



# **Texas Community Development Block Grant Program**

2023-2024 Community Development Fund

Application Guide

# **Table of Contents**

Table of Contents.....	1
TxCDBG Goals and Requirements.....	2
Part I. CD Fund – Specific and other Program Requirements.....	3
CD Fund Application Submittal and Deadline Requirements.....	3
Part II. General TxCDBG Application Requirements.....	8
Application Completeness.....	8
Application Threshold Requirements.....	9
Basic Eligibility Documentation Requirements.....	9
Project Specific Documentation Requirements.....	11
Jurisdiction of Applications.....	13
Other Program Policies.....	15
Part III. General CDBG Federal Requirements.....	18
Appendix I: Application Instructions.....	23
Appendix II: Matching Funds.....	27
Appendix III: Sample Cost Estimate .....	30
Appendix IV: TxCDBG Activity Code Reference Table.....	31
Appendix V: Form and Document Samples.....	35

## **TxCDBG Goals and Requirements**

The goal of the Texas Community Development Block Grant (TxCDBG) Program is to develop viable communities by providing decent housing and a suitable living environment, as well as by expanding economic opportunities, principally for persons of low-to-moderate income. In awarding funding pursuant to Government Code Section 487.351(c), the Texas Department of Agriculture (TDA) shall give priority to eligible activities in the areas of economic development, community development, rural health and rural housing to support workforce development.

The objectives of the TxCDBG Program are:

1. To improve public facilities to meet basic human needs, principally for low-to-moderate income persons;
2. To improve housing conditions, principally for persons of low-to-moderate income;
3. To expand economic opportunities by creating or retaining jobs, principally for low-to-moderate income persons; and
4. To provide assistance and public facilities to eliminate conditions hazardous to the public health and of an emergency nature.

## **Recommended Steps in Application Process**

Although certain steps may be completed at any point in the grant application process, TDA recommends completing the application as follows:

- 1) Review the Application Guide and consider potential eligible projects that would meet local needs.
- 2) Identify an Application Preparer. This may be a local staff person or a third-party consultant procured using TDA's Pre-Qualified Administrator procurement process. More information regarding this process can be found on the [TxCDBG Professional Services](#) web page.
- 3) Conduct public hearing to solicit feedback from community members regarding community needs. Notice of the public hearing must be provided no less than 72 hours prior to the hearing.
- 4) Discuss most feasible projects with the Application Preparer and decide which project(s) to pursue.
- 5) Identify an Application Engineer. This may be a local staff person or a third-party consultant procured using TDA's Chapter 5 Professional Services procurement process. More information regarding this process can be found on the [TxCDBG Implementation Manual](#) web page.
- 6) With Application Engineer, identify Benefit Area of the project(s) and preliminary cost estimate.
- 7) With Application Preparer, identify LMI beneficiaries of the Benefit Area via HUD data or income survey. More information on beneficiary documentation can be found on the [TxCDBG Beneficiary Documentation](#) web page.
- 8) If project area qualifies, continue preparing application data with Application Preparer.
- 9) Present local resolution to local governing body to authorize submission of the application – this resolution includes the project description and commitment of any matching funds and must be passed after conducting the public hearing.
- 10) Finalize the application.
- 11) Publish notice of application availability. The application must be available for public review for no less than five (5) days:
  - a. after the local resolution is passed;
  - b. after the notice of availability; and
  - c. prior to the application submittal deadline.
- 12) Submit the application to TDA.

## **Part I. CD Fund - Specific and other Program Requirements**

### **Action Plan**

The requirements and procedures specified in the 2023 One Year Action Plan will govern the 2023-2024 CD Fund application process. The Action Plan will be available on the TDA website at [www.TexasAgriculture.gov](http://www.TexasAgriculture.gov). Note: The 2022 One Year Action Plan may be used for reference until the 2023 planning period is completed.

### **CD Fund Application Submittal and Deadline Requirements**

The application procedures for the 2023-2024 TxCDBG Community Development (CD) Fund are included in this Application Guide. The procedures in this application guide supersede those published in all previous TxCDBG application guides.

The deadline for all 2023-2024 TxCDBG CD Fund applications is 11:59 p.m. C.T. on ~~May~~April 3, 2023.

Applications will not be accepted after 11:59 p.m. on the final day of submission. Technical assistance from TDA staff will be unavailable after 5:00 p.m. on the final day of submission.

Application submissions shall be accepted through TDA-GO system. The system may be accessed by navigating to <https://tda-go.intelligrants.com/>.

### **Amount of Grant Funds Requested**

CD Fund applications may request no more than \$500,000 in eligible project activities, including engineering and administration costs.

All CD Fund applications must request a minimum of \$200,000 in eligible project activities, including engineering and administration costs. Applications that do not support this minimum grant amount will not be considered for funding. Communities with projects that do not meet this minimum request amount may consider partnering with neighboring jurisdictions with similar projects.

Grant funds may be used for the following costs in support of eligible TxCDBG program activities up to the maximum amount below - if actual costs exceed this amount, matching funds will be assigned to these costs:

- General administration – up to 16% of funds requested for construction and acquisition activities or \$55,000, whichever is less
- Engineering services – up to 25% of funds requested for construction and acquisition activities or \$75,000, whichever is less

### **National Program Objective**

For the Community Development Fund, a community must meet the Low/Moderate Income NPO as per the Texas Administrative Code. The project must meet all requirements to document one of the following for each activity:

- LMI Area Benefit,
- LMI Housing Benefit, or
- LMI Limited Clientele benefit (requires TDA approval prior to passage of the local resolution).

An activity that addresses the NPO of principally benefitting low-to-moderate income persons must provide documentation as to the income status of those persons (also called beneficiaries). Low to moderate income individuals are those whose income is 80% or less of the area median family income (AMFI). Clear documentation of an applicant's beneficiary identification method must be received with the application.

- HUD’s Low-Moderate Income Summary Data (LMISD) may be used to document beneficiaries within a specific Census geography. To obtain a Census map of a specific area, visit the [HUD LMISD Mapping Application](#).
- Use of door-to-door surveys is an acceptable method for documenting beneficiary income levels. Refer to the agency website at <https://www.texasagriculture.gov> for a copy of the most recent **Survey Methodology Manual** and required survey forms. Use the survey method to document beneficiaries for projects that have a small benefit area or for proposed project activities with a service area that cannot be “reasonably delineated” by standard census geographic areas (Place, Census Tract, Block Groups).

Additional information regarding documentation for National Program Objectives can be found in the **TxCDBG Guide to National Objectives**.

Inaccurate or incomplete documentation of beneficiaries will result in disqualification of the application. TDA staff is available to provide technical assistance to confirm beneficiary documentation prior to the application deadline. To request this assistance, email [CDBGApps@TexasAgriculture.gov](mailto:CDBGApps@TexasAgriculture.gov) with the following information at least 30 days prior to the application deadline or within a reasonable time before the deadline to allow TDA staff sufficient time to review:

- Brief project description;
- Description of how residents of the identified service area will benefit from the proposed improvements;
- Map showing location of proposed improvements AND clear boundaries of benefiting service area; and
- Supporting documentation for beneficiaries (Census-based LMISD data or Beneficiary Survey).

## Eligible Activities

All eligible TxCDBG program activities (see Appendix IV) are eligible for the CD Fund.

### Parameters for planning activities

Related Planning Activities: Applicants may propose planning activities to be completed in conjunction with an eligible construction activity.

- Requested planning activities shall be limited to the activity type of construction proposed. For example, an application proposing water improvements may also request a water system planning activity.
- Related planning activities must include system mapping, system analysis and inventory of current conditions, and a capital needs priority list.
- TDA reserves the right to negotiate this element in the application and/or award state, including requiring additional matching funds.
- Because the planning activity will benefit the entire system service area, the planning activity (IDIS activity code 20) must be established as a separate benefit area with appropriate documentation for beneficiaries, budget, and cost estimate. The project must meet all the requirements to document LMI Area Benefit (LMA).

Comprehensive Planning Activities: Applicants may request funds for community-wide comprehensive plans.

- Comprehensive plans must include base mapping, land use analysis, housing and population analysis, and financial analysis for capital improvements. Plans must include at least three (3) of the following planning elements:
  - Utility systems
  - Storm drainage systems
  - Transportation systems
  - Parks and recreation facilities
  - Zoning Ordinances
  - Subdivision Ordinances
- For each selected element, analysis must include system mapping, review of current conditions, and evaluation for compliance with relevant minimum standards. Requests for special planning studies must document the specific need for the activity and TDA reserves the right to negotiate this element in the application and/or award stage, including requiring additional matching funds.

- Because the planning activity will benefit the entire community, the planning activity (IDIS activity code 20A) must be established as a separate benefit area with appropriate documentation for beneficiaries, budget, and cost estimate. The project must meet all the requirements to document LMI Area Benefit (LMA).
- Up to \$75,000 may be requested for Comprehensive Planning Activities.

TDA reserves the right to decline planning activity funding where:

- TxCDBG funding was expended for substantially similar planning activities within ten (10) years preceding the application submittal deadline;
- Existing planning documents do not support the need for additional planning; or
- A current TxCDBG grant agreement or pending application indicates that significant system improvements or new system construction plans have already been identified.

### Number of Activities Requested

Applicants may submit applications for projects that include a single activity such as housing rehabilitation, sewer improvements, water improvements, drainage, roads, community centers, etc.

A single activity project (e.g., the extension of water lines and related service connections) may include some incidental activities, such as repair of streets under which the lines were placed, and still be considered a single activity project.

If multiple activities are requested, each activity must be established as a separate Benefit Area, with appropriate documentation for each (beneficiaries, budget, cost estimate, etc.). This requirement pertains both to applications with a variety of activities (e.g., water, sewer, and street paving activities) and to applications that include mixture of different areas. For example, an application that includes a water well benefitting an entire city and water lines benefitting a target area would be considered separate activities. See Appendix 1 for additional instructions on multiple benefit areas.

### Citizen Participation

For the Community Development Fund, public hearings conducted to solicit information on community needs and priorities, as described in Part II below, will be accepted only if conducted on or after August 1, 2022.

<b>Scoring (Maximum 200 Points Total)</b>	
<b>Regional Priority Scoring Factor</b>	
For established project priorities for 2023-2024, by region please visit the <a href="#">Regional Priorities</a> web page.	Maximum 50 Points
<b>Unified Scoring Committee (USC) Scoring Factors</b>	
<b>What is the poverty rate of the applicant?</b>	20 Points
Methodology: Determined by reviewing the most recent U.S. Census American Community Survey (ACS) 5-year estimate, Table S1701 for the applicant.	
<ol style="list-style-type: none"> <li>1. The poverty rate for each applicant is calculated by dividing the total number of persons at or below the designated poverty level by the total population from which impoverished persons was determined. Once this has been established, the average poverty rate is determined by dividing the sum of all poverty rates by the number of applicants.</li> <li>2. A base is calculated by multiplying the average poverty rate by 1.25.</li> <li>3. The poverty rate of each applicant is then divided by the base to determine each applicant’s poverty factor.</li> <li>4. The poverty factor for each applicant is multiplied by the total maximum allowable points. Any applicants exceeding the total allowed points will be capped at the maximum.</li> </ol>	

Note: Cities will be compared to all cities, and counties will be compared to all counties.

<b>What is the applicant's match amount?</b>	Maximum 50 Points
<u>Methodology:</u> If the project is for beneficiaries for the entire county, the total population of the county is used. For county applications in unincorporated areas, the population category is based on the actual number of beneficiaries served by the project activities. If the project serves beneficiaries for applications submitted by cities, the total city population is used.	
<u>Data Source:</u> Most recently available ACS 5-Year Estimate, Table B01003	
Applicant population equal to or less than 1,500 according to most recent ACS data:	
Match equal to or greater than 2% of grant request	50 Points
Match at least 1.5% but less than 2% of grant request	40 Points
Match at least 1% but less than 1.5% of grant request	30 Points
Match at least 0.5% but less than 1% of grant request	20 Points
Match less than 0.5% of grant request	10 Points
Applicant population equal to or less than 5,000 but over 1,500 according to most recent ACS data:	
Match equal to or greater than 5% of grant request	50 Points
Match at least 4% but less than 5% of grant request	40 Points
Match at least 3% but less than 4% of grant request	30 Points
Match at least 2% but less than 3% of grant request	20 Points
Match less than 2% of grant request	10 Points
Applicant population equal to or less than 10,000 but over 5,000 according to most recent ACS data:	
Match equal to or greater than 10% of grant request	50 Points
Match at least 7.5% but less than 10% of grant request	40 Points
Match at least 5% but less than 7.5% of grant request	30 Points
Match at least 2.5% but less than 5% of grant request	20 Points
Match less than 2.5% of grant request	10 Points
Applicant population over 10,000 according to most recent ACS data:	
Match equal to or greater than 15% of grant request	50 Points
Match at least 11.5% but less than 15% of grant request	40 Points
Match at least 7.5% but less than 11.5% of grant request	30 Points
Match at least 3.5% but less than 7.5% of grant request	20 Points
Match less than 3.5% of grant request	10 Points

<b>Has the applicant been funded in the previous three (3) CD application cycles?</b>	Maximum 60 Points
<u>Methodology:</u> Data source documentation will be reviewed and points will be assigned.	
The applicant has not received funding during the previous three funding cycles (0x)	60 Points
The applicant has been funded once (1x) during the previous three funding cycles	40 Points
The applicant has been funded twice (2x) during the previous three funding cycles	20 Points
The applicant has been funded three times (3x) during the previous three funding cycles	0 Points

**State-Selected Scoring Factors**

Methodology: For the state scoring factor, each applicant is initially awarded the full 20 points. Points are deducted from those 20 points based upon performance of an applicant on a previously awarded contract.

Past Performance on previously awarded contracts (Awarded 2/1/2018 – 8/31/2022)	Maximum 16 Points
<ul style="list-style-type: none"> <li><b>Timely submission of closeout reports</b></li> </ul> <p>Five (5) points will be deducted for applicants that did not submit close-out report within 60 days from the end date of the contract</p>	5 Points
<ul style="list-style-type: none"> <li><b>Timeliness of environmental clearance</b></li> </ul> <p>Zero (0) points will be deducted for applicants that completed the environmental review within 30 days of the environmental clearance milestone (210 days after the contract start date)</p> <p>One (1) point will be deducted for applicants that completed the environmental review within 60 days of the environmental clearance milestone (240 days after the contract start date)</p> <p>Three (3) points will be deducted for applicants that completed the environmental review within 90 days of the environmental clearance milestone (270 days after the contract start date)</p> <p>Five (5) points will be deducted for applicants that did not complete the environmental review within 90 days of the environmental clearance milestone (271+ days after the contract state date)</p>	5 Points
<ul style="list-style-type: none"> <li><b>Maximum utilization of grant funds awarded</b></li> </ul> <p>Zero (0) points shall be deducted for completed contracts that fully expended the grant funds, or deobligated less than the threshold amount (\$10,000).</p> <p>Five (5) points shall be deducted for contracts that deobligated an amount equal to or greater than the threshold for any reason.</p> <p>Exception: This scoring criterion will not apply to Texas Capital Fund Real Estate/Infrastructure contracts that completed the minimum necessary AND fulfilled 100% of the job commitment.</p>	5 Points
<ul style="list-style-type: none"> <li><b>Timeliness of completing projects (i.e., extension of contracts)</b></li> </ul> <p>One (1) point will be deducted for applicants that received an extension on a previous contract.</p>	1 Points
If an Applicant received more than one grant within the past performance evaluation period (2/1/2018 – 08/31/2022), TDA will average the result for all awarded contracts to assess a score for each metric.	

TxCDBG Priorities	Maximum 4 Points
<ul style="list-style-type: none"> <li><b>Early public hearing</b></li> </ul> <p>Two (2) points shall be received for applicants that conducted the public hearing, a component of the required citizen participation process, at least 90 days prior to application deadline.</p>	2 Points
<ul style="list-style-type: none"> <li><b>Fair Housing Activity</b></li> </ul> <p>Two (2) points shall be received for applicants that have conducted at least one of the following activities to affirmatively further fair housing between 9/1/2021 and the application deadline.</p>	

<ul style="list-style-type: none"> <li>▪ Conduct a community wide housing analysis to determine impediments to fair housing and implement action to eliminate these impediments and present the result of the analysis to the local governing body. <ul style="list-style-type: none"> <li>• To receive points, provide a copy of the governing body agenda and any materials distributed to the public.</li> </ul> </li> <li>▪ Sponsor or fund fair housing counseling/referral services for owners and renters. <ul style="list-style-type: none"> <li>• To receive points, provide a flyer or other material distributed for the services AND confirmation of financial contribution or sponsorship.</li> </ul> </li> <li>▪ Utilize local businesses and banking institutions to promote fair housing by displaying fair housing posters <ul style="list-style-type: none"> <li>• To receive points, provide photographs of at least three displays, and a list of all locations participating - a minimum of 10% of the members of the local Chamber of Commerce or similar organization for the community must display Fair Housing posters for a minimum of 30 days.</li> </ul> </li> <li>▪ Conduct free training workshops on fair housing laws to homebuyers, rental property owners, and tenant organizations. <ul style="list-style-type: none"> <li>• To receive points, provide a flyer or other material distributed for the services – the materials must identify the applicant as the organizer OR be supported by documentation of financial contribution to the training.</li> </ul> </li> <li>▪ Sponsor a poster contest or essay writing contest at local schools to educate and promote fair housing. <ul style="list-style-type: none"> <li>• To receive points, provide a flyer or other material distributed for the contest AND a copy of the winning submission.</li> </ul> </li> <li>▪ Review local zoning laws and procedures to determine whether they contribute to, or detract from, fair housing choice and present the results of this review to the local governing body. <ul style="list-style-type: none"> <li>• To receive points, provide a copy of the governing body agenda and any materials distributed to the public.</li> </ul> </li> <li>▪ Find ways to inform builders and architects as early as possible in the project design phase, but certainly no later than the issuance of a building permit, of the need to comply with the accessibility requirements of the Fair Housing Act. <ul style="list-style-type: none"> <li>• To receive points, provide a copy of the materials distributed to the public and a statement describing how these materials are distributed to the building community.</li> </ul> </li> <li>▪ Participation by community leaders (including but not limited to local official) in COG-hosted fair housing event <ul style="list-style-type: none"> <li>• To receive points, provide a copy of the event agenda and any materials distributed that are related to fair housing.</li> </ul> </li> <li>▪ Participation by community leaders (including but not limited to local official) in HHSC Housing Summit or similar collaboration. <ul style="list-style-type: none"> <li>• To receive points, provide a copy of the event agenda and any materials distributed that are related to fair housing.</li> </ul> </li> <li>▪ Invite local and/or regional media to observe TxCDBG-funded projects that have made a positive impact on the community. <ul style="list-style-type: none"> <li>• To receive points, provide a copy (or transcript) of the media coverage. If the media outlets declined to cover the project, a copy of the written invitation to a minimum of two media outlets will be accepted in lieu of providing an article or other coverage.</li> </ul> </li> </ul>	<p>2 Points</p>
--	-----------------

Additional options may be considered if approval is requested from TDA no later than 30 days prior to application deadline.	
---	--

<b>Tie Breaker</b>	
--------------------	--

In the event of a tie, applicants shall be ranked starting with the lowest median household income. Data source: Most recently available ACS 5-Year Estimates, Table DP03	
---	--

## **Part II. General TxCDBG Application Requirements**

### **Application Completeness**

Any application that is incomplete, noncompliant with program requirements, or received late will be disqualified. Applications lacking information necessary to make a determination concerning the eligibility of the activity (e.g., data on low-to-moderate income beneficiaries) or compliance with TxCDBG and Federal program requirements (e.g., citizen participation requirements) will be disqualified. A substantially complete TxCDBG application must include all of the following information:

- All application forms, fully completed;
- Accurate beneficiary data for the proposed project activities;
- A passed/adopted Local Government Resolution authorizing submission of the application;
- Evidence of compliance with the TxCDBG Citizen Participation requirements including the Public Hearing Notice and Notice of Application Availability
- Legible, quality maps; and
- Active SAM.gov registration for applicant.

### **Applications lacking any of the items listed above will be disqualified.**

Completed applications received by the deadline may be subject to disqualification including, but not limited to, any of the following reasons:

- The applicant is not a unit of general local government;
- The project is located in, or substantially benefits, an entitlement area;
- The application contains ineligible activities;
- The applicant does not comply with the TxCDBG Citizen Participation requirements;
- The applicant does not meet the Applicant Threshold Requirements;
- The application contains false information;
- The applicant did not comply with the TxCDBG survey requirements;
- The same or substantially the same application has been submitted under two or more TxCDBG fund categories;
- The application does not contain adequate or acceptable information to show that each proposed application activity meets a National Program Objective;
- The application does not comply with the requirement concerning the preparation of an assessment of the applicant's housing and community development needs prior to submission of a TxCDBG application;
- The applicant does not provide the information required in the TxCDBG Applicant/Recipient Disclosure/Update section of the Application; or
- The applicant does not respond, refuses to respond, or does not provide an adequate response to requests for revisions or additional information within the prescribed timeline.

Applications must propose project(s) that are fully developed. The proposed project scope cannot be changed after the application deadline, unless at the direction of TDA staff. The citizen participation process is intended to identify community priorities, and TDA will not approve a change in project scope based on changing priorities of the local government. Placeholder applications – those proposing a potential project with the intent of securing funding, then making local decisions regarding actual locations and project details after an award – will be considered substantially incomplete and will be subject to disqualification. Applications must justify any amount requested in the application and the amount requested is subject to review.

**Application Preparer**

An applicant may procure services prior to the submission of the application to assist in the preparation of the application and/or to provide engineering/architectural or administration services needed for grant management purposes if the application is funded. However, costs for application preparation are not eligible for matching funds or reimbursement with TxCDBG funds.

For services to be ultimately paid through grant funds, the applicant must follow the procurement guidelines included in the most recent TxCDBG Implementation Manual to contract for such services. For services to be paid through matching funds, TDA strongly recommends that applicants follow the same procurement guidelines. Following those guidelines will ensure a competitive process and compliance with all applicable state and federal requirements. See the “*Conflict of Interest*” section of this Guide for important information about the timing of this procurement.

**Applicant Threshold Requirements**

To be eligible to apply for or to receive funding under the TxCDBG Program, a community must meet all of the following criteria, in accordance with Title 4, Part 1, Chapter 30, Subchapter A, Section 30.6 of the Texas Administrative Code (TAC):

- (1) Grant administration. Demonstrate the ability to manage and administer the proposed project;
- (2) Financial capacity. Demonstrate the financial management capacity to sustain operation and maintenance of any improvements made in conjunction with the proposed project;
- (3) Proposed benefits. Demonstrate the ability to meet all proposed benefits identified in its application;
- (4) Levy and collect tax. Levy and collect a local property tax or local sales tax option;
- (5) Open TxCDBG grant agreements. Demonstrate compliance with progress threshold requirements for existing TxCDBG grant awards to be eligible for TxCDBG funding, as follows – details regarding documentation for meeting these thresholds can be found in the TxCDBG Project Implementation Manual:

<b>Fund Category</b>	<b>Grant Period</b>	<b>Progress Threshold #1</b>	<b>Progress Threshold #2</b>
FAST Fund	18 months	Satisfy all Group B requirements at 6 months	Project Completion Report and final payment request submitted at 18 months
State Urgent Need Fund	18 months	Satisfy all Group B requirements at 12 months	Construction complete, Project Completion Report and final payment request submitted at 18 months
Community Development	24 months	Satisfy all Group B requirements at 12 months	Construction complete, Project Completion Report and final payment request submitted at 24 months
Downtown Revitalization/Main Street Program	24 months	Satisfy all Group B requirements at 12 months	Construction complete, Project Completion Report and final payment request submitted at 24 months
Colonia Fund (CFC and CEDAP, excluding CSH)	24 months	Satisfy all Group B requirements at 12 months	Construction complete, Project Completion Report and final payment request submitted at 24 months
Planning Capacity Building	24 months	Satisfy all Group B requirements at 12 months	Planning complete, reports & maps, Project Completion Report and final payment request submitted at 24 months
Community Enhancement	24 months	Satisfy all Group B requirements at 12 months	Construction complete, Project Completion Report and final payment request submitted at 24 months

TCF Infrastructure/Real Estate	36 months	Satisfy all Group B requirements at 18 months	Construction complete, Project Completion Report and final payment request submitted at 36 months
--------------------------------	-----------	---	---

- (6) Single audits. Comply with all federal single audit requirements, as described in the TxCDBG Project Implementation Manual, regardless of whether the required compliance is based on received funds other than TxCDBG awards. (For audit requirements, see 4 TAC §30.6); and
- (7) Other application requirements. Other threshold requirements relevant to a particular fund category may be included in the applicable application guidelines.

**Basic Eligibility Documentation Requirements**

**Resolutions**

**Application Resolution**

TxCDBG applications require a resolution from the local governing body (i.e., County Commissioners Court or City Council) authorizing the submission of that application. The governing body must adopt/pass the resolution before the application submission and after the application public hearing. Failure to comply with this resolution requirement may result in disqualification of the application.

The language of the resolution must, at a minimum:

1. Authorize the submission of an application for funding under the Texas Community Development Block Grant Program;
2. Designate the fund category under which the application is to be considered;
3. Designate the activities addressed in the application;
4. Designate the dollar amount being requested;
5. Commit to the provision of resources by source and use (if applicable) in support of the proposed project activities, including the specific source (e.g., General Fund, Water/Sewer Fund, General Obligation Bonds) and use of those resources; and
6. Commit to compliance with all federal, state, and program requirements, including environmental review, labor standards, procurement, acquisition of property, civil rights, and administrative requirements.

In the event that an applicant is partnering with another entity or service provider (e.g. water supply corporation, locality providing service to the project area, etc.) that will own or operate the proposed improvements, TDA will request a cooperative agreement outline the responsibilities between the applicant and the partnering entity or entities, upon award.

**Signatory Resolution**

TxCDBG applications and grant agreements require a resolution from the local governing body (i.e., County Commissioners Court or City Council) authorizing specific individuals and/or positions to take action on behalf of the community. (To allow for local changes in personnel, TDA recommends identifying the signatories by position.)

The language of the resolution must, at a minimum:

1. Designate a person(s) and/or position(s) (e.g., County Judge, County Commissioner, City Manager, or Mayor) who will be authorized to execute documents in conjunction with the application, and any resulting grant agreement, and
2. Designate a person(s) and/or position(s) (e.g. Finance Director, City Secretary, County Auditor) who will be authorized to execute financial documents, including payment requests, in conjunction with the application, and any resulting grant agreement.

**Once the Signatory Resolution is adopted and submitted to TDA-GO, the community may continue to rely on the same resolution for subsequent TxCDBG applications. The community may provide an updated resolution**

**at any time as local needs change. Only those named in the resolution will be permitted to take action in TDA-GO on behalf of the community.**

For sample resolutions, see Appendix V: Public Participation Form/Document Samples.

### **Published Notices of Public Hearing and Application Activities**

Prior to the preparation and submission of an application for TxCDBG funds, each applicant must hold at least one public hearing and publish a notice that describes the application activities and the availability of the application(s) for public review.

#### **Public Hearing**

The public hearing gives the public information about the Texas Community Development Block Grant Program and eligible program activities, as well as opportunities to participate in the development of the applicant's community development and housing needs and the development of TxCDBG applications.

To satisfy the requirements of the application:

1. The public hearing must occur **prior** to the adoption of the local government resolution authorizing the submission of the application.

TDA recommends conducting one public hearing per year to address current needs and identify potential future funding opportunities. For all TxCDBG grant applications for Program Year 2023 funding, a public hearing conducted on or after September 1, 2022, will be accepted unless the hearing notice limited the topic of discussion to specific funding categories.

2. The applicant must issue a public notice providing at least 72 hours notice to community residents of the upcoming hearing. The public hearing and notice must comply with the Public Participation requirements, as described in the *TxCDBG Project Implementation Manual, Chapter 1 Administration and Reporting*, and found in Appendix V.

3. The public hearing must address the following topics:

- The development of housing and community development needs, including—
  - current supply of affordable housing and past efforts to increase supply,
  - current social services available to residents and what needs and/or populations remain underserved, and
  - current condition of public infrastructure (water/sewer/streets/drainage/accessibility/etc.) and efforts to improve these conditions;
- The anticipated funding opportunities for which the needs identified through this process may be considered, including —
  - name of funding opportunity,
  - anticipated amount of funding available, and
  - whether the proposed funding will meet the national objective of benefit to low-to-moderate income persons;
- All eligible activities under the Texas Community Development Block Grant Program;
- The applicant's use of past TxCDBG grant funds, if applicable; and
- The plans of the locality to minimize displacement of persons and to assist persons actually displaced as a result of activities assisted with TxCDBG funds, if applicable.

4. Local organizations that provide services or housing for low-to-moderate income persons, including the local Public Housing Authority, the local Health and Human Services office, the local Mental Health and Mental Retardation office, and other local service providers such as Faith-Based organizations, must receive written notification concerning the date, time, location and topics to be covered at the public hearing. Send this notification to service providers serving the jurisdiction's residents – if a local office is located in the community, then that office should receive the notification. If a local office is not located in the community, send the notification to the local or regional office location that serves the jurisdiction's residents.

### **Application Notice**

An applicant must provide reasonable notice of the availability of a proposed application in order to afford affected citizens an opportunity to examine the application's contents to determine the degree to which they may be affected and to submit comments on the proposed application. TDA recommends making copies of the proposed application available at libraries, government offices, and public places.

1. The applicant must issue a public notice that includes the following information:
  - The TxCDBG fund categories for which applications will be submitted,
  - The amount of TxCDBG funds requested in each application,
  - A short description of the proposed project activities in each application,
  - The locations of the project activities included in each application, and
  - The location and hours when the application will be available for public review.
2. To satisfy the requirements of the application, the public notice of application must be issued:
  - After a complete copy of the application, including all attachments, has been prepared and made available for public review;
  - After adoption of the local government resolution authorizing the submission of the application; AND
  - At least five (5) days prior to the submission of an application for TxCDBG funds.
3. In the preparation of the final application, the community shall consider comments and views received related to the proposed application and may, if appropriate, modify the final application prior to submission of the application to TDA. The final application shall be made available to the public.

### **Citizen Participation Documentation**

Public notices under this section must be issued and documented in **one** of the following ways:

1. Publish the notice in a newspaper of general circulation;
  - TDA will accept the full newspaper page on which the notice occurred. A photocopy of the page will also be accepted only if the required information is visible without cutting or folding the newspaper page. The publication text, title, date of publication, name of the newspaper, and page number must be clear and readable.
  - A clipping of the public notice from the newspaper page must be supported by affidavit. The original newspaper tear sheet (or a photocopy of the notice and a publisher's affidavit) must be kept with the Grant Recipient's local file for the public, TDA monitors, and other state or federal inspectors.

OR

2. Post the notice in at least two public places accessible to the general public at the time of the posting; it must include the courthouse/city hall and a location within the target area (if applicable);
  - Posted notices must be in a location accessible to the general public at the time of the posting. The Public Notice must include all required information in English and any other appropriate language(s)

per the recipient's Limited English Proficiency (LEP) plan. See Chapter 10 *Civil Rights* (Chapter Ten (10) of the TxCDBG Project Implementation Manual).

- Legible photographs showing the location of the posting are required.
- The posting must be supported by affidavit.

OR

3. Post the notice in one public place accessible to the general public at the time of the posting, such as the courthouse/city hall, and post on Grant Recipient's website.
  - Screen shots of the posting with the computer date stamp visible must be retained as documentation of the posting.
  - Posted notices must be in a location accessible to the general public at the time of the posting. The Public Notice must include all required information in English and any other appropriate language(s) per the recipient's Limited English Proficiency (LEP) plan. See Chapter 10 *Civil Rights*.
  - Legible photographs showing the location of the posting are required.
  - The posting must be supported by affidavit.

TDA recommends verifying that the public notices are published on the correct days, as well as allowing sufficient time for publication and public hearing issues to be resolved rather than completing these steps just prior to submitting the application.

In addition, the applicant must provide a listing of the local service providers that received written notification of the public hearing. Copies of the written notifications must be kept by the applicant and will be reviewed by TDA staff during site visits.

### **Evidence of Active SAM Registration**

TxCDBG applicants must demonstrate an active registration in the System for Award Management (SAM) to be eligible for funding. The applicant shall include a screen-shot from the SAM website at <https://sam.gov> verifying the entity's registration is active. Without evidence of an active SAM registration, the application is ineligible to receive HUD funds and will be disqualified.

### **Financial Capacity**

TxCDBG applicants must demonstrate the financial capacity necessary to be responsible for grant funding. In lieu of a copy of the community's annual audit as required by the Texas Local Government Code:

- As part of the application process, the applicant must indicate its willingness to adhere to financial management controls included in any resulting grant award; and
- If recommended for funding, the community must complete a Financial Capacity Self-Assessment to be used by TDA in a risk analysis prior to releasing any grant funds. If determined to be necessary, conditions may be included in the grant agreement to ensure appropriate financial management capacity. These conditions may be as modest as additional documentation of authority, or as significant as a requirement to allow a third party local government to manage grant funding for high risk communities.

## **Project-Specific Documentation Requirements**

### **Project Maps including Census Maps**

Maps are a key component in determining the eligibility of a project. All required maps must clearly identify the location of work to be performed.

Each application for TxCDBG funding must include a project map(s), which clearly shows all of the following information on the same map:

- The boundaries of the applicant’s jurisdiction;
- Location(s) of the benefit area(s); and
- Location(s) of all proposed project activities (e.g., sewer/water lines, lift stations, street pavement, water storage tanks, water wells, wastewater treatment plants, public facility improvements, etc.)

Note: applications for planning-only activities (CPC and RED programs) should identify the planning area (the geography that is considered in the development of the plan and will benefit from the plan’s implementation).

The applicant, with the advice of the project engineer, is responsible for identifying the benefit area based on appropriate criteria independent of income documentation.

**Example:** The benefit area of a project to improve sewer main trunk lines includes all residents of property whose sewer collection lines flow into the new or replaced trunk lines en route to the treatment plant – even if the project qualifies to document beneficiaries based on LMISD data, the benefit area based on the collection lines, as defined in the *Guide to Meeting a National Program Objective*, must be clearly identified on each map separately from the boundaries of the census geography.

Applicants using HUD-Census-based data (LMISD) to document project beneficiaries must provide a map(s) that clearly shows all of the following information on the same map:

- Census geographic areas (e.g., census tracts, block numbering areas, block groups) used to document project beneficiaries, including clearly legible numbering for each geography;
- Location(s) of the benefit area(s); and
- Location(s) of all proposed project activities (e.g., sewer/water lines, lift stations, street pavement, water storage tanks, water wells, wastewater treatment plants, public facility improvements, etc.).

In addition, applicants requesting a project within a floodplain should submit a FEMA Flood Map with the project location identified. If this map documents that any part of the project is located in a flood way, the applicant must provide evidence that the project is eligible for consideration in accordance with 24 CFR §55.1(c). Maps are available at <https://msc.fema.gov>.

Maps must be reproducible. Care should be taken in copying maps so that project activities designated by a colored mark are still identifiable.

Applicants are advised to note any property owners who may be in and/or adjacent to the benefit area to ensure that no potential conflict of interest exists. (See the “*Conflict of Interest*” section of this Guide) Identification of property owners is not required to be noted or submitted with the application, but failure to identify potential conflicts of interest may be subject to the sanctions described in the “*False Information on Applications*” section of this guide.

### **Documentation of Beneficiaries**

Each application for TxCDBG funding must include clear documentation of the persons served by the project for each benefit area. Detailed instructions are provided in Part I above, the [2023 Survey Methodology Manual](#), and the [TxCDBG Guide to Meeting a National Program Objective](#).

## Documentation of Match

While other resources are strongly encouraged, the commitments for these matching funds must be fully documented as to source, type, use, and minimum dollar amount before they can be considered in the scoring of an application.

The following guidelines serve to clarify the type of match acceptable under the Texas Community Development Block Grant Program. Acceptable types of match can be any of the following:

1. Cash only;
2. In-kind personnel services/equipment use;
3. On hand materials or supplies;
4. Land; or
5. Any combination of the above.

## Basic Principles

Funds expended prior to the application deadline will not count as matching funds.

Match funds are valid only if committed for activities proposed for funding with TxCDBG funds and the match will be used in the same benefit areas as the TxCDBG funds, or the match will be used for activities that are directly related to supporting the activities proposed for TxCDBG funding.

*Example #1* - An applicant proposes a water line replacement project in two different benefit areas. TxCDBG funds will finance the improvements in one benefit area and the applicant's match will be used to finance the improvements in the other benefit area. The applicant had already budgeted local funds for the water improvements in the applicant financed benefit area and did not claim any of the persons located in this benefit area as project beneficiaries. This match would not be considered because it is not committed to the TxCDBG financed benefit area beneficiaries, nor is it committed to the proposed TxCDBG-funded water improvements.

*Example #2* - An applicant proposes water line replacement and street paving activities in the same benefit area and proposes that TxCDBG funds finance the water improvements and the applicant's match will finance the street paving improvements. Even though the match is committed to the same benefit area, this match would not be considered because the match is not committed to the TxCDBG-funded water activity. The applicant could complete the street paving improvements without TxCDBG funds.

*Example #3* - An applicant proposes water line replacement and street paving activities in the same benefit area and proposes that TxCDBG funds finance 80% of water improvements costs and 50% of the street paving costs. The applicant's match will finance the remaining 20% and 50% of these activities. The applicant's match is allowed because it is committed to the same benefit area and activities proposed for TxCDBG funding.

*Example #4* - An applicant proposes a sewer system improvements project that includes acquisition of easements and a site for a lift station. TxCDBG funds will finance 100% of the sewer system construction improvements and the applicant's match will finance 100% of the acquisition, engineering, and administrative costs related to the delivery of the construction improvements. This match is considered allowable because the acquisition, engineering and administrative costs are directly related to the TxCDBG funded sewer construction activity.

*Example #5* - An applicant proposes to provide first-time water service in a project area where 90% of the households are low-to moderate-income households. Only applicant's (or other entity's) funds in support of rehabilitation activities benefiting low- to moderate- income households are considered matching funds. Any applicant's (or other entity's) funds used to provide first-time water service to the 10% non-low-to moderate-income households are NOT acceptable as matching since they do not support an eligible TxCDBG activity.

All resources committed in an application and considered in the scoring of that application must be provided in the event that the project is selected for funding. If these resources are not made available, the locality may be subject to

the sanctions described in the “*False Information on Applications*” section of this guide. If a grant is awarded, the matching funds committed in the grant application will be included in the grant agreement, establishing a contractual match ratio used to calculate the maximum amount of grant funds to be disbursed for actual costs.

Additionally, the use of other funds (e.g., federal, state, or local) in conjunction with TxCDBG funds generally triggers a series of compliance requirements that might not be applicable if those funds were to be used independently. These requirements include but are not limited to environmental review, labor standards, real property acquisition (including easements), prohibition of special assessments, and financial management procedures.

## **Source of Match**

### *Local Resources*

Local government resource commitments must be made in the form of a Resolution from the City Council or County Commissioners Court. This resolution should indicate, at a minimum, the type of resource (e.g., land, labor, materials, money, etc.) and the source, a minimum dollar value to be provided, and for what purpose(s) this resource will be used. Please note that local match can only be counted for expenditures, which would not occur if the proposed application is not funded, with the exception of local funds expended for consultant engineering and administrative services.

Resource commitments provided by other local entities (e.g., public housing authority, special utility districts, private financial institutions or other similar sources leveraging loan funds with a local housing rehabilitation program or other TxCDBG-eligible activity) must be documented in a letter signed by a person authorized by that entity to make such a commitment. This letter should identify the type of resource, a minimum dollar value, and for what purpose this resource will be used. Applicants who are unsure about the eligibility of a commitment from other local entities should contact TDA staff.

*Other State or Federal Resources* Commitments for other State or Federal funds (e.g., Texas Water Development Board, USDA) must be supported by a grant/loan offer, grant award letter, etc., signed by a person authorized to make such a commitment for that agency for an activity directly related to activities included in the TxCDBG funding request. Evidence of State or federal funding must include identification of the resource, a minimum dollar value, and the purpose for which this resource will be used. These resources cannot have been expended before the application is submitted.

United States Department of Agriculture Rural Development (USDA-RD): TxCDBG will accept matching funds from the USDA-RD Programs for TxCDBG applications only if the applicant has submitted the preliminary application for the USDA-RD grant or loan matching funds to USDA prior to the TxCDBG application deadline.

Texas Water Development Board (TWDB): TxCDBG will accept matching funds from the TWDB programs for TxCDBG applications only if the applicant has submitted the preliminary application or the required questionnaire for the TWDB grant or loan matching funds to the TWDB prior to the TxCDBG application deadline.

Commitments of State or Federal funds not restricted to a particular project (e.g., American Rescue Plan Act funds) must be supported by documentation of the amount of such assistance provided to the community AND a letter signed by the local authorized official confirming that the funds have not and will not be dedicated to any purpose other than the TxCDBG project while the application is pending.

## **Non-Cash Match**

Match is acceptable only if the applicant has used an acceptable and reasonable method to document the value of the match. Except for cash match, the applicant must provide an attachment/schedule to Table 2, Budget Justification, which shows how the value of each type of match was determined. The following documentation is acceptable:

*Force Account Labor (in-kind service)*

The value of force account labor match must be based on the estimated TxCDBG grant-related construction hours to be worked by force account workers and the hourly wages to be paid and cannot be based on labor costs estimated through the bid/contract method.

The applicant must provide an attachment/schedule that shows how the value of the match was determined (number of estimated grant-related construction hours multiplied by the hourly wage rates paid for each worker). Documentation regarding this information should be included.

*Administration/Engineering (in-kind service)*

The value of in-kind administration and engineering match must be based on the estimated TxCDBG grant-related hours to be worked by administrative/engineering staff and the hourly wages or salary to be paid and cannot be based on a percentage of the project cost method or on an estimated cost of the service(s) if an administrative/engineering consultant(s) were hired.

The applicant must provide an attachment/schedule that shows how the value of the match was determined. The schedule should include the estimated grant-related staff-work hours multiplied by the hourly wages or salary to be paid and the estimated value of other TxCDBG-eligible administration/engineering costs (e.g., materials, supplies, bonding, postage, audits, plans/specifications, construction mapping, etc.). If you are unsure about the eligibility of any administrative or engineering costs, please contact TDA staff for a determination.

*Equipment Use (in-kind)*

The value of in-kind equipment use match for equipment owned by the locality must be based on a use allowance or depreciation (both cannot be used for the same piece of equipment) and cannot be based on the estimated rental cost of such equipment if already owned by the locality.

To document the value of estimated in-kind equipment use match based on a use allowance, the applicant may use equipment hourly rates and mileage rates established by the Federal Emergency Management Agency (available from TxCDBG under separate cover).

Depreciation value may be used only if the equipment is not already fully depreciated and the schedule is based on acquisition cost. The applicant must provide an attachment/schedule that shows how the value of the match was determined.

If determining value by use allowance, the schedule must include a list of the equipment (including the capacity or size of the equipment), the hourly use rate or mileage rate, and the number of estimated hours or miles that each piece of equipment will be used on project related activities.

If determining value based on depreciation, the schedule must include a list of the equipment, the depreciation schedule, and the acquisition cost of each piece of equipment.

*On Hand Materials and Supplies*

The value of materials/supplies to be provided by the applicant, and already owned by the applicant, must be based on the purchase price of the materials/supplies at the time of purchase and cannot be based on the current purchase price of such materials and supplies.

The applicant must provide an attachment/schedule that shows how the value of the match was determined. The schedule must include a list of the materials/supplies to be provided by the applicant, the number of units and the unit price acquisition cost of each material/supply.

### *Donated Land*

The value of certain property that is necessary and donated for the project may be claimed as matching funds as long as the donated property changes hands, i.e., a city cannot donate property to itself as a match. The value of easements, rights-of-way, property associated with existing locations for the same infrastructure system, or similar property donation will not be considered as matching funds.

The value of land donations of public or private property must be based on an independent appraisal report establishing the fair market value or on the purchase price of the property at the time of purchase.

Either way, the value claimed must be based on the amount of property actually needed for the project (e.g., the applicant cannot claim the value for a 200-acre tract of land if only one acre is needed for the project).

The applicant must provide the appraisal report or deed of purchase establishing the value of the property needed for the project.

### **Waiting List and Selection Guidelines for Housing Activities (If Applicable)**

Applicants with projects that include the provision of housing rehabilitation, first-time on-site sewage facilities (OSSF), replacement of on-site sewage facilities, or scattered first-time water or sewer service yard lines (that are not associated with the installation of a main trunk line) must provide a waiting list of residents that have indicated a need and willingness to participate in the program. At a minimum, this waiting list must include the addresses and LMI status of the potential beneficiaries. The waiting list must not be based on the applicant's unconfirmed estimate of need, but may be based on local records of requested assistance, participation in a local program to address housing needs, interest following a public meeting, or similar identification of local housing needs.

Additionally, the applicant must also submit a **draft** of the selection guidelines which will govern the selection process of the households that will receive benefit. Samples of housing rehabilitation and OSSF guidelines can be found in the TxCDBG Project Implementation Manual on the TDA website. If the applicant has already received TDA approval for the same activity and benefit area, include a copy of the approval documentation with the guidelines.

### **Jurisdiction of Applications**

The applicant (city or county) requesting TxCDBG funding must have jurisdiction to provide oversight for the project. Specifically, the project beneficiaries must reside within the applicant's jurisdiction.

### **Partnering Jurisdictions**

If only a portion of the project beneficiaries are located within the applicant's jurisdiction, the applicant must partner with another eligible unit of general local government that has jurisdiction.

- In addition to the public participation requirements for the applicant, each participating jurisdiction must provide an opportunity for public comment. The partnering jurisdiction may conduct a separate public hearing, or may participate jointly in the applicant's public hearing where the housing and community development needs of each community is addressed.
- Each partnering jurisdiction must provide a written statement acknowledging the proposed project and granting the applicant authority to conduct a project that will benefit the partnering jurisdiction's residents. Best Practice: The applicant and each participating jurisdiction may enter into an interlocal agreement, outlining the responsibilities of each participant and establishing the applicant's authority to implement the project outside its own jurisdiction. See Appendix V for a sample agreement.
- All jurisdictions participating within the application must not be suspended from participation in the TxCDBG program due to Settlement Agreement, grant agreement special condition, or similar sanction. For example, if

a city and county are partnering on an application and the city is currently ineligible due to past performance issues (not including Progress Thresholds), the application is ineligible.

- For projects with multiple benefit areas, the application must establish a NPO for each benefit/service area, regardless of jurisdiction. For example: a Water Supply Corporation (WSC) provides service inside city limits and in the unincorporated county. Rehabilitation of the water well shall benefit both city and county residents and shall be considered one benefit area. Additionally, residential water lines will be replaced in an unincorporated area of the county and shall be considered a separate benefit area. Appropriate beneficiary documentation must be provided for both benefit areas.
- For activities with a single benefit area due to their nature, such as the sewage treatment plant that would serve each of the participating jurisdictions, the application should consider this a single benefit area.

Partnering with an applicant will not prevent the partnering jurisdiction from submitting a separate, unrelated application in the same round of funding, so long as:

- projects in separate applications do not serve the same (or substantially the same) benefit area; and
- projects in separate applications will not be conducted in the same physical location.

TDA will make the final decision for any benefit areas and/or locations determined to be substantially the same.

Examples:

- Construction of a library that will serve all county residents, including residents of incorporated cities (Cities of A, B, and C) within the county. The library shall be located in City B.
  - The county has jurisdiction over all county residents and may apply without establishing the cities as partners, OR
  - Since the project is located in City B, the city has jurisdiction over the project and may apply after establishing the County as a partnering jurisdiction. The County may then submit a separate unrelated application.
- Water improvement project that will serve residents of both County A and County B.
  - Either county may apply, but must establish the other county as a partnering jurisdiction.
  - The county not submitting the application may apply for a separate unrelated project.
- Improvements to a Wastewater Treatment Plant that serves residents of City A and its ETJ.
  - Either the City or the County may apply for funding, as both have jurisdiction over the service area and beneficiaries.
- Improvements to a Water Treatment Plant that serves residents of City A and its ETJ – improvements to the main pump station are submitted by City A, while County B requests funding to replace the clarifier.
  - Even though the plant may require extensive investment and there are two viable applicants, only one application will be accepted to improve the plant or provide other system-wide benefits. If both are submitted, TDA will require the two entities to choose which application to withdraw prior to scoring being completed.
- Water improvements for a Water District – City A requests line replacement within the city limits, while the County will construct a new water well to serve the entire district.
  - TDA must evaluate the Benefit Areas for substantial overlap. If determined to not serve substantially the same Benefit Area, both applications may be submitted without requiring a partnering jurisdiction.

## **Other Program Policies**

### **Local Certifications**

Each applicant for TxCDBG funding must certify by electronically signing the TDA-GO application certification form (i.e. 424 Form) that it has adhered to the Local Certifications included in this application guide in the preparation of any TxCDBG application. Adherence to these certifications must be ongoing in the event that the application is successful. Only the Authorized Official designated in the Signatory Resolution is authorized to complete the certification.

With respect to the expenditure of funds provided under a Texas Community Development Block Grant agreement, each TxCDBG Grant Recipient is required to certify that:

1. It will minimize displacement of persons as a result of activities assisted with such funds.
2. The program will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§2000d et seq.) and the Fair Housing Act (42 U.S.C. §§3601-20), and that it will affirmatively further fair housing, as specified by TDA.
3. It will provide opportunities for citizen participation, hearings and access to information with respect to its community development programs, and that it is following the TxCDBG Citizen Participation Plan.
4. It will not attempt to recover any capital costs of public improvements assisted, in whole or in part, with such funds by assessing any amount against properties owned and occupied by persons of low-to-moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements unless: (A) such funds are used to pay the proportion of such fee or assessment related to the capital costs of such public improvements that are financed from revenue sources other than such funds; or (B) for purposes of assessing any amount against properties owned and occupied by persons of low-to-moderate income who are not persons of very low income, the Grant Recipient certifies that it lacks sufficient funds under this agreement to comply with the requirements of clause (A).
5. It will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and Federal implementing regulations at 49 CFR Part 24, and the requirements of section 570.606 including the following of a residential anti-displacement and relocation assistance plan, as specified by TDA, in the event that displacement of residential dwellings will occur in connection with a project assisted with TxCDBG funds.
6. It has adopted or will adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations and enforce applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within its jurisdiction.
7. To the best of the TxCDBG Grant Recipient's knowledge and belief, no Federal appropriated funds have been paid or will be paid, by or on behalf of the TxCDBG Grant Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
8. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the TxCDBG Grant Recipient shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
9. The TxCDBG Grant Recipient must require that the language of this certification be included in the award documents for all sub-awards at all levels (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

## **False Information on Applications**

The actions listed below may be taken, on a case-by-case basis, where TDA finds that an applicant provided false information in its application for TxCDBG funding.

If the applicant provides false information in a TxCDBG Fund application that has the effect of increasing the applicant's competitive advantage, or false beneficiary information that increases the number or percentage of potential beneficiaries, TDA TxCDBG staff shall make a recommendation for action to the Director of the State TxCDBG Program.

Actions that the Director may make include, but are not limited to:

1. Disqualification of the application and holding the locality ineligible to apply for TxCDBG funding for a period of at least one year not to exceed two program years.
2. Even if an award has been made, the locality may be liable for funds expended if adjustment to the scores would have resulted in a change in rankings for the purpose of funding.
3. Holding the locality ineligible to apply for TxCDBG funding for a period of two program years or until any issue of restitution is resolved, whichever is longer.

An applicant may appeal a decision of the State TxCDBG Director by filing an appeal with the Administrator for Trade and Business Development.

## **Appeals Process**

An appeal may only be filed based on a denial or disqualification of an application for TXCDBG funding as a result of procedural errors by Department staff. All other decisions regarding contracts and grant administration are final. 4 Tex. Admin Code § 30.8(a)(1).

The request for appeal must be submitted in writing and postmarked, or received by the Department if submitted by email, on or before 5:00 p.m. Central Time not later than fifteen (15) days after the receipt, or deemed receipt, of the notice of denial or disqualification. The request for appeal must clearly identify the action being appealed, include a statement of facts or other pertinent information to support the appeal, and include a copy of the notice of denial or disqualification. 4 Tex. Admin Code § 30.8(b)(3).

The preferred method of delivery of a request for appeal is via email. Emails should clearly indicate in the subject line that they include a request for an appeal of a TxCDBG denial or disqualification, be addressed to the TDA Hearings Office, and sent to the following email address: [tdahearingsoffice@texasagriculture.gov](mailto:tdahearingsoffice@texasagriculture.gov).

Additional requirements and procedures governing appeals based on denials and disqualifications of applications for TxCDBG funding, are provided in 4 Tex. Admin Code § 30.8.

## **Part III. General CDBG Federal Requirements**

### **Eligible Applicants**

Eligible applicants are non-entitlement units of general local government, incorporated cities and counties not participating or designated as eligible to participate in the entitlement portion of the federal Community Development Block Grant Program. Non-entitlement cities that are not participating in urban county programs through existing participation agreements are eligible applicants unless the city's population counts toward the urban county CDBG allocation.

Non-entitlement cities are located predominately in rural areas and are generally:

- cities with populations of less than 50,000 persons;
- cities that are not designated as a central city of a metropolitan statistical area; or
- cities that are not participating in urban county programs.

Non-entitlement counties are also predominately rural in nature and generally have fewer than 200,000 persons in the non-entitlement cities and unincorporated areas located in the county.

While non-entitlement units of general local government are the only eligible applicants for TxCDBG funding, these applicants may submit applications that will provide benefits through other sub-recipient groups serving the jurisdiction.

For example, a county could submit an application for water distribution line improvements to a water system that is owned and operated by a public utility district. The improvements themselves would become the property of the public utility district, but the programmatic and fiscal compliance responsibilities would remain with the applicant (the county).

As another example, a city could submit an application for the construction of a building to house a social services agency providing primary benefit within the city. Again, the facility could be placed under the control of the agency (through title transfer or lease arrangement), but compliance responsibilities would remain with the city.

### **Eligible Activities**

TxCDBG eligible activities include:

- Water System Improvements
- Wastewater System Improvements
- Drainage Improvements
- Housing Rehabilitation
- Gas System Improvements
- Road/Street Improvements
- Fire Protection Facilities
- Accessibility Improvements to Public Buildings
- Solid Waste Disposal/Landfills/Transfer Stations
- Community/Senior/Social Service Centers
- Shelters for Persons With Special Needs

Additional guidance and further definition concerning eligible and ineligible activities for some of the TxCDBG eligible activities are included in Section 105(a) of the Housing and Community Development Act of 1974 (HCDA).

### **Ineligible Activities**

In general, any type of activity not described or referred to in Section 105(a) of the HCDA, as amended, is ineligible for TxCDBG funding. Specific ineligible activities under the TxCDBG Program include:

- Construction of buildings and facilities used for the general conduct of government (e.g., city halls and courthouses). The only exception is for improvements made to these buildings solely to provide complete access for elderly persons and persons with severe disabilities;
- Financing of political activities;
- Purchase of construction equipment;
- Income payments, such as housing allowances;
- Activities in a floodway may be ineligible; see Implementation Manual, Chapter 3 for specific guidance;
- New housing construction; and
- Operation and maintenance expenses of public facilities, improvements and services, including activities identified through the environmental review as maintenance activities.

Various methods used to identify specific sections of wastewater line that require maintenance to reduce or eliminate the amount of inflow or infiltration routed to the treatment facilities, such as smoke testing, televising (TV'ing), and line cleaning (vacuuming, jetting, etc.), are considered maintenance tools. The process of identifying benefit areas for wastewater line replacement must be completed prior to the submission of an application in order for the scope of the project to be fully identified and to expedite construction completion. Similar methods may also be used as a part of construction and inspection of the new lines. Maintenance tools will not be accepted as a CDBG eligible activity in an application, and such costs will be eliminated from the application. Sludge removal from a wastewater facility may be considered eligible if additional documentation is provided in the application to indicate why it is not an operation and maintenance expense.

### **Minority Participation/Local Opportunity**

The TxCDBG program encourages localities to affirmatively take action to utilize small, minority (MBE) and women-owned (WBE) businesses, whenever possible. Although funded localities are not directly responsible for meeting a specific minority business participation goal, TxCDBG reports to HUD on the levels of MBE and WBE hiring under all CDBG agreements. To increase participation of small, minority and women owned-businesses, localities may use the Texas Comptroller of Public Accounts Historically Underutilized Business (HUB) Directory. Also, in accordance with Section 3 of the Housing and Urban Development Act of 1968, successful applicants using CDBG funding for housing or other public construction are required, to the greatest extent feasible, to provide training and employment opportunities to lower-income residents and contract opportunities to businesses in the project area.

### **Build America, Buy America**

On November 15, 2021, the Build America, Buy America Act was enacted as part of the Infrastructure Investment and Jobs Act (IIJA). Pub. L. 117-58. The Act establishes a domestic content procurement preference for federally funded infrastructure projects, including “the construction, alteration, maintenance, or repair of infrastructure in the United States”. Grants funded under this 2023 Application Guide will be required to comply with the Build America, Buy America (BABA) provisions.

HUD guidance on implementation of the BABA provisions has not yet been published – TDA will update the TxCDBG Project Implementation Manual and other appropriate resources to reflect the available HUD guidance prior to execution of a grant agreement for applications submitted under this Application Guide.

### **Fair Housing Activities**

Any locality receiving funds under the TxCDBG Program must certify that it will affirmatively further fair housing choice. Each funded locality must conduct at least one fair housing activity during the grant period, even if the locality is currently undertaking fair housing activities. Activities that qualify as affirmatively furthering fair housing include, but are not limited to, the following:

- Cities may pass a fair housing ordinance and publicize the existence of such an ordinance.
- Counties may adopt written fair housing policies and procedures that are equivalent to a fair housing ordinance and publicize the existence of such policies.
- The development of a strategy to pass a fair housing ordinance to be evidenced by public hearings and input from interested parties.
- The establishment of a written local complaint and monitoring process and notification to the public of its existence.
- The initiation of a fair housing counseling referral service that provides housing choices outside historically minority and/or low-to-moderate income neighborhoods to be evidenced by adoption of written procedures and publication of the availability of such service.
- The completion of a community-wide housing analysis to determine impediments to fair housing and actions to eliminate these impediments.
- The designation of April, or some other month, as Fair Housing Month through resolution or proclamation along with other activities to support fair housing.

In addition, communities that receive CDBG funds, chief elected officials, and third-party consultants may be required to have Fair Housing training. Training will be offered at both on-site workshops and state-wide webinars.

## **Conflict of Interest**

Applicants to the TxCDBG Program must avoid, neutralize, or mitigate actual or potential conflicts of interest so as to prevent an unfair competitive advantage or the existence of conflicting roles that might impair the performance of the TxCDBG agreement or impact the integrity of the procurement process.

**For the procurement of goods and services**, no employee, officer, or agent of the Grant Recipient or subrecipient may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. (24 C.F.R. §570.489(g), Texas Grant Management Standards (TxGMS) promulgated by the Texas Comptroller of Public Accounts, 2 C.F.R. §200.318(c)(1)).

**For all other cases other than the procurement of goods and services**, non-procurement conflict of interest provisions are applicable to any person or entity including any benefitting business, utility provider, or other third party entity that is receiving assistance, directly or indirectly, under a TxCDBG grant or award, or that is required to complete some or all work under the TxCDBG grant in order to meet a National Program Objective, that might potentially receive benefits from TxCDBG awards.

Under these provisions, a conflict of interest would exist if an employee, elected official, or their family members receive benefit from an activity. For example, if a member of a mayor's family was selected to receive CDBG assistance or would benefit from or receive a CDBG award, abstention from voting does not clear the conflict of interest. Another example where a conflict of interest would exist (business ties) is a situation where a consultant, who is employed by an engineering firm, has been selected by a city to provide administration services for the TxCDBG grant and the city is considering the selection of an engineer from that same firm to provide engineering services for the TxCDBG grant.

TDA may grant an exception, upon written request from the Grant Recipient, to the non-procurement conflict of interest provisions on a case-by-case basis if TDA determines that such exception will serve to further the purpose of the TxCDBG project and the effective and efficient administration of the project. An exception may be considered only upon written request from the applicant that includes the following documentation:

- A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made.
- An opinion of the attorney for the applicant that the interest for which the exception is sought would not violate state or local law.
- Where the exception would provide a significant cost benefit or an essential degree of expertise to the project that would not be available otherwise.
- Whether an opportunity was provided for open competitive bidding or negotiation.
- Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception would permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class.
- Whether the person affected has withdrawn from their functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question.
- Whether the interest or benefit was present before the affected person was in the position as an employee, agent, consultant, officer, or elected official of the governing body, or of any designated public agencies, or sub-recipients that are receiving CDBG funds.
- Whether undue hardship will result to the city or persons affected when weighed against the public interest served by avoiding the prohibited conflict.
- Any other relevant considerations.

## **Federal Funding Accountability and Transparency Act (FFATA)**

In September 2006, the President signed the Federal Funding Accountability and Transparency Act (FFATA) requiring the Office of Management and Budget (OMB) to develop a publicly available, free-of-charge, searchable website on federal funding. Federal funding includes grants, sub-grants, loans, awards, cooperative agreements, and other forms of financial assistance. On April 6, 2010, OMB issued a memorandum outlining responsibilities for State agencies making sub-awards with Federal funds.

Beginning October 1, 2010, TDA is responsible for reporting data on each TxCDBG award, which will be entered into the [usaspending.gov](http://usaspending.gov) database. This data includes the following:

- The name of the entity receiving the award;
- The amount of the award;
- Information on the award, including transaction type, funding agency, Catalog of Federal Domestic Assistance (CFDA) number, program source, and a descriptive award title;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, state, congressional district, and county; and
- The Unique Entity Identifier (UEI) number for the entity receiving the award – this number is assigned through SAM.gov.

Additional information deemed relevant by the OMB must also be provided, and all information is due no more than thirty days after a grant is awarded.

In addition, applicants must register on the System for Award Management (SAM) and entities must have an active registration to receive funding from HUD. Information on SAM registration is available at <https://www.sam.gov>.

## Appendix II: TxCDBG Activity Code Reference Table

<b>Code</b>	<b>Description</b>
<b>01</b>	<p><b>Acquisition of Real Property</b> Acquisition of real property that will be developed for a public purpose. Use code 01 for the CDBG-funded purchase of real property on which, for example, a public facility or housing will be constructed.</p> <p>When CDBG funds are used to:</p> <ul style="list-style-type: none"> <li>• acquire a public facility that will be rehabilitated with CDBG funds and continue to be used as a public facility, assign the appropriate 03* code.</li> <li>• acquire housing that will be rehabilitated, use code 14G.</li> </ul>
<b>02</b>	<p><b>Disposition of Real Property</b> Costs related to the sale, lease, or donation of real property acquired with CDBG funds or under urban renewal. These include the costs of temporarily maintaining property pending disposition and costs incidental to disposition of the property.</p>
<b>03A</b>	<p><b>Senior Centers</b> Acquisition, construction, or rehabilitation of facilities (except permanent housing) for seniors. 03A may be used for a facility serving both the elderly and the handicapped, provided it is not intended primarily to serve persons with handicaps. If it is, use 03B instead. For the construction of permanent housing for the elderly, use code 12; for the rehabilitation of such housing, use the appropriate 14* code.</p>
<b>03D</b>	<p><b>Youth Centers</b> Acquisition, construction, or rehabilitation of facilities intended primarily for young people age 13 to 19. These include playground and recreational facilities that are part of a youth center. For the acquisition, construction or rehabilitation of facilities intended primarily for children age 12 and under, use 03M; for facilities for abused and neglected children, use 03Q.</p>
<b>03E</b>	<p><b>Neighborhood Facilities</b> Acquisition, construction, or rehabilitation of facilities that are principally designed to serve a neighborhood and that will be used for social services or multiple purposes (including recreational). Such facilities may include libraries and public schools.</p>
<b>03F</b>	<p><b>Parks, Recreational Facilities</b> Development of open space areas or facilities intended primarily for recreational use.</p>
<b>03G</b>	<p><b>Parking Facilities</b> Acquisition, construction, or rehabilitation of parking lots and parking garages. Also use 03G if the primary purpose of rehabilitating a public facility or carrying out a street improvement activity is to improve parking. If parking improvements are only part of a larger street improvement activity, use 03K.</p>
<b>03I</b>	<p><b>Flood Drainage Improvements</b> Acquisition, construction, or rehabilitation of flood drainage facilities, such as retention ponds or catch basins. Do not use 03I for construction/rehabilitation of storm sewers, street drains, or storm drains. Use 03J for storm sewers and 03K for street and storm drains.</p>
<b>03J</b>	<p><b>Water/Sewer Improvements</b> Installation or replacement of water lines, sanitary sewers, storm sewers, and fire hydrants. Costs of street repairs (usually repaving) made necessary by water/sewer improvement activities are included under 03J. For water/sewer improvements that are part of:</p>

	<ul style="list-style-type: none"> <li>more extensive street improvements, use 03K (assign 03K, for example, to an activity that involves paving six blocks of Main Street and installing 100 feet of new water lines in one of those blocks).</li> <li>a housing rehabilitation activity, use the appropriate 14* matrix code.</li> </ul> <p>For construction or rehabilitation of flood drainage facilities, use 03I.</p>
<b>03K</b>	<p><b>Street Improvements</b> Installation or repair of streets, street drains, storm drains, curbs and gutters, tunnels, bridges, and traffic lights/signs.</p> <p>Also use 03K:</p> <ul style="list-style-type: none"> <li>for improvements that include landscaping, street lighting, and/or street signs (commonly referred to as “streetscaping”).</li> <li>if sidewalk improvements (see code 03L) are part of more extensive street improvements.</li> </ul>
<b>03L</b>	<p><b>Sidewalks</b> Improvements to sidewalks. Also use 03L for sidewalk improvements that include the installation of trash receptacles, lighting, benches, and trees.</p>
<b>03M</b>	<p><b>Child Care Centers</b> Acquisition, construction, or rehabilitation of facilities intended primarily for children age 12 and under. Examples are daycare centers and Head Start preschool centers.</p> <p>For the construction or rehabilitation of facilities for abused and neglected children, use 03Q. For the construction or rehabilitation of facilities for teenagers, use 03D.</p>
<b>03O</b>	<p><b>Fire Stations/Equipment</b> Acquisition, construction, or rehabilitation of fire stations and/or the purchase of fire trucks and emergency rescue equipment.</p>
<b>03P</b>	<p><b>Health Facilities</b> Acquisition, construction, or rehabilitation of physical or mental health facilities. Examples of such facilities include neighborhood clinics, hospitals, nursing homes, and convalescent homes. Health facilities for a specific client group should use the matrix code for that client group. For example, use 03Q for the construction or rehabilitation of health facilities for abused and neglected children.</p>
<b>03</b>	<p><b>Other Public Facilities and Improvements</b> Do not use this code unless an activity does not fall under a more specific 03* code. Also, do not use one activity for multiple facilities and then assign it an 03 because the types of facilities are different. One legitimate use of 03 is for activities that assist persons with disabilities by removing architectural barriers from or providing ADA improvements to government buildings (activities that otherwise would not be eligible for CDBG funding).</p>
<b>04</b>	<p><b>Clearance and Demolition</b> Clearance or demolition of buildings/improvements, or the movement of buildings to other sites.</p>
<b>05D</b>	<p><b>Youth Services</b> Services for young people age 13 to 19 that include, for example, recreational services limited to teenagers and teen counseling programs. Also use 05D for counseling programs that target teens but include counseling for the family as well. For services for children age 12 and under, use 05L; for services for abused and neglected children, use 05N.</p>
<b>05L</b>	<p><b>Child Care Services</b> Services that will benefit children (generally under age 13), including parenting skills classes. For services exclusively for abused and neglected children, use 05N.</p>

<b>05M</b>	<b>Health Services</b> Services addressing the physical health needs of residents of the community. For mental health services, use 05O.
<b>05R</b>	<b>Homeownership Assistance (not direct)</b> Homeowner down payment assistance provided as a public service. If housing counseling is provided to those applying for down payment assistance, the counseling is considered part of the 05R activity.  Assistance provided under 05R must meet the low/mod housing national objective. Therefore, unless the assistance is provided by an 105(a)(15) entity in a Community Revitalization Strategy Area (CRSA), it is subject to the public service cap and only low/mod households may be assisted. If the assistance is provided by a 105(a)(15) in a CRSA, the housing units for which CDBG funds are obligated in a program year may be aggregated and treated as a single structure for purposes of meeting the housing national objective (that is, only 51% of the units must be occupied by LMI households). For more extensive types of homeownership assistance provided under authority of the National Affordable Housing Act, use code 13.
<b>05U</b>	<b>Housing Counseling</b> Housing counseling for renters, homeowners, and/or potential new homebuyers that is provided as an independent public service (i.e., not as part of another eligible housing activity).
<b>05</b>	<b>Other Public Services</b> Do not use this code for public services activities unless an activity does not fall under a more specific 05* code. Examples of legitimate uses of this code are referrals to social services, neighborhood cleanup, graffiti removal, and food distribution (community kitchen, food bank, and food pantry services).
<b>06</b>	<b>Interim Assistance</b> Only for activities undertaken either to: <ul style="list-style-type: none"> <li>• Make limited improvements (e.g., repair of streets, sidewalks, or public buildings) intended solely to arrest further deterioration of physically deteriorated areas prior to making permanent improvements.</li> <li>• Alleviate emergency conditions threatening public health and safety, such as removal of tree limbs or other debris after a major storm.</li> </ul>
<b>08</b>	<b>Relocation</b> Relocation payments and other assistance for permanently or temporarily displaced individuals, families, businesses, non-profit organizations, and farms.
<b>14A</b>	<b>Rehab: Single-Unit Residential</b> Rehabilitation of privately owned, single-unit homes.
<b>14A</b>	<b>Rehab: Single-Unit Residential Water Services</b> First-time yardlines/service connections.
<b>14A</b>	<b>Rehab: Single-Unit Residential Sewer Services</b> First-time yardlines/service connections and on-site sewage facilities.
<b>14B</b>	<b>Rehab: Multi-Unit Residential</b> Rehabilitation of privately owned buildings with two or more permanent residential units. For the rehabilitation of units that will provide temporary shelter or transitional housing for the homeless, use 03C.
<b>14C</b>	<b>Rehab: Public Housing Modernization</b> Rehabilitation of housing units owned/operated by a public housing authority (PHA).
<b>14D</b>	<b>Rehab: Other Publicly Owned Residential Buildings</b>

	Rehabilitation of permanent housing owned by a public entity other than a PHA. For the rehabilitation of other publicly owned buildings that will provide temporary shelter or transitional housing for the homeless, use 03C.
<b>14H</b>	<p><b>Rehab: Administration</b></p> <p>All delivery costs (including staff, other direct costs, and service costs) directly related to carrying out housing rehabilitation activities. Examples include appraisal, architectural, engineering, and other professional services; preparation of work specifications and work write-ups; loan processing; survey, site, and utility plans; application processing; and other fees.</p> <p>Do not use 14H for the costs of actual rehabilitation and do not use it for costs unrelated to running a rehab program (e.g., tenant/landlord counseling).</p> <p>For housing rehabilitation administration activities carried out as part of general program administration (and thus not required to meet a national objective), use code 21.</p>
<b>15</b>	<p><b>Code Enforcement</b></p> <p>Salaries and overhead costs associated with property inspections and follow up actions (such as legal proceedings) directly related to the enforcement (not correction) of state and local codes. For the correction of code violations, use the appropriate rehabilitation code.</p>
<b>16A</b>	<p><b>Residential Historic Preservation</b></p> <p>Rehabilitation of historic buildings for residential use.</p>
<b>16B</b>	<p><b>Non-Residential Historic Preservation</b></p> <p>Rehabilitation of historic buildings for non-residential use. Examples include the renovation of an historic building for use as a neighborhood facility, as a museum, or by an historic preservation society.</p>
<b>18A</b>	<p><b>Economic Development: Direct Financial Assistance to For-Profits</b></p> <p>Financial assistance to for-profit businesses to (for example) acquire property, clear structures, build, expand or rehabilitate a building, purchase equipment, or provide operating capital. Forms of assistance include loans, loan guarantees, and grants. With one exception, a separate 18A activity must be set up for each business assisted. The exception is an activity carried out under 570.483(b)(4)(vi), for which job aggregation is allowed.</p>
<b>19C</b>	<p><b>CDBG Non-Profit Organization Capacity Building</b></p> <p>Activities specifically designed to increase the capacity of non-profit organizations to carry out eligible community revitalization or economic development activities. Such activities may include providing technical assistance and specialized training to staff.</p>
<b>20</b>	<p><b>Planning</b></p> <p>Program planning activities, including the development of comprehensive plans (e.g., a consolidated plan), community development plans, energy strategies, capacity building, environmental studies, area neighborhood plans, and functional plans.</p>
<b>21A</b>	<p><b>General Program Administration</b></p> <p>Overall program administration, including (but not limited to) salaries, wages, and related costs of grantee staff or others engaged in program management, monitoring, and evaluation. Also use 21A to report the use of CDBG funds to administer Federally designated Empowerment Zones or Enterprise Communities.</p> <p>For CDBG funding of HOME admin costs, use 21H; for CDBG funding of HOME CHDO operating expenses, use 21I.</p>

For a more comprehensive list of activity codes, go to:  
([http://archives.hud.gov/offices/cpd/systems/idis/library/refmanual/ref\\_man\\_b.pdf](http://archives.hud.gov/offices/cpd/systems/idis/library/refmanual/ref_man_b.pdf))

## Appendix III: Public Participation Form and Document Samples

### *Sample Application Resolution*

#### RESOLUTION

A RESOLUTION OF THE [City Council/Commissioners Court] OF [City/County], TEXAS, AUTHORIZING THE SUBMISSION OF A TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM APPLICATION TO THE TEXAS DEPARTMENT OF AGRICULTURE FOR THE [COMMUNITY DEVELOPMENT FUND].

WHEREAS, the [City Council/Commissioners Court] of the [City/County] of \_\_\_\_\_ desires to develop a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and

*[For Urgent Need Applications: WHEREAS, certain conditions exist which represent a threat to the public health and safety; and]*

WHEREAS, it is necessary and in the best interests of the [City/County] of \_\_\_\_\_ to apply for funding under the Texas Community Development Block Grant Program;

WHEREAS, the [City/County] of \_\_\_\_\_, in consideration for the receipt and acceptance of federal funding if awarded, agrees to comply with all federal rules and regulations including those rules and regulations governing citizen participation and civil rights protections as follows:

- in accordance with Section 109 of the Title I of the Housing and Community Development Act (24 CFR 6); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and for construction contracts greater than \$10,000, to take actions to ensure that no person or group is denied benefits such as employment, training, housing, and contracts generated by the CDBG activity, on the basis of race, color, religion, sex, national origin, age, or disability;
- in accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended, and 24 CFR Part 75, to the greatest extent feasible, to provide training and employment opportunities to lower income residents and contract opportunities to businesses in the Section 3 Service Area;
- in accordance with Section 104(1) of the Housing and Community Development Act, as amended, and State's certification requirements at 24 CFR 91.325(b)(6), to adopt an excessive force policy that prohibits the use of excessive force against non-violent civil rights demonstrations;
- in accordance with Executive Order 13166, to take reasonable steps to ensure meaningful access to services in federally assisted programs and activities by persons with limited English proficiency (LEP) and must have an LEP plan in place specific to the locality and beneficiaries for each TxCDBG project;

- in accordance with Section 504 of the Rehabilitation Act of 1973, to not discriminate on the basis of disability and agrees to ensure that qualified individuals with disabilities have access to programs and activities that receive federal funds; and
- in accordance with Section 808(e)(5) of the Fair Housing Act (42 USC 3608(e)(5)) that requires HUD programs and activities be administered in a manner affirmatively to further the policies of the Fair Housing Act, to conduct at least one activity during the contract period of the TxCDBG contract, to affirmatively further fair housing; and

WHEREAS, the [City/County] of \_\_\_\_\_, agrees to maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

NOW, THEREFORE, BE IT RESOLVED BY THE [City Council/Commissioners Court] OF [City/County], TEXAS,

1. That a Texas Community Development Block Grant Program application for the [Community Development Fund] is hereby authorized to be filed on behalf of the County with the Texas Department of Agriculture.
2. That the County's application be placed in competition for funding under the [Community Development Fund].
3. That the application be for [\$350,000.00] of grant funds to provide [first-time water service].
4. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.
5. That it further be stated that the [City/County] of \_\_\_\_\_ is committing [\$25,000.00] from its [General Fund] as a cash contribution toward the administration activities of this [first-time water service] project.
6. The [City/County] of \_\_\_\_\_ [ADOPTS/REAFFIRMS] the following policies:
  - a. Citizen Participation Plan and Grievance Procedures (Form A1013);
  - b. Excessive Force Policy (Form A1003);
  - c. Fair Housing Policy (Form A1015).
  - d. [If Grant Recipient employs 15 or more employees], Section 504 Policy and Grievance Procedures (Form A1004); and
  - e. Code of Conduct Policy (Form A1002).
7. The [City/County] of \_\_\_\_\_ affirms its commitment to conduct a project-specific analysis and take all appropriate action necessary to comply with program requirements for the following:
  - f. Section 3 economic opportunity;
  - g. Limited English Proficiency; and

h. Activity to affirmatively Further Fair Housing choice.

Passed and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mary Smith, [County Clerk]  
[City/County] of \_\_\_\_\_, Texas

\_\_\_\_\_  
John Doe, [County Judge]  
[City/County] of \_\_\_\_\_, Texas

*Sample Signatory Resolution*

RESOLUTION

A RESOLUTION OF THE [City Council/Commissioners Court] OF [City/County], TEXAS AUTHORIZING [CITY/COUNTY] REPRESENTATIVES IN MATTERS PERTAINING TO THE [CITY/COUNTY]'S PARTICIPATION IN THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

WHEREAS, the [City Council/Commissioners Court] of [City/County] desires to develop a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and

WHEREAS, it is necessary and in the best interests of [City/County] to participate in the Texas Community Development Block Grant Program; and

WHEREAS, the [City Council/Commissioners Court] of [City/County] is committed compliance with federal, state, and program rules, including the current TxCDBG Project Implementation Manual; and

NOW, THEREFORE, BE IT RESOLVED BY THE [City Council/Commissioners Court] OF [City/County], TEXAS:

That the [City Council/Commissioners Court] directs and designates the following to act in all matters in connection with any grant application and the County's participation in the Texas Community Development Block Grant Program:

- The [County Judge, Mayor, Mayor Pro-Tem, City Manager, etc.] shall serve as the [City/County]'s Chief Executive Officer and Authorized Representative to
  - execute a grant application and any subsequent contractual documents,
  - certify environmental review documents between the Texas Department of Agriculture and the City/County, and
  - certify the Payment Request form and/or other forms required for requesting funds to reimburse project costs, and
  - be assigned the role of Authorized Official in the TDA-GO grant management system.
  
- In addition to the above designated officials, should any grant be funded the [Mayor Pro-Tem, City Manager, City Secretary, City Council Member, County Clerk, County Auditor, County Treasurer, etc.] is authorized to
  - certify the Payment Request form and/or other forms required for requesting funds to reimburse project costs,
  - prepare and submit other financial documentation, and
  - be assigned the role of Project Director or Payment Processor in the TDA-GO grant management system.

Passed and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mary Smith, County Clerk  
(XYZ) County, Texas

\_\_\_\_\_  
John Doe, County Judge  
(XYZ) County, Texas

***Sample Public Hearing Notice***

Published on (July 15, 20XX):

**PUBLIC HEARING NOTICE**

[City/County] of \_\_\_\_\_ TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

[City/County] of \_\_\_\_\_ will hold a public hearing at 7:00 p.m. on November 4, 2022, at (XYZ) County Courthouse regarding the submission of an application to the Texas Department of Agriculture for one or more Texas Community Development Block Grant Program (TxCDBG) grants for Program Year 2023. [City/County] of \_\_\_\_\_ may be eligible to participate in the [Community Development Fund, Colonia Fund Construction Program, Colonia Economically Distressed Areas Program, and/or Downtown Revitalization Program]. The purpose of this meeting is to allow citizens an opportunity to discuss the citizen participation plan, the development of local housing and community development needs, the amount of TxCDBG funding available, all eligible TxCDBG activities, and the use of past TxCDBG funds. The [City/County] encourages citizens to participate in the development of TxCDBG application(s) and to make their views known at this public hearing. Citizens unable to attend this meeting may submit their views and proposals to (John Doe), County Judge at the County Courthouse. Persons with disabilities that wish to attend this meeting should contact the County Courthouse to arrange for assistance. Individuals who require auxiliary aids or services for this meeting should contact the County Courthouse at least two days before the meeting so that appropriate arrangements can be made. Para más información en español, comuníquese con [local contact name] al XXX-XXX-XXXX.

***Sample – Application Activities Notice***

Published on (September 26, 20XX):

**PUBLIC NOTICE**

(XYZ) COUNTY  
TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

(XYZ) County is giving notice of the county’s intent to submit Texas Community Development Block Grant Program grant applications for a (Community Development Fund) grant request of (\$275,000) for (the installation of a sewer system) in the (community of XX). The application is available for review at the (XYZ) County Courthouse during regular business hours. Para obtener una copia en español, comuníquese con [local contact name] al XXX-XXX-XXXX.



Agreement No. \_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Texas

My commission expires: \_\_\_\_\_

## **Citizen Participation Plan:**

### **TxCDBG Project Implementation Manual, Chapter 1 Administration and Reporting – Section 1.1.5 Public Participation**

TxCDBG applicants and funded Grant Recipient are required to carry out public participation in accordance with the Citizen Participation Plan adopted for the TxCDBG Program. In this section, the term Grant Recipient includes applicants for TxCDBG funding. Each Grant Recipient certifies by signing a 424 Form that it has and will comply with the requirements of this Citizen Participation Plan.

Each Grant Recipient must maintain a citizen participation file that includes the applicant's complaint procedures, any technical assistance provided by the applicant, and public notices, minutes, and attendance lists for public hearings.

#### **Complaint Procedures:**

The Grant Recipient must have written citizen complaint procedures that provide a timely written response to complaints and grievances. Residents must be made aware of the location, days, and hours when copies of the plan are available.

#### **Technical Assistance:**

When requested, the Grant Recipient shall provide technical assistance to groups representative of persons of low-to-moderate income in developing proposals for the use of TxCDBG funds. The level and type of assistance shall be determined by the Grant Recipient based upon the specific needs of the community's residents.

#### **Public Hearing Provisions:**

A key component of the program is the opportunity for local residents to express needs and concerns regarding TxCDBG-funded projects to the Grant Recipient.

- The Grant Recipient must hold a public hearing prior to authorizing submittal of the grant application.
- If the project is funded, the Grant Recipient must hold a public hearing concerning any proposed substantial change, as determined by TDA, in the use of TxCDBG funds.
- Upon completion of the activities, the Grant Recipient must hold a public hearing and review its program performance, including the actual use of TxCDBG funds.

Public hearings, as required by the Request for Application Guides and *Chapters 11 and 12* and *Section B* of this manual, must comply with the following:

- Hearing must be held in a location convenient to the project beneficiaries.
- Hearing must be held at, or after, 5 p.m. on a weekday or on a Saturday or Sunday.
- Grant Recipient must provide accommodation for citizens with disabilities.
- Hearings should be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can be reasonably expected to participate. The Grant Recipient must adhere to its Limited English Proficiency Plan. See *Chapter 10*.
- Grant Recipient must provide notice of the hearing to citizens at least seventy-two hours (three days) prior to the scheduled hearing—including the date, time, location of the hearing, and the topics to be considered.

- Records related to the hearing must be made available to the public as required by Texas Government Code, Chapter 552. Required documentation includes the public hearing notice, sign-in sheet with a list of attendees, the minutes of the hearing, and a summary of public comment(s).

Public Notice Provisions:

Public Notices are required at several stages of the grant, as described in Request for Application Guides and *Chapters 3, 10, 11, and 12, and Section B of this manual.*

- Public Notice may be given in one of three ways:
  - Publish the notice in a newspaper of general circulation;
  - Post the notice in at least two public places accessible to the general public at the time of the posting; it must include the courthouse/city hall and a location within the target area (if applicable); OR
  - Post the notice in one public place accessible to the general public at the time of the posting, such as the courthouse/city hall, **and** post on Grant Recipient’s website.
- Posted notices must be in a location accessible to the general public at the time of the posting.
- The Public Notice must include all required information in English and any other appropriate language(s) per the recipient’s Limited English Proficiency (LEP) plan. See *Chapter 10 Civil Rights.*
- The Grant Recipient must retain documentation of the Public Notice:
  - **Published Notices** – TDA will accept either a copy of the notice or the full newspaper page on which the notice occurred. The publication text, title, date of publication, name of the newspaper, and page number must be clear and readable, and supported by affidavit. See *Sample Affidavit of Posting (Form A101)*. The original newspaper tear sheet or a photocopy of the notice and a publisher’s affidavit must be kept with the Grant Recipient’s local file for the public, TDA monitors, and other state or federal inspectors.
  - **Website Notices** – Screen shots of the posting with the date visible must be retained as documentation of the posting.
  - **Posted Notices** – Legible photographs showing the location of the posting are required.
  - **Posted Notices** – Must be supported by affidavit. See *Sample Affidavit of Posting (Form A101)*.