust any division imposed CDBG application requirement as long as the waiver will not result in violation of state or federal statutes, regulations, rules, or penalize other applicants.

H. If the council sets aside funding for emergency, economic development or planning; the council may at any time during the calendar year, transfer funds between categories if there is limited demand in the funded categories. The transferred funds may be used to fund projects that were previously submitted for funding.

[2.110.2.20 NMAC - Rp, 2 110.2.20 NMAC, 11/15/2016]

2.110.2.21 REVERSIONS, SUPPLEMENTAL FUNDING AND UNDERRUNS:

A. Decision of the division to impose special conditions or fiscal agent requirements - if a CDBG award is provided to a grantee that has deficiencies identified in the audit(s) approved by the state auditor's office, the division reserves the right to impose special conditions or fiscal agent requirements dependent upon the specific findings or opinions as described in the audit(s).

B. Decision by the council to revert funds - if, within 12 months of a CDBG award for a project by the council, the CDBG award has not resulted in a signed grant agreement between the division and the applicant or the applicant has not made adequate progress on the project or the council determines there was fraud or misrepresentation regarding the project by the applicant, the division may recommend to the council to revert all or part of the award and the council may vote to revert all or part of the award. The applicant shall receive written notice from the

division of the council's decision to revert all or part of award by certified mail. The applicant may appeal, in writing, the council's decision to revert all or part of the award within 30 days of receipt of the written notice of the council's decision. The appeal of the council's decision by the applicant shall be held at a council meeting no later than 90 days from the council's receipt of the written appeal. The council's decision on the appeal of the reversion shall be final. The council may grant the applicant a reasonable period of time to cure the particular default that was the basis of the reversion. At the end of the cure period, the council shall vote again on the issue of the reversion and this decision shall be final.

C. Reversions and supplemental funding - When funds are reverted from a previously approved project grant or additional funds are made available for any other reason, the council may decide that the funds will:

(1) be added to the emergency fund;

(2) be returned to the category of the program from which it was awarded;

(3) go into any other category; or

(4) take other action as deemed appropriate.

D. Underruns - if upon completion of the approved activities a balance of funds remains after all payments have been made, this balance shall be handled as follows: if the grantee has not accomplished all work called for in the original application submitted for funding consideration, the grantee may request division staff to approve the expenditure of underrun funds for a portion or all of the remaining work.

(1) if appropriate justification and sufficient funding exist, division staff may approve the request for use of underrun funds and amend the grant agreement accordingly;

(2) a negative decision may be appealed to the council.

E. If the grantee proposes to undertake activities not included in the approved application, the grantee may request council approval to expend underrun funds for other eligible activities. The council may approve the request if appropriate justification and sufficient funding exist.

F. If the council disapproves a request for use of an underrun, associated funds shall revert to the council for disposition.

G. The processes described above for handling underruns are intended to encourage the grantee to use the most cost efficient means possible to construct projects funded by the council. Grantees shall not take advantage of this process by inflating initial funding requests.

[2.110.2.21 NMAC - Rp; 2 110.2.21 NMAC, 11/15/2016]

2.110.2.22 PROGRAM INCOME:

A. Grantees must pay CDBG program income to the state, except that grantees will be permitted to retain program income only if they always use the income for CDBG eligible activities upon council approval of a program income utilization plan.

B. Program income received by the state will be placed in the economic development category.

C. Program income retained by grantees shall be used to fund CDBG eligible activities and must meet CDBG requirements.

[2.110.2.22 NMAC - Rp, 2 110.2.22 NMAC, 11/15/2016]

2.110.2.23 CITIZEN ACCESS TO RECORDS: Citizens and units of general local government will be provided with reasonable access to records regarding the past use of CDBG funds.

[2.110.2.23 NMAC - Rp, 2 110.2.23 NMAC, 11/15/2016]

2.110.2.24 NM COMMUNITY ASSISTANCE FUNDS: The council will allocate and administer New Mexico community assistance underrun funds in accordance with the provisions of the Community Assistance Act.

[2.110.2.24 NMAC - Rp, 2 110.2.24 NMAC, 11/15/2016]

2.110.2.25 MEETING PROCEDURES:

A. Special meetings. Special meetings of the council may be called by a majority of the council members or the chairperson of the council, and will be held at the time and place fixed by the division.

B. Notice. Written notice stating the time, place and, if a special meeting, the purpose, will be delivered either personally, by mail, or email by the division, to each council member at least 72 hours before the scheduled date of the meeting. The meeting notice and agenda will be available to the public and posted on the department of finance and administration web site. The council may establish dates and times for regularly scheduled meetings.

C. Quorum. A majority of the current members of the council in attendance either in person or by telephone will constitute a quorum at council meetings.

D. Record of meetings. The meeting shall be recorded and the division shall have the minutes made into a written record. The original of this record shall be retained by the division and a copy shall be forwarded to the council members. Copies shall be available upon request.

E. Participation methods. A member of council may participate in a meeting of the council by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the council who speaks during the meeting.

[2.110.2.25 NMAC - Rp, 2 110.2.25 NMAC, 11/15/2016]

2.110.2.26 ECONOMIC DEVELOPMENT PROGRAM GUIDELINES:

A. Goals and objectives: The state's CDBG economic development goals and objectives include:

(1) creating or retaining jobs for low - and moderate-income persons;

(2) preventing or eliminating slum areas and blighted areas;

(3) meeting urgent needs;

(4) creating or retaining businesses owned by community residents;

(5) assisting businesses that provide goods or services needed by, and affordable to low - and moderate-income residents;

(6) providing technical assistance to promote any of the activities under Paragraph (1) through (5) of Subsection A of 2.110.2.26 NMAC.

B. **Eligible activities:** CDBG eligible activities authorized under Sections 570.200, 570.201, 570.202, 570.203, 570.204, 570.482 and 570.483 of the federal rules and directly affecting the creation or retention of employment opportunities, the majority of which are made available to low and moderate income persons, may include activities carried out by public, private nonprofit, or private for-profit entities when such activities are appropriate.

(1) To meet the needs and objectives of the community economic development plan, a project may include: acquisition of real property, construction, reconstruction rehabilitation, or installation of public facilities, site improvements, and utilities, and commercial or industrial buildings or structures and other commercial or industrial real property improvements and planning.

(2) Grantees and nonprofit sub recipients may carry out for the purpose of economic development, a wide range of activities such as those listed in Section 570.203 of the federal rules.

(3) The for-profit businesses, however, may carry out only the activities listed in that section and rehabilitation activities listed in Section 570.202 of the federal rules.

C. **Financing policies and techniques:** The CDBG program, as a development tool, can provide flexibility and take greater risks than conventional lending sources in its lending policies and financing techniques. For example, the program may:

(1) offer a negotiated period for repayment of principal and interest;

(2) take greater risk than banks are traditionally prepared to take, provided substantial economic development benefits will result if the loan is granted;

(3) leverage capital by reducing risk for commercial lenders and by taking a subordinate security/collateral position; or

(4) provide more favorable rates and terms than are generally available through conventional sources.

D. **Project requirements:** Project requirements for eligible CDBG economic development assistance include, but are not limited to:

(1) specific employment commitments for low and moderate income residents, generally with no more than fifty thousand dollars ($50,000.00) in CDBG funds being used for each job created or retained;

(2) at least fifty-one percent of the jobs created/retained must be held or made available to persons of low to moderate income persons;

(3) within six months of completion of the project, the grantee is required to report to LGD, documentation to reflect the total number of jobs created or retained;

(4) a firm commitment for private financial participation in carrying out the proposed project, contingent on award of CDBG funding only, must be included with the application;

(5) a minimum leveraging ratio of one new private investment dollar to one CDBG dollar is required additional; greater leveraging will enhance a project's competitiveness;

(6) a determination by the applicant and its governing body that there is a well-documented need for CDBG assistance to make the project financing feasible and that the level of assistance requested is commensurate with the public benefits expected to be derived from the economic development project;

(7) evidence of project feasibility including a business plan that contains financial statements, project pro forma (cash flow projections) and specific source and intended use of all funds or assets used in the project;

(8) generally, projects that directly assist in the relocation of a business or industry from one community to another, intrastate or interstate, will be disqualified;

(9) prior to submission of an application, applicants should thoroughly review the credit worthiness of the proposed borrower and should obtain appropriate credit reports, audited financial statements, tax returns and verify collateral.

E. **Program income:** In addition to program income the requirements of 2.110.2.22 NMAC the Housing and Urban Rural Recovery Act that amended the Housing and Urban Rural Recovery Act 1983, provides, relative to economic development, the following:

(1) states may require program income to be returned to the state but local governments must be allowed to keep program income when used for the same activity which generated the income;

(2) if the applicant intends to retain program income, a program income utilization plan must be submitted with the application for approval.

F. **Application cycle:** Applications for economic development can be submitted at any time, and the division staff has 30 days to review them.

G. **Pre-application conference:** It is recommended that a pre-application conference be held prior to the submission of the final application to ensure that all elements are adequately addressed and to review any new federal guidelines that may be issued that relate to economic development activities. Contact the division, economic development representative for information. More detailed and extensive financial and project data may be required depending on the specific project. In addition, meeting the national objective to benefit low and moderate income requires documentation certifying that the majority of the jobs are created for or retained by low and moderate income persons or the majority of jobs are considered available to them. Please contact the division for a copy of the HUD guidelines.

H. **APPLICATION REQUIREMENTS:** The following must be included along with the regular CDBG application, and should

be submitted in lieu of question #2 in the regular application.

(1) **Economic development plan:** The applicant must submit as an attachment to the application a short (five page maximum) description of its plan for encouraging local economic development. The plan, incorporating references to the proposed project, should include a discussion of the following elements.

(a) **Need** - List the community's underlying economic problems. Need might include recent major industry shutdowns or extended layoffs, substantial increases in population without a corresponding increase in job opportunities, substantial population decreases due to lack of available or appropriate job opportunities, a lack of industrial diversification, the existence of large numbers of workers in the area with obsolete skills or skills for which there is no current demand, or other problems unique to the applicant's community.

(b) **Goals** - Describe what the community attempting to accomplish through its overall economic development program (not just that activity for which CDBG funding is sought). Goals might include preserving existing businesses or industries, encouraging community growth, fostering industrial diversification, revitalizing the central business district, or creating complementary industries to provide jobs in the off-season for workers now only seasonally employed.

(c) **Resources** - List the public and private resources, both financial and technical, available to available to help the community carry out its economic development program. Resources may include for example, a local development corporation or similar body has any agency organization assigned staff member(s) to work on economic development activities for a major portion of their time has the financial community's demonstrated willingness to participate in development activities, whether there is adequate available labor force to meet the demands of new or expanding businesses and industries, or whether the community has unique development advantages, e.g., location, transportation facilities, industrial park or other plant sites, available raw materials, abundant power supplies, employee training capabilities, a locally-administered revolving loan fund to assist growing businesses or industries, technical assistance programs to help business people deal with marketing, management, or financial planning problems.

(d) **Strategy** - Describe the strategy the community is using to pursue its economic development goals. Strategy might include the specific prioritized activities that have been identified as components of the community's strategy for encouraging local economic development costs of each strategy, funding sources available, and how the local government will support the strategies. Strategies might include offering property tax reductions to new or expanding industries, forming a local economic development corporation, or preparing industrial or tourism promotion packages.

(e) **Results** - Describe actions the community has already undertaken to implement its economic development plan, the funding sources used and results achieved. Results may include how many new jobs have been created or existing jobs retained, how many new firms have begun operations in the community. Or how many existing firms have undertaken expansion activities.

(2) **Hiring and training plan:**

(a) Applicants must establish procedures for the project to ensure preferential recruitment, hiring, and training of local workers, particularly those of low and moderate income.

(b) In the event of a grant award, the applicant's commitment to the hiring plan will be considered binding and will be incorporated by reference in the grant agreement between the local governing body and the division.

(3) **Private sector commitments:**

(a) Applicants must provide evidence of firm commitments of financial resources from the private sector.

(b) Such commitments should be binding, contingent only upon receipt of CDBG funds.

(c) Investments made or costs incurred prior to the grant application are not eligible for use as matching funds or leverage but should be referenced as related to the total project, if applicable.

(4) **Public sector commitments:**

(a) If public sector resources are to be involved in the proposed economic development project, applicants must demonstrate evidence of a firm commitment of public funds or other resources.

(b) Such commitments should be binding, contingent only upon receipt of CDBG funds to the project.

(c) Evidence may include resolutions or ordinances passed by the local governing body and other appropriate local groups.

(5) **Use of CDBG funds for economic development loans** (if applicable):

(a) Any project that includes a loan should provide an explanation of the proposed interest rate, terms and rationale for the proposed financing structure.

(b) Any loan made by a local governing body with CDBG funds as a part of an approved CDBG economic development project must be adequately secured.

(c) Subordinated loans may be made when justifiable and appropriate in the sole discretion of council.

(d) The applicant must include a detailed description of the proposed use of program income. (principal and interest). Applicants are encouraged to designate program income to be returned to the state for future economic development set-aside eligible activities.

(6) **Viability of assisted enterprises:** Any for-profit entity to be assisted with CDBG funds must document that without participation of CDBG funds the proposed activity would not be feasible and that after receipt of CDBG assistance the enterprise will be viable and self-sustaining. All applicants proposing an economic development activity shall submit the following for any entity to be assisted with CDBG funds.

(a) a business plan consisting of at least a description of the history of the firm, background, and experience of the principals, organizational structure, a description of its major products or services, market area and market share, goals, and planned expansions or changes in operations; the plan should also describe the impact the CDBG project, if funded, would have on the firm's activities;

(b) a three year to five year operating plan forecast (profit and loss projection); applicants may use SBA forms or equivalent;

(c) a monthly cash flow analysis, SBA forms or equivalent;

(d) for any existing business, the two most recent year-end financial statements, including an income statement and balance sheet.

I. **RATING CRITERIA:** The economic development rating criteria will give priority to projects that firmly demonstrate the following: need, appropriateness, impact, and benefit to low and moderate income persons. Since each application will be unique, there are no "right" or "wrong" activities or solutions. The ranking of "appropriateness" and "impact" will necessarily be in part subjective, with the division taking into account not only how well each applicant addresses the problems it has defined, but also how its problems and responses compare with those of other applicants.

(1) NEED - (200 points) - In analyzing an applicant's need for a project, the division will use statistical information provided by the New Mexico department of workforce solutions and the U.S. bureau of the census which is uniformly available for all 33 counties. Since similar data is not accumulated at the municipal level, cities and towns will be scored with the figures for the county in which they are located. The three factors that will be considered are: the average number of unemployed persons in the county during the last calendar year; average percent of unemployment in the county during the last calendar year; the average unemployment rate in the county in the last five calendar years.

(a) The data will be calculated and each applicant assigned a relative score.

(b) The division will consider assigning a different score in exceptional cases, where an applicant can conclusively demonstrate that the first two factors used to measure economic need are not reflective of local economic conditions (such as major recent plant closings) and the situation is substantiated by the New Mexico department of workforce solutions. A request for consideration of local economic data must be submitted with the application. The applicant should identify sources of data and define methodologies.

(2) APPROPRIATENESS - (200 points) - Scores will be based on the soundness of the applicant's economic development plan and the related project for which CDBG funding is sought, and the strength of the applicant's hiring and training plan for ensuring that local residents, particularly those of low and moderate income, will be hired to fill the stated number of jobs created or retained as a result of CDBG-funded activities. Points are available as follows:

(a) Plan and program - (140 points) - Scoring will reflect whether:

(i) the applicant has developed a complete, well-reasoned, appropriate, and achievable plan for dealing with its total economic development needs, taking into consideration all available public and private resources and local capacity;

(ii) the local governing body has officially adopted the economic development plan as a matter of public policy;

(iii) the proposed project is an integral part of that plan; (it need not be the first priority item identified in the overall plan if other, more appropriate, resources are available and already being used to meet higher priority items);

(iv) the applicant has made substantial local efforts to deal with its economic development problems;

(v) the proposed CDBG project is realistic and workable, and the job savings or creation expected to result from its implementation will occur within a reasonable time following the date of grant award;

(vi) if income is to be generated by CDBG-funded activities, and retained locally, a plan for the use of that program income has been developed and submitted with the application; this plan must include mechanisms established for administration of the funds, (if a revolving loan fund is to be established with program income, procedures must be outlined covering local application processing, time frames, approval, negotiation, pricing, packaging, servicing, etc.);

(vii) there has been active citizen participation in the development of the economic development plan and in the selection of the project.

(b) Hiring and training plan - (60 points) - Each applicant must include in its application an employment and training plan to be used in filling jobs created or retained as a result of CDBG activities. Scoring will reflect whether:

(i) the applicant's employment and training plan provides clear, complete procedures for outreach, recruitment, screening, selection, training, and placement of workers which will ensure maximum access of local residents, particularly persons of low and moderate income, to jobs created or saved by the project;

(ii) attention has been given to necessary supportive services for trainees needing them;

(iii) a complete training curriculum has been developed and all training resources identified;

(iv) responsibility has been assigned for all phases of the training program;

(v) a written agreement to follow the plan has been obtained from each firm expected to benefit directly from the project.

(3) IMPACT - (200 points) - In weighing the anticipated impact of the applicant's proposed CDBG activities on the community's identified problems, the following four factors will be scored:

(a) Leverage - (50 points) - Applicants will be scored based on the ratio of private non-CDBG dollars for each dollar of CDBG funds requested.

(b) CDBG dollars per job - (50 points) - The total CDBG funds to be used (exclusive of administrative funds) will be divided by the total number of full-time jobs expected to result. In evaluating an applicant's job creation projections, the division will consider the historical relationships of sales, space, and machines to jobs. It will also look at typical ratios for the industry of which the firm to be assisted is a part. Applicants should be prepared to justify job creation claims that substantially exceed industry norms or fifty thousand ($50,000) per job created or retained.

(c) Type of jobs - (50 points) - Applicants must indicate the percentage of jobs to be created or retained that are full-time or part-time, skilled, semi-skilled, or unskilled. Scores will be higher to the extent and application will create or retain full-time skilled, and semi-skilled jobs.

(d) Overall economic impact - (50 points) - The applicant must discuss both the direct and indirect effects the CDBG program is expected to have on the community's economy. Some of the factors that will be scored are:

(i) the additional payroll expected to be generated for the jobs created or retained by the program;

(ii) the total number of jobs to be created or retained;

(iii) whether the firm to be assisted is an economic base industry (producing goods or services mainly to be sold outside the area or state, thereby importing dollars into the community and state economy); and

(iv) whether local property tax revenues will be significantly increased as a result of the proposed business start-up, expansion, retention, etc.

(4) BENEFIT TO LOW AND MODERATE INCOME PERSONS - (200 points)

(a) This ranking criterion assesses the extent to which persons of low and moderate income will directly benefit from the expenditure of CDBG funds. To determine this score, the number of jobs to be created or retained and made available to low and moderate income persons will be divided by the total number of jobs to be created or retained as a result of the CDBG program.

(b) The highest score will receive up to a maximum of 200 points to be eligible for consideration a project must demonstrate that it will benefit principally persons of low and moderate income.

[2.110.2.26 NMAC - Rp, 2 110.2.26, 11/15/2016]

Attachment I
(Referenced by: 2.110.2.7 NMAC)
CDBG projects are designed to meet one of three national objectives: low and moderate income, slum and blight, or emergency. For those projects that are designed to meet the low and moderate income national objective, applicants may choose between two different processes to determine low and moderate income eligibility: (1) conduct a special survey using the HUD approved methodology in accordance with Section A "Survey Methodology" and Section C "HUD Section 8 Income Limits" below; or (2) use the most recent low and moderate income data from section B "American Community Survey" and Section C "HUD Section 8 Income Limits" below.
A. Survey Methodology
The division recommends using the following HUD approved methodology:
This survey methodology was designed by HUD to assist States and entitlement cities in determining whether most of the individuals in a proposed target area are of low and moderate income.
Upon requesting permission from the division to conduct a sample survey, an applicant should indicate the justification for the sample survey. Applicants must provide to the division a map of the project service area, a brief description of the proposed project, and a description of how the six steps described in the suggested methodology will be implemented.
If the applicant conducts a sample survey, such applicant must be prepared to document all efforts. There must be a master list (with telephone numbers, where possible) to match the surveys. The master list must be coded to the individual surveys.
Such documentation must include a separate survey for each household, for unreachables that could not be replaced from the universe, and for "non-households" in the survey area, such as empty lots, business and government property. The sixth step of the methodology provides a complete listing of the information that an applicant must maintain in its files and submit to the division.
The six steps of the survey methodology are located on the department of finance and administration website, local government division, community development bureau, CDBG information page.
B. American community survey (ACS)
The U.S. census bureau provides a fact finder source for population, housing, economic, and geographic information. This source may be used by applicants to determine eligibility for low to moderate income persons. This source is located at the American FactFinder website, community facts.
C. HUD Section 8 Income Limits
HUD Section 8 income limits must be used in conjunction with either the survey methodology or ACS data to determine low and moderate income eligibility. Applicants should contact the division for the most current data sets.

HISTORY OF 2.110.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DFA Rule 85-3, State of New Mexico Regulations Governing the 1986 Small Cities Community Development Block Grant Program and 1985 New Mexico Community Assistance Program, 10-4-85.

DFA Rule 87-3, State of New Mexico 1988 Small Cities Community Development Block Grant Program New Mexico Community Assistance Program Application Regulations, 12-4-87.

DFA Rule 89-3, 1989 Small Cities Community Development Block Grant Program New Mexico Community Assistance Program Applications Regulations, 3-22-89.

DFA Rule 90-1, 1990 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 12-28-89.

DFA #91-1, 1991-1992 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 1-14-92.

DFA #93-1, 1993 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 7-9-93.

DFA-LGD No. 93-1, 1994 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 6-13-94.

DFA-LGD Rule No. 95-1, 1995 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 5-31-95.

DFA-LGD Rule No. 95-2, 1996 Small Cities Community Development Block Grant Application Regulations.

History of Repealed Material:

2 110.2 NMAC, Small Cities Community Development Block Grant - Repealed, 08-30-01.

2.110.2 NMAC, Small Cities Community Development Block Grant - Repealed, 06-05-15.

2.110.2 NMAC, Small Cities Community Development Block Grant - Repealed, 11-15-2016.



SFC CLERK RECORDED 04/12/2017

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

RESOLUTION NO. 2017 – 34

A RESOLUTION
SELECTING A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT; AUTHORIZING THE SUBMISSION OF A NEW MEXICO CDBG PROGRAM APPLICATION TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION/LOCAL GOVERNMENT DIVISION/COMMUNITY DEVELOPMENT BUREAU FOR THE PROJECT; AND AUTHORIZING THE COUNTY MANAGER TO ACT AS THE CHIEF EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE APPLICATION AND SANTA FE COUNTY'S PARTICIPATION IN THE CDBG PROGRAM

WHEREAS, the need exists within Santa Fe County (County) for community improvement projects that meet the national objectives and other requirements of the federal Community Development Block Grant (CDBG) Program; and

WHEREAS, the County desires to apply to the New Mexico Department of Finance and Administration/Local Government Division/Community Development Bureau (DFA) for CDBG funding for a commnity improvement project; and

WHEREAS, the County obtained citizen input and participation with respect to the selection of the project that is the subject of this Resolution through a series of public hearings, as follows: on March 28, 2017, and April 11, 2017, the Board of County Commissioners (Board) of the County held two (2) public hearings for public input; and

WHEREAS, on April 11, 2017, the Board selected one project for which to submit a 2017 CDBG Program Application to DFA, which project is described in Exhibit A hereto and is referred to throughout the remainder of this Resolution as the "Project"; and

WHEREAS, the Board finds that there is significant need to undertake the Project to provide adequate services to the community; and

WHEREAS, the Board desires to and hereby does affirm that the Project meets the requirements of the CDBG Program and should be the subject of the County's 2017 CDBG Program Application to DFA.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. County staff is hereby authorized to prepare and submit a 2017 CDBG Application to DFA for the Project.
2. The Board designates the County Manager as the County Chief Executive Officer and Authorized Representative for the New Mexico CDBG Program. Without limiting the generality of the foregoing, the Board specifically authorizes and directs the County Manager to act in all matters in connection with the 2017 CDBG Program Application for the Project and the County's participation in the New Mexico CDBG Program.

SFC CLERK RECORDED 04/12/2017

3. County officials and staff are directed to do any and all acts necessary to carry out the intent of this Resolution.
4. That the full application amount be for $750,000 of grant funds for the Project.
5. That the Board is committing $75,000.00 as a cash contribution toward the following activities of the Project: Construction of Project Improvements.

PASSED, APPROVED, AND ADOPTED THIS 11th DAY OF APRIL, 2017.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

Henry P. Roybal, Chair

ATTEST:

Geraldine Salazar, County Clerk

COUNTY CLERK NEW MEXICO GERALDINE SALAZAR SANTA FE COUNTY

APPROVED AS TO FORM:

Gregory S. Shaffer, County Attorney

FINANCE DEPARTMENT APPROVAL:

Don Moya, Finance Director

SFC CLERK RECORDED 04/12/2017

Exhibit A: Santa Fe County 2017 Community Development Block Grant (CDBG) Application Project Description

East Mountain Health Facility: $750,000.00

Construct a new, approximately 22,000 square foot East Mountain Health Facility to provide primary medical care, dental, behavioral health, Women/ Infant/Children (WIC) care, sub-specialty care, and extended hours.

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC RESOLUTIONS
PAGES: 3

I Hereby Certify That This Instrument Was Filed for
Record On The 12TH Day Of April, 2017 at 09:48:18 AM
And Was Duly Recorded as Instrument # 1822818
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy _____ County Clerk, Santa Fe, NM

COUNTY CLERK
GERALDINE SALAZAR
SANTA FE COUNTY NEW MEXICO