



## **NOTICE OF FUNDING AVAILABILITY FOR THE COMMUNITY RESILIENCY PROGRAM**

*A COMMUNITY DEVELOPMENT BLOCK GRANT CARES ACT (CDBG-CV) PROGRAM*

**CFDA# 14.218**

**October 25, 2021, as amended**

**Amended changes are notated in green font**

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# Part I: Notice of Funding Availability

## 1) Overview

The Texas Department of Housing and Community Affairs (the Department or TDHCA) is pleased to announce a Notice of Funding Availability (NOFA) of approximately \$38 million in Community Development Block Grant CARES Act (CDBG-CV) funds for the *Community Resiliency Program*. The Community Resiliency Program is targeted for projects serving low-and-moderate income areas, as well as rural and small metro communities, to address the social and economic impacts of coronavirus and to improve access to social services and healthcare.

Funds dedicated to this activity will allow low- and moderate-income areas, and rural and small metro communities to address gaps in their ability to prepare, prevent and respond to SARS-CoV-2 or another coronavirus with pandemic potential, by creating, expanding, or enhancing public facilities that provide medical care, social services, and/or emergency housing and increasing the community's long-term resiliency and ability to mitigate future coronavirus outbreaks. Due to the COVID-19 pandemic, homeless emergency shelters, health clinics/facilities, medical facilities, domestic violence facilities, and senior centers have been required to reduce capacity and services to clients, and establish non-congregate shelters to adhere to CDC guidelines and social distancing. Many rural and smaller urban areas lack capacity in these critical areas which limited a quick and effective response to the pandemic. Existing public facility structures can be modified to prevent the transmission of the coronavirus and allow for adequate social distancing or remote access. Further, few rural and small metro areas have had the opportunity to implement mobile response units or emergency medical services that would have a positive impact on their capability to reach certain households. CDBG-CV funds are eligible to be used for activities which help augment a community's ability to be more resilient in preparing for and responding to future pandemics.

## 2) Eligible Applicants and Funds Available

Eligible applicants include non-entitlement units of general local government (UGLGs). Non-entitlement units of general local government are cities with populations of less than 50,000 (except cities that are designated principal cities of Metropolitan Statistical Areas), and counties with populations of less than 200,000. By definition, these Texas cities or counties are not already participating in the HUD-administered CDBG Entitlement program or CDBG-CV funds either as a direct entitlement, or as part of an Urban County consortium.

An applicant shall be in good standing, as applicable, with the Department, Texas Comptroller of Public Accounts, HUD, and the Texas Department of Agriculture (the administrator of the regular allocation of state CDBG funds).

Funds requested for administration are limited to 13 percent for Public Facilities and Improvements projects and 8 percent for Public Service projects of the total amount of funds requested. Per 24 CFR §570.206 program administration activities include: general management, oversight and coordination including salaries, wages and related costs, administrative services performed under third party contracts or agreements, other costs for goods and services required for administration of the program, and indirect costs. Preparation of a CDBG-CV Application in response to this NOFA is also an eligible administrative cost and may be reimbursed.

### 3) Estimated Program Timeline

Event	Date
NOFA Published and Application Release	October 1, 2021
NOFA/Application Workshop	October 13, 2021
Application Deadline	January 19, 2022
Estimated Award Announcements	March 10, 2022
Estimated Grant Contract Start Date	March 15, 2022

### 4) Authorizing Legislation

Funding under this NOFA is made available pursuant to the authority provided under the CARES Act, the Housing and Community Development Act of 1974, as amended and codified at Title 42 United States Code (U.S.C.) §5301; the Federal CDBG Regulations 24 CFR Part 570 (as applicable); and the CDBG-CV notice found at FR 6218-N-01.

Applicants should read this NOFA in conjunction with the following regulations that establish federal and state requirements. Relevant legal authority includes, but is not limited to, the following as now in effect or as amended in the future:

- [CARES Act \(Public Law No: 116-136\)](#)
- [Texas Government Code 2105: Administration of Block Grants](#)
- [Housing and Community Development Act of 1974 \(42 U.S.C. 5301 et seq\)](#)
- [24 CFR Part 570](#)
- [CDBG-CV Notice, FR-6218-N-01](#)
- [24 CFR Part 58](#)
- [2 CFR Part 200](#)
- [Texas Grant Management Standards](#)
- [Texas Department of Housing and Community Affairs 2019 Annual Action Plan, as amended](#)
- [Texas Administrative Code: Title 10, Part 1, Chapters 1 and 2](#)

If state or federal statutes or regulations, or other laws, relating to the CDBG-CV funds are modified by the United States Congress, HUD, the Department, the Texas State Legislature, or the Governor, the changes may become effective immediately and may be applicable to this NOFA and existing contracts.

If there is a conflict between the state and federal regulations, the federal regulations shall prevail, otherwise the Subrecipient shall follow the more restrictive requirement. In addition, the Department reserves the right, at its sole discretion, to amend or cancel any or all provisions of this NOFA until contracts are executed. If such an action occurs, the Department will notify interested parties.

## 5) Conditions

Applicants and Awardees acknowledge that the funding opportunities referenced in this NOFA, and all obligations of the Department herein, are expressly subject to the following conditions:

1. The ongoing availability of funds; and
2. The continued authority of the Department to administer the CDBG-CV funds.

In the event that funds are not available to fund any or all activities offered herein, or if the Department's authority to administer the CDBG-CV funds or act under this NOFA is eliminated, or in any way restricted, the Department shall have the option, at its sole discretion, to amend, rescind, suspend, or terminate this NOFA and any associated funding or contracts pursuant to the provision set forth immediately above. This NOFA is not a commitment of funds to an applicant.

## 6) Award Limits and Award Recommendations

A. Award Limits. The minimum amount that may be requested by an applicant is **\$300,000 for a Public Services Activity and \$500,000 for a Public Facilities and Improvements Activity** and the total maximum amount that may be requested by an applicant is \$5,000,000.

B. Award Recommendations. A non-entitlement entity may be recommended by the Executive Award Recommendation Committee for a maximum of \$ 5,000,000 for all activities, unless the following conditions exist:

1. the NOFA has remaining funds after all project application amounts have been totaled on **January 19, 2022**; or
2. the NOFA has remaining funds after the Board awards funds to project applications received by **January 19, 2022** and all remaining project applications have been terminated or otherwise not recommended for an award and all appeal rights have been exhausted.

Even if these conditions exist, the Governing Board, in its sole discretion, may elect not to award funds to a non-entitlement entity greater than \$5,000,000 and may instead direct staff to put these funds into other eligible CDBG activities outside this NOFA.

## 7) Project Limits

**A. Public Facilities and Improvements** – A separate application must be submitted for each Activity and must not exceed the total maximum of \$5,000,000.

**B. Public Services Activity** – One application may be submitted for one or more Public Service projects and must not exceed the total maximum of \$5,000,000. Each activity is a stand-alone project and requires a complete and separate *Project Budget and Key Milestones* form.

## 8) Duplication of benefits

A duplication of benefit (DoB) occurs when a program beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total amount needed for assistance. The amount of

the duplication is the amount of assistance provided in excess of the need. It is the Department's responsibility to ensure that each CDBG-CV activity provides assistance only to the extent that the project's funding needs have not been met by another source. See Stafford Act (42 U.S.C. § 5155; HUD Memorandum dated 9 April 2020, subject: 'CARES ACT Flexibilities for CDBG funds used to support coronavirus response and plan amendment waiver')

Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) prohibits federal agencies from providing assistance to any "person, business concern, or other entity" for any loss to which the entity has already received financial assistance from another source (42 USC § 5155(a)). The Federal Register Notice, published November 16, 2011 (Docket No. FR-5582-N), requires adequate policies and procedures in place to prevent a duplication of benefit and the recapture of funds, if necessary.

Per CDBG-CV Notice Part III.B.9, it is the Department's responsibility to ensure that each CDBG-CV grantee provides assistance only to the extent that the financial assistance needs have not been met by another source.

If a non-entitlement city or county is awarded funds for the same activity with another funding source other than CDBG-CV, that city or county will be prohibited from receiving CDBG-CV funds. Funding requested must be limited to the eligible activities as described in Part II of this NOFA.

**Applicants will be required to submit duplication of benefits policies at application and awardees will be required to continue to report on duplication of benefits throughout the expenditure period for the CDBG-CV funds.**

## Part II: Application Requirements

### 1) Applicant Threshold Requirements

CDBG-CV Applications must:

- meet a CDBG National Objective
- be an Eligible Activity under CDBG-CV with Coronavirus Tieback, which includes preparation for future pandemics;
- be from a non-entitlement unit of general local government. Non-entitlement units are cities with populations of less than 50,000 (except cities that are designated principal cities of Metropolitan Statistical Areas), and counties with populations of less than 200,000;
- not be suspended or debarred as per General Services Administration (GSA) Excluded Parties List System (EPLS) in the System of Award Management (SAM) Program (this includes the non-entitlement entity and its Principals);
- have an active registration in the System of Award Management (SAM) Program;
- comply with the audit requirement of the Federal or Texas Single Audit Act, if applicable;
- meet Citizen Participation requirements;
- pass Previous Participation review; and
- ensure project readiness to proceed upon award.

### Coronavirus Tieback

The proposed project must be designed to prevent, prepare for, or respond (also known as PPR) to coronavirus. This tieback may relate to the current pandemic or may relate to mitigating potential future coronavirus pandemic impacts. PPR Tieback Quick Guide can be found [here](#).

Priority will be given to those applications with a readiness to proceed that are “shovel-ready,” as reflected in the scoring matrix.

The Department will be accepting applications beginning October 1, 2021 utilizing Smartsheets, a web-based application. CDBG-CV Community Resiliency Program applications will be due no later than **January 19, 2022** at 5:00 p.m. Austin Standard Time.

Applicants may submit one application per Public Facilities and Improvements project and may submit one application for one or more Public Service projects without exceeding the maximum amount of \$5,000,000.

**Any Application received after the due date will not be accepted.**

## **2) Targeted CDBG National Objectives**

A non-entitlement community must meet one of the following CDBG national objectives:

### A. Principally benefit low- and moderate income persons (LMI) – 24 CFR §570.483(b)

- LMI-Area Benefit (LMA), as defined by census tracts and block groups.
  - LMA eligibility is based on American Community Survey using Census Geographies
  - At least 51 percent of households in the area must be earning at least 80% or below Area Median Income (AMI) to meet LMA
  - Must be contiguous – the area must be a solid area, without certain streets or buildings being excluded, and the area should be mapped to show eligibility. If a service area is not contiguous it will be determined to be a separate activity and will need a separate application.
  - Activity must be a public benefit for the area, for example the construction of a facility to be used for testing, diagnosis, or treatment of infectious disease. LMA eligibility should be determined from the Map Application at HUD’s Low- and Moderate-Income Summary Data Application page. Instructions for HUD’s mapping application can be found at this link:  
<https://hud.maps.arcgis.com/apps/webappviewer/index.html?id=ffd0597e8af24f88b501b7e7f326bedd>
  - Be of such nature and in such location that it may reasonably be concluded that the activity’s clientele will primarily be LMI persons. Reference: 24 CFR §570.208(a)(2)(i)(D)

or

B. Limited clientele activities (LMC), as defined by income limits of presumed benefit.

- LMC refers to persons who earn 80 percent or less of AMI for the county of residence, as updated annually by HUD.
- LMC may also require information on household size and income so that it is evident that at least 51 percent of the clientele are persons whose household income does not exceed the low- and moderate-income limit;
- LMC must also have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons; or
- LMC must be of such nature, and be in such location, that it may be concluded that the activity's clientele will primarily be low- and moderate-income persons.
- LMC activities that are presumed benefit
- Presumed benefit LMC refers to persons who, as a category, are typically low income. This includes:
  - Seniors
  - Persons with a disability (must meet the [Bureau of the Census' Current Population Report's definition of "severely disabled"](#))
  - Homeless persons
  - Abused children
  - Battered spouses
  - Illiterate adults
  - Persons living with acquired immunodeficiency syndrome (AIDS)
  - Migrant workers

### 3) Eligible Activities

As per the Department's approved Third Substantial Amendment to the 2019 State of Texas Consolidated Plan: One-Year Action Plan, the following activities are permitted:

A. Public Facilities and Improvements Activity with a documented COVID-19 Tie-back.

Acquisition and/or rehabilitation, or new construction related to publicly owned:

- homeless shelters/facilities, (presumed benefit population)
- domestic violence centers/facilities, (presumed benefit population)
- health clinics (area benefit)
- emergency medical (EMS) stations (area benefit), and
- senior centers/facilities (presumed benefit population).

**Acquisition related activities:**

CDBG-CV funds may be used to pay the cost of identifying the property to be acquired for eligible public facilities and improvements, purchasing the property based on the Fair Market Value in compliance with the Uniform Assistance and Real Property Acquisition Act (URA), and other related costs such as appraisals, the preparation of legal documents, recordation fees, and other costs that are necessary to the acquisition process. An environmental review using the HUD standards at 24 CFR Part 58 must be completed prior to the acquisition of any property including the signing of all contracts or earnest money agreements for the subject property. Please consult with TDHCA staff about the Part 58 requirements before taking any actions to acquire property.



### **Construction or Rehabilitation activities:**

CDBG-CV funds may be used for the construction or rehabilitation of a public facility to prevent or respond to the spread of coronavirus, or to prepare for future pandemics. Rehabilitation includes establishing appropriately ventilated spaces for the public facilities listed above. An additional CDBG-CV eligible activity is the acquisition and rehabilitation (if necessary) of buildings to expand the capacity for non-congregate shelter where such temporary housing is not sufficient during a coronavirus pandemic or epidemic. CDBG-CV funds available under this Notice may not be used for permanent supportive housing or transitional housing.

Any facilities funded with CDBG-CV funds will be required to have a Use of Real Property agreement consistent with applicable CDBG regulations (typically five years after the grant close out period).

### **The following are examples of eligible activities under Public Facilities and Improvements:**

The following activities are some examples, but not an exhaustive list, of what may be done under the programming ideas to improve a community's resiliency:

- Rehabilitation of a vacant building or duplex to be used as a non-congregate shelter to serve the chronically homeless;
- Acquisition of property and construction or rehabilitation of a building on the property to be used as a non-congregate homeless shelter;
- Clearance of a site on which a non-congregate homeless shelter will be constructed;
- Conversion of an abandoned public school to a facility providing both non-congregate shelter and services to the homeless;
- Rehabilitation or construction of a senior center to improve the structure of the building including improving ventilation, the addition of sanitation stations for the elderly, encouraging social distancing, and improvements which will allow contactless meal pickups if necessary;
- Rehabilitation or construction of a non-congregate domestic violence facility for improved ventilation and social distancing to ensure all clients are receiving the necessary social services provided with no limitations; or
- Rehabilitation or construction of a health clinic to provide services necessary for the health and well-being of the clients served including treatment areas and cold storage to store vaccines.

It is important to note that, with few exceptions, the expansion or enhancement of buildings for the general conduct of government is an ineligible activity. Existing public facility structures may be able to be modified to prevent the transmission of the coronavirus and allow for adequate social distancing or remote access if the facility otherwise meets an eligible activity as defined above.

### **Projects funded under this activity will have a 30-month contract period**

B. Public Services Activity with a documented COVID-19 Tie-back.

Public Services to respond to COVID-19 impacts such as providing equipment, supplies, and materials necessary to carry-out a public service to prevent or respond to the effects of the pandemic, or to enable resilience to the effects of coronavirus in the future. This activity is limited to the purchase of the following real property if intended to be publicly owned and managed:

- Mobile food pantries
- Mobile health clinics, and
- Emergency medical services vehicles.

Acquisition of mobile units that are meant to be used to serve at least 51% or more of low- to moderate-income participants requiring services of the mobile unit or primarily used in an area comprised of at least 51% or more low-to moderate income participants presumed benefit limited clientele, or nature and location.

**Projects funded under this activity will have a 15-month contract expenditure period.**

#### 4) Ineligible Activities

- a) With few exceptions, the expansion or enhancement of buildings for the general conduct of government is an ineligible activity. Existing public facility structures may be able to be modified to prevent the transmission of the coronavirus and allow for adequate social distancing or remote access if the facility otherwise meets an eligible activity as defined above.
- b) Water or wastewater facilities that serve more than the public facility property in the application are ineligible.
- c) Projects that will employ eminent domain are ineligible.

## Part III: Eligible Applications

### 1) Eligible Jurisdictions

Any Texas city or county, except a city or county that participates in the HUD- administered CDBG Entitlement program either as a direct entitlement or as part of an urban county consortium, is eligible to apply for CDBG-CV funding. Incorporated cities located in an urban county as defined by 42 U.S.C. 5302(a)(6) must formally elect to be excluded from participation in the urban county entitlement status. HUD must be notified that the city has elected to be excluded from the urban county participation as per 24 CFR §570.307(g) for it to be eligible for the state CDBG program, including CDBG-CV funding in this NOFA. Only eligible activities from eligible Applicants will be reviewed.

Applicants that have not applied to the CDBG program in the last 5 years, or who are first time applicants

to the state administered CDBG program are strongly encouraged to schedule pre-application technical assistance meetings with the Department's staff. These meetings are intended to help Applicants submit eligible applications that align with Applicant capacity and that are targeted to community needs and priorities. Technical assistance will be available to subrecipients administering funds throughout the duration of the CDBG-CV funding.

## **2) Grant Management Compliance**

The Applicant must demonstrate to the satisfaction of the Department that it is in compliance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200, including the single audit requirements of 2 CFR §200.501 and procurement of professional services. Requirements for federal procurement can be found at [2 CFR §200.317-326](#). All Applicants are subject to the requirements of 10 TAC §1.403, concerning Single Audits. If a Subrecipient utilizes subawardees, the Subrecipient is responsible for monitoring those financial management systems in accordance with 10 TAC §1.402.

## **3) Previous Participation Review and Federal Debarment**

All Applicants will be subject to a Previous Participation Review by the Department, as outlined in 10 TAC §1.302.

Pursuant to 24 CFR Part 5, 180, and 2424 all CDBG-CV applicants are required to verify that they and their principals, or any/all persons, contractors, consultants, businesses, Subrecipients, etc., that will be conducting business with the applicant as part of this program activity are not presently debarred, proposed for debarment, suspended, declared ineligible, or voluntarily excluded from participation in the covered transaction or in any proposal submitted in connection with the covered transaction.

The Department will not award any CDBG-CV funds to organizations that are debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation from federally or state assisted programs, or that are proposing to partner, contract, or otherwise fund any program activities through an organization that is debarred, suspended, proposed for debarment, or otherwise ineligible from participation in federally assisted programs. If an organization has a member of its governing body that has this status, the Department will allow the member to resign so that the organization can enter into a Contract with the Department.

## **4) Subcontracts and Subawards**

### **A. Subcontracts**

Subrecipient, in subcontracting for any performances described in this Contract, expressly understands that in entering into such subcontracts, TDHCA is in no way liable to the Subrecipient's subcontractor(s). All subcontracts must be for goods or services and paid out of administrative funds. Subcontractors must be procured in accordance with 2 CFR Part 200, UGMS, and 10 TAC §1.404. Requirements for federal procurement can be found at [2 CFR §200.317-326](#)

Subrecipient has the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all Contract terms and as if such performances rendered were rendered by Subrecipient. Department maintains the right to monitor and require Subrecipient's full compliance with the terms of this Contract.

## **B. Subawards**

Subrecipient may request permission from the Department to enter into a subaward to a unit of local government, council of government, public housing authority, or private nonprofit organization for some or all of its program and administrative funds through a direct (non-competitive) award. The Subrecipient must fulfill all of the requirements of a pass-through entity listed in 2 CFR §200.332, and must monitor its subawardee at least once during the Contract Term.

Any subaward must contain all the applicable terms and conditions required by federal and state requirements and as further reflected in this Contract including but not limited to items specifically identified in this Contract, 2 CFR §200.332, and 2 CFR Part 200 Appendix II (as applicable).

Subrecipient must provide the Department with the applicable contact information for all subawards to ensure that accurate contact information is available relating to the Community Resiliency Program. Subawardees may not further subaward funds.

Before entering into a contract or other agreement with a subawardee, Subrecipient must: 1) check the Federal and State debarment and suspended lists of both the Department (all subawardees) and Texas Department of Agriculture (only if the subawardee is a non-entitlement city or county) for the entity and for governing board members of subawardees; 2) ensure that the entity (if applicable) is current on its Single Audit submission to the Federal Audit Clearinghouse; 3) request a disclosure for matters under 2 CFR §200.113, 2 CFR Part 200 Appendix XII, 24 CFR Part 9, or the Fair Housing Act; and 4) provide the Department this information on the Department's form by one month after the Contract start date (or other date identified in the Contract).

The Subrecipient, in subawarding for any performances described in this Contract, expressly understands that in entering into such subawards, the Department is in no way liable to the Subrecipient's subawardee(s). Department's approval of subawardee does not constitute adoption, ratification, or acceptance of Subrecipient's or subawardee's performance hereunder. Department maintains the right to monitor and require Subrecipient's full compliance with the terms of the Contract. Department's approval does not waive any right of action which may exist or which may subsequently accrue to Department under the Contract.

## **5) Project Selection Considerations**

The factors below will be considered by the Department after it has been determined that a project is an eligible activity as described in this NOFA; that it prevents, prepares for, or responds to the impacts of the coronavirus pandemic; and that it meets a CDBG national objective. These additional considerations include:

- **Community Need:**
  - Project addresses an identified housing, economic, or community development need; addresses a priority need in the community; and/or addresses existing gaps in the availability of and accessibility to facilities and improvements to respond to future pandemics when compared to a larger area.
  - How effectively the project will be in:
    - Reducing the risk of individuals contracting or further spreading the coronavirus or future pandemics (prevent);

- Keeping people healthy by reducing their risk of exposure to the virus or avoiding or slowing the spread of future disease (prepare for); and
  - Mitigating the social, economic, and public health impacts of the current or future pandemics (respond to).
- **Cost Reasonableness:**
  - Projects costs are reasonable
  - CDBG-CV funds being used efficiently and effectively
  - CDBG-CV funds are being used to leverage other public and private resources
- **Duplication of Benefits:**
  - Whether the project can or has been funded from another source of funding
  - Whether the activity will receive other sources of funding to provide the same objective
  - The applicant’s ability to document all funding sources separate
- **Timing of the Project:** The development of public facilities can be complicated, often requiring multiple funding sources, competitive bidding, detailed architectural plans, extensive public review, and lengthy permitting processes. Such projects can take several years to complete. Given these challenges, the Department will consider:
  - Whether the proposed project be completed in time to address the intended purpose
  - How the grantee believes it will meet the requirement to expend 100% of the funded project within 30 months
- **Ongoing Use of the Facility:**
  - How long the facility will be used for its intended purpose after completion
  - If converted for another purpose once it is no longer used for its specific purpose, how the new use will remain in compliance with CDBG regulations
  - Additional information on the potential reuse of public facilities financed with CDBG-CV funds is included below in the "**Use of the Public Facility after the Pandemic**"\* section.
- **Operational Capacity:**
  - The grantees and/or its subrecipient have the organizational capacity and funding needed to operate the facility once the project is completed
  - Whether additional funds (often an eligible public service activity) will be required

**NOTE: No additional CDBG-CV funds will be made available for continued operations of project.**

**\*USE OF A PUBLIC FACILITY AFTER THE PANDEMIC**

Grantees should consider that the use of a public facility may change after the pandemic is over and the facility may no longer be needed for its intended use. The Uniform Administrative Requirements (24 CFR §200.311 and 24 CFR §570.489(j)) state that real property acquired or improved with Federal funds must continue to be used "for the originally authorized purpose as long as needed for that purpose, during which time the non-Federal entity must not dispose of or encumber its title or other interests." Often referred to as the change of use standard, the standard applies when more than \$250,000 in CDBG-CV funds are used to acquire or improve real property.

In the case of property acquired or improved by a non-entitlement community (including by a Subawardee), the standard applies for a minimum period of five years after the completion of the activities under the Contract, including but not limited to all final construction inspection being resolved with no deficiencies and all funding is disbursed. (24 CFR §570.489(j)). Grantees are required to provide adequate public notice and an opportunity for the public to comment on the proposed change of use and determine if the acquired or improved property continues to meet a national objective.

If, after consultation with the public, the Department determines that the change of use is appropriate and that the new use continues to meet a CDBG national objective, the standard would be met, and no further action required.

If the change of use does not meet a CDBG national objective, the entity will need to reimburse the CDBG program if it decides to proceed as proposed. The amount required to be reimbursed to the CDBG program is based on the fair market value (based on an appraisal) of the property at the time of the change of use, not the initial expenditure of CDBG-CV funds. That reimbursement is considered to be program income and must be returned to the Department. Program income generated from CDBG-CV funds is treated as CDBG program income. A change in use from the initial use to a later non-coronavirus-related use would not necessarily impact the determination of whether or not the new use meets a CDBG national objective.

#### **Prohibition on Certain Funds Transfers**

Per the CDBG-CV Notice Part III.B.5.(c)(ii), all Subrecipients that directly or indirectly receive CDBG-CV funds are prohibited from selling, trading, or otherwise transferring all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, and must use such funds only for eligible activities.

## **Part IV: Federal Program Requirements**

### **1) Citizen Participation Requirements**

Per 24 CFR §570.486(a), the state is required to confirm that non-entitlement local governments applying for CDBG funds:

- Provide for and encourage citizen participation, particularly by low- and moderate-income (LMI) persons who will benefit from the activities and reside in blighted areas.
- Ensure that residents, including minorities, non-English speaking persons, and persons with disabilities will have access to local meetings and information relating to: the local government's proposed application submission for CDBG-CV funds; the amount of CDBG-CV funds being requested; and the estimated amount that will go to LMI benefit.
- Conduct a minimum of two public meetings, each at a different stage of the project (one before the submission of the local government's application to TDHCA, regarding their application for the proposed program activity).

- Provide residents with an opportunity to comment on the program activity in the application to the state, provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days where practicable.

## 2) Procurement

Pursuant to [24 CFR §570.489\(g\)](#), all Subrecipients must comply with federal procurement requirements. Requirements for federal procurement can be found at [2 CFR §200.317-326](#). Subrecipients are responsible for meeting all federal procurement standards for goods and services funded through federal programs. Failure to meet procurement requirements may result in disqualification, recapture of federal funds, and debarment.

## 3) Environmental Review

The appropriate level of environmental review must be conducted by the applicant prior to any site-limiting action or the execution of any binding agreement with a property seller, partner agency, or contractor. The [HUD COVID-19 environmental review memo](#) (issued on August 6, 2020) provides specific information and examples of the levels of environmental review required for different types of projects. Applicants are encouraged to work with the Community Resiliency Program team to ensure they are conducting the correct level of review for their projects.

## 4) Other Cross-Cutting Requirements

The CDBG-CV funding is administered under the general rules and regulations promulgated primarily in Subpart K of 24 CFR Part 570. These primary regulations are known as the federal cross-cutting requirements and form the basis of the programmatic requirements. The Department incorporates all federal cross-cutting requirements into the administration of CDBG-CV funds.

The following list is a summary of additional federal cross-cutting requirements:

1. Environmental Standards (Based on National Environmental Policy Act of 1969 [NEPA])
2. Labor Standards (Davis-Bacon and related laws)
3. Achieving a HUD National Objective
4. Citizen participation requirements
5. Fair Housing and Affirmatively Furthering Fair Housing
6. Equal Opportunity and Non-Discrimination in Federal Grant Programs
7. Federal Procurement Guidelines
8. National Flood Insurance Program compliance
9. Relocation and displacement requirements
10. Employment and Contracting Opportunities Section 3 Compliance
11. Lead-based paint requirements
12. No use of debarred, ineligible, or suspended or sub-recipients
13. Uniform Administrative Requirements and Cost Principles
14. Conflict of interest prohibitions

15. Compliance with the Architectural Barriers Act and the Americans with Disabilities Act
16. Federal reporting requirements
17. Grant and subawardee monitoring requirements

## **Part V: Program Administration and Performance**

### **1) Execution of Grant Documents**

As a condition precedent to the disbursement of CDBG-CV funds, the Subrecipient must execute and deliver a Contract to TDHCA and must provide to TDHCA all executed, legally enforceable grant documents, as applicable, and any other documents reasonably requested by TDHCA in connection with these funds.

The applicant must pass a resolution from the local governing body (e.g., City Council or County Commissioners Court) authorizing the submission of the application and identifying the authorized signatory.

Entities applying for a public facilities activity will be required to enter into a Land Use Restriction Agreement (LURA) with the Department that will be filed in the property record.

### **2) One-Time Advance of Funds**

The entity may request a one-time advance of funds (no more than 30 days cash need) by submitting to TDHCA a properly completed planned expenditure report that includes a request for advance funds in a format specified by TDHCA. TDHCA shall determine the reasonableness of the amount requested and shall not make disbursement of any such payment until TDHCA has reviewed and approved such request. TDHCA may request the entity to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein as may be necessary or advisable for compliance with the federal and state requirements.

The entity's requests for the advance of funds shall be limited to the minimum amounts needed for effective operation of programs, and shall be timed as closely as possible to be in accord with actual cash requirements. If the entity subgrants any part of the award it must have financial management systems in place to pay the subawardee for expenses under the agreement, generally within 30 calendar days.

### **3) Performance Benchmarks, Contract Term and Deobligation**

The contract will be issued for an expenditure period of up to 30 months for public facilities and improvements activities and 15 months for public service activities, subject to opportunity for extension at the sole discretion of the Department.

Contract benchmarks for public facilities and improvements contracts will be reflected in the Contract with the Subrecipient that require expenditures as follows:

- No later than the end of the sixth month of the Contract, at least 20% of total contracted funds must be reported as expended.
- No later than the end of the ninth month of the Contract, at least 40% of total contracted funds must be reported as expended.



- No later than the end of the twelfth month of the Contract, at least 60% of total contracted funds must be reported as expended.
- No later than the eighteenth month of the contract, at least 80% of the total contracted funds must be reported as expended.
- No later than the end of the twenty-fourth month of the Contract, at least 100% of the total contracted funds must be reported as expended.

Other benchmarks for public facilities and improvements will include, but not be limited to:

- No later than 60 days of notification of an award, the information necessary to perform an environmental review under 24 CFR Part 58.

No later than the end of the sixth month of the Contract, submit a copy of the activity budget inclusive of all sources and uses of funding, documents for a pre-construction plan review, and identification of the entity and signature authorization of the individual (name and title) that will execute the LURA, as applicable for the Activity.

Within 30 calendar days of construction completion the entity must request a final construction inspection. The inspection will cover the Shelter and Housing Standards, 2000 International Residential Code (or municipality adopted later version), Minimum Energy Efficiency Requirements for Single Family Construction Activities, and the Accessibility Standards in Chapter 1, Subchapter B, as applicable for the Activity.

Contract benchmarks for public service contracts will be reflected in the Contract with the Subrecipient that require expenditures as follows:

- No later than the end of the ninth month of the Contract, at least 80% of total contracted funds must be reported as expended.
- No later than the end of the twelfth month of the Contract, at least 100% of total contracted funds must be reported as expended.

#### **4) Reporting Responsibilities & Records to be maintained**

CDBG-CV recipients will be required to submit monthly performance reports outlining accomplishments relative to program goals, project progress and verification of grant-funded program expenses. The reports will be reviewed for accuracy, performance measures and compliance. In addition, monitoring and auditing of grantees for ongoing compliance and eligibility will be performed by the State to ensure federal requirements are being met.

## **Part VI: Application Procedures and Content**

### **1) Applicant Threshold Criteria**

- Per the citizen participation requirements in 24 CFR §570.486(a) and explained in this NOFA, local non-entitlement governments applying for CDBG-CV funds meeting the non-entitlement definition must hold a public hearing prior to submitting this application, meet notice requirements and provide opportunities for the public to pose questions about the Community Resiliency Program and receive answers. Applicants will be required to document that this public meeting was held; outreach was conducted to reach low-income groups, minorities, persons with

limited English proficiency and persons with disabilities; and that outreach was conducted in other languages as applicable and relevant to the community.

- The applicant must submit a completed online [Application](#) including all attachments and documentation through Smartsheets. Failure to do so may be considered as not having met the threshold criteria.
- An applicant will not be recommended for an award until it has submitted required Previous Participation forms and been recommended for an award, or an award with conditions, by the Department's Executive Award Review and Advisory Committee. Previous Participation forms are a threshold requirement.
- Applicants must comply with the audit requirements in the Federal or Texas Single Audit Act as applicable as well as the audit requirements in the Texas Local Government Code. If the applicant is not subject to the Federal Single Audit Act, it is required to submit its State Single Audit (if applicable). If the entity is subject to neither the Federal or Texas Single Audit Act it must submit its most recent annual or audit opinion letter with its application to demonstrate financial capacity. The audit opinion letter is preferred to the whole audit (Note: not the management letter). A certified public accountant (CPA) who is licensed in this state or a public accountant who holds a permit to practice from the Texas State Board of Public Accountancy must conduct the audit and prepare the annual financial statement. Applicants may not submit self-performed audits. The audit must be an organizational-wide audit and cannot be limited to certain parts of the organization. Annual audits for fiscal years ending on or before December 31, 2019 will not be accepted. Failure to submit an audit/audit opinion letter or to represent in the Application that the Single Audit is current in the Federal Audit Clearinghouse by the application deadline will result in automatic disqualification.
- If the Applicant has an overdue Single Audit, Department monitoring findings outside the Corrective Action Period, or owes the Department an outstanding balance, the Applicant will be given seven calendar days to remedy the matter. After this time, the application will be not be recommended for funding.
- Applicants must demonstrate an active registration in the System for Award Management (SAM) to be eligible for funding. The applicant must include a screen-shot from the SAM website at <https://sam.gov> verifying the entity's registration is active with no exclusions.

## 2) Application Scoring Criteria

All Applications will be ranked according to a scoring matrix and associated scoring criteria and points for a total of 100 points. Program staff may decline to recommend to EARAC an award for an applicant that does not meet 50% of the maximum application score. Each scoring criteria will be based on a range. An application will receive more points for more fully achieving the standard evaluated. In the event of a tie in scoring, the Department will recommend the project that will be fully funded with requested CRP funds. The next tie breaker will be for a public facilities application. In the event this results in a continued tie, the Department will then use a random drawing selection method. The scoring criteria below will be followed:

RATING CRITERIA	Max Pts
<b>1. DESCRIPTION OF PROJECT</b>	<b>15</b>
There is a clear need for this project in the community and there is documentation to support the need and demand from the target population to be served and assisted as reflected in the application	10
The scope of work is clearly explained, well-thought out, and appears able to be implemented	5
<b>2. PLANNING/BUDGETING</b>	<b>15</b>
Application has clear tie-back to COVID-19 or preparation for a future pandemic (prepare, prevent, respond to)	10
The budget provided is clear, has logical line items for the activity proposed, and is reasonable and realistic to perform the project.	3
Applicant has described how Duplication of Benefits will be adhered to in relation to the project	2
<b>3. ADMINISTRATIVE CAPACITY AND FINANCIAL CAPACITY</b>	<b>30</b>
Application has adequate overall financial capacity and stability in supporting the project's operation and/or maintenance after completion	10
Applicant has experience with Federal and State program funding and has undertaken projects of similar complexity as the one for which funds are being requested	10
Applicant has identified staff, or hired a grant administrator, dedicated to administer and provide direct oversight for the project with experience in Federal and State grant management	10
<b>4. PROJECT READINESS</b>	<b>40</b>
<b>Public Facilities/Improvements:</b> Application clearly states, and demonstrates, that project is shovel ready. Typically this means that the design and engineering work is underway or has been completed. Resources such as funding identified (if additional resources applicable), and site control needed to carry out the proposed project are available and ready (shovel ready = 20 points, not shovel ready - Engineer and Administrator procured = 15 points, not shovel ready - no Engineer procured = 5 points). <b>Public Service:</b> Project has been vetted using procurement standards and awaiting procurement and purchase (purchase bid has been received = 20 points, purchase bid has been requested = 10 points)	20
<b>Public Facilities/Improvements:</b> Planning and Pre-Development has been completed, Environmental Review underway. <b>Public Service:</b> readiness to implement and procurement processes identified.	10
Project will be completed in a timely manner ( <b>Public Facilities:</b> within 20 months = 10 points, within 24 months = 5 points, within 30 months = 3 points)( <b>Public Service:</b> within 12 months = 10 points, within 15 months = 5 points)	10

### 3) Application Procedures

- All materials to submit an application under this NOFA and Federal Rules and Regulation are available on the Department’s website at <https://www.tdhca.state.tx.us/CDBG-CARES.htm>
- Applicants must follow instructions in both this NOFA and the online application.
- The CDBG-CV application and all required attachments must be received by the Department through the [online Smartsheet Application](#) portal no later than 5:00 p.m. Austin Central Time on **January 19, 2022**. When submitting the application via Smartsheet, at the very bottom of the form, click on the “*Send me a copy of my responses,*” to get verification of your submission. The Smartsheet application does not allow you to save your application while working on it. Our suggestion is to save your information on a Word document and then copy and paste into the Smartsheet application. The Department encourages early submissions of applications prior to the deadline to mitigate any unforeseen technical issues with the online submission.
- Applications received after 5:00 p.m. Austin Central Time on **January 19, 2022** will be disqualified and will not be reviewed. Any applicant for which this is the case will be notified of their disqualification.
- Applications must meet all threshold and eligibility requirements upon submission. It is the applicant’s responsibility to ensure that the submitted application is clear, complete, and accurate. Department staff may request clarifying information and may request that applications be revised and resubmitted to help address eligibility and threshold issues prior to approving applications and issuing awards.
- The Department will post to its CDBG webpage a log of all applications received within approximately 10 days of the application deadline.
- The Department will hold the *CRP NOFA and Application Workshop* webinar on **October 13, 2021**. The application webinar will be recorded and will be made available on the Department’s website at <https://www.tdhca.state.tx.us/CDBG-CARES.htm> for your review. The following link has been made available register for the *CRP NOFA and Application Workshop* webinar: <https://register.gotowebinar.com/register/4363754260848459280>

### 4) Application review, approval, and commitment process

- All applications are required to meet threshold requirements. Failure to meet threshold requirements may result in immediate disqualification or a deficiency notice. Applications that do not meet threshold requirements will not be further reviewed and will be disqualified. In the case of such disqualification, an applicant will be notified and an opportunity to appeal such determination will be made available.
- Department staff may request that an applicant provide clarification, correction, or non-material missing information to resolve inconsistencies in the original application or to assist staff in evaluating the Application. Staff will request such information via a deficiency notice. Staff will send the deficiency notice via email and responses must be in kind unless otherwise defined in the notice.

- A review of the applicant's response may reveal that additional administrative deficiencies are exposed or that issues initially identified as an administrative deficiency are actually determined to be beyond the scope of an administrative deficiency process, meaning that they are matters of a material nature not susceptible to being resolved.
- An applicant may not change or supplement any part of an application in any manner after submission to the Department, except in response to a direct written request from the Department to remedy an administrative deficiency. An administrative deficiency may not be cured if it would, in the Department's determination, substantially change an application including score, or if the applicant provides any new unrequested information to cure the deficiency.
- The time period for responding to a deficiency notice commences on the first day following the deficiency notice date. If an administrative deficiency is not resolved to the satisfaction of the Department by 5:00 p.m. on the fifth calendar day following the date of the deficiency notice, then one point shall be deducted from the selection criteria score for each additional day the deficiency remains unresolved. If administrative deficiencies are not resolved by 5:00 p.m., Austin Central Time on the seventh calendar day following the date of the deficiency notice, then the Application shall be terminated.
- The Department will review and score applications which will then be ranked. Funding recommendations of awards will be based on eligibility and score, except as limited by reasons specified in Part VI, Section 2. Recommendations will be limited by the total amount of funds available under this NOFA, and the maximum award amount limitations.
- The Department will perform a Previous Participation Review. The Executive Award Review and Advisory Committee (EARAC) will make award recommendations to the Board or to the Executive Director, if the Board has delegated such authority.
- Applicants will be notified via email of an award recommendation or a recommendation with conditions. Applicants should ensure that the appropriate contact information is included in the application to facilitate notifications of awards and requests for changes. Applicants recommended for awards will be advised of next steps by the Department.
- An applicant may appeal decisions made by the Department in accordance with 10 TAC §1.7.