

UTILIZING CDBG FOR PUBLIC FACILITIES

NCDA Region I
Spring Meeting

DCU Center,
Worcester

April 6, 2016

OVERVIEW

- Regulatory language
- What *is* and *is not* a public facility
- Eligible activities
- Barrier removal
- National objective compliance
- Procurement
- Regulatory niceties
- Findings/Concerns related to public facility activities

PUBLIC FACILITIES AND IMPROVEMENTS

- Under the CDBG program states and entitlements may use funds for acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in § [570.207\(a\)](#), carried out by the recipient or other public or private nonprofit entities. (However, activities under this paragraph may be directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to public facilities and improvements, including those provided for in § [570.207\(a\)\(1\)](#).) In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Facilities designed for use in providing shelter for persons having special needs are considered public facilities and not subject to the prohibition of new housing construction described in § [570.207\(b\)\(3\)](#). Such facilities include shelters for the homeless; convalescent homes; hospitals, nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for the developmentally disabled; and temporary housing for disaster victims. In certain cases, nonprofit entities and subrecipients including those specified in § [570.204](#) may acquire title to public facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph are subject to the policies in § [570.200\(b\)](#).

WHAT IS A PUBLIC FACILITY

- Neither the statute nor the regulations define the terms “public facilities” or “public improvements.”
- These terms are broadly interpreted to include all improvements and facilities that are either publicly owned or that are traditionally provided by the government, or owned by a nonprofit, and operated so as to be open to the general public.

WHAT IS A PUBLIC FACILITY CONT.

- This would include neighborhood facilities, firehouses, public schools, and libraries. Public improvements include streets, sidewalks, curbs and gutters, parks, playgrounds, water and sewer lines, flood and drainage improvements, parking lots, utility lines, and aesthetic amenities on public property such as trees, sculptures, pools of water and fountains, and other works of art.

WHAT IS NOT A PUBLIC FACILITY

- Buildings or portions thereof, used for the general conduct of government cannot be assisted with CDBG funds.
- The term "**buildings for the general conduct of government**" means city halls, county administrative buildings, State capitol or office buildings, or other facilities in which the legislative or general administrative affairs of the government are conducted. This term includes court houses but does not include jails or prisons.
- This does not include, however, the removal of architectural barriers under § [570.201\(c\)](#) involving any such building.

ELIGIBLE ACTIVITIES

- CDBG funds may be used by the grantee or other public or private nonprofit entities for:

- Acquisition
- Construction
- Reconstruction
- Rehabilitation
- Installation

Ineligible Activities

- Costs of operating or maintaining public facilities or improvements;
- Costs of purchasing construction equipment;
- Costs of furnishings and other personal items;
- New construction of public housing.

ELIGIBLE ACTIVITIES CONT.

IDIS Matrix - CDBG Eligibility Activity Codes and National Objectives

Matrix Code Key		National Objective Codes (N = Not Allowed)														
Code	Eligible Activity	LMA	LMAFI	LMASA	LMC	LMCMC	LMCSV	LMH	LMHSP	LMJ	LMJFI	LMJP	SBA	SBS	SBR	URG
01	Acquisition of Property - 570.201(a)					N	N				N					
02	Disposition - 570.201(b)					N	N				N			N		
03	Public Fac. & Impvm'ts - 570.201(c)					N	N									
03A	Senior Centers	N				N	N	N	N							
03B	Handicapped Centers	N				N	N	N	N							
03C	Homeless Facilities (not operating costs)	N				N	N	N	N							
03D	Youth Centers	N				N	N	N	N							
03E	Neighborhood Facilities					N	N	N	N							
03F	Parks, Recreational Facilities		N	N		N	N	N	N	N		N				
03G	Parking Facilities					N	N	N	N							
03H	Solid Waste Disposal Improvements					N	N									
03I	Flood Drainage Improvements					N	N									
03J	Water/Sewer Improvements					N	N									
03K	Street Improvements					N	N									
03L	Sidewalks					N	N									
03M	Child Care Centers	N				N	N	N	N							
03N	Tree Planting					N	N		N							
03O	Fire Station/Equipment		N	N	N	N	N	N	N	N		N				
03P	Health Facilities					N	N	N	N							
03Q	Abused and Neglected Children Facilities	N				N	N	N	N							
03R	Asbestos Removal					N	N	N	N							
03S	Facilities for AIDS Patients (no op'ting costs)	N				N	N	N	N							
04	Clearance, Demo, Remediate - 570.201(d)					N	N				N					
04A	Cleanup of Contaminated Sites					N	N				N					
05	Public Services - 570.201(e)		N	N		N		N	N	N	N	N		N	N	
03T	Operating Costs Homeless/AIDS Patients	N	N	N		N	N	N	N	N	N	N		N	N	

ELIGIBLE ACTIVITIES: BARRIER REMOVAL

- Eligible activities include the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to public facilities and improvements.
- Allowed in buildings of general conduct of government.

NATIONAL OBJECTIVE COMPLIANCE

- With some minor exceptions public facilities can be categorized under any national objective. LMI LMH is usually not an option.
- Generally public facilities are categorized under LMI LMA.

NATIONAL OBJECTIVE COMPLIANCE CONT.

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03	Public Fac. & Impvm'ts - 570.201(c)					N	N									
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03B	Handicapped Centers	N				N	N	N	N							
03C	Homeless Facilities (not operating costs)	N				N	N	N	N							
03D	Youth Centers	N				N	N	N	N							
03E	Neighborhood Facilities					N	N	N	N							
03F	Parks, Recreational Facilities		N	N		N	N	N	N	N		N				
03G	Parking Facilities					N	N	N	N							
03H	Solid Waste Disposal Improvements					N	N									
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PROCUREMENT AND OTHER CONTRACTUAL ISSUES

- Grantees and subrecipients must procure costs associated with public facility activities.
- Procurement requirements are found at 2 CFR Part 200, Subpart D – Post Award Requirements.
- Grantees and subrecipients must follow more restrictive standards of local, state, or federal requirements.
- MOUs

REGULATORY NICETIES

- Title to public facilities.
- Facilities containing both eligible and ineligible uses.
- Fees for use of public facilities.
- Special assessments (betterment) fees.
- Davis Bacon
- Environmental review
- Fire trucks!

COMMON FINDINGS/CONCERNS RELATED TO PUBLIC FACILITY ACTIVITIES

- Lack of adequately documenting service areas for national objective compliance.
- Funding activities that are ineligible – i.e. paying for maintenance.
- Misclassifying public services as public facilities.