

# CHAPTER 3: NATIONAL OBJECTIVES

## CHAPTER PURPOSE & CONTENTS

This chapter provides a summary of the three national objectives of the program, the category for meeting the three national objectives as well as selecting and documenting the appropriate national objective for activities funded by grantees.

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### 3.1 Introduction to National Objectives

This section provides general background on the national objectives and an overview of the possible approaches.

**Key Topics in This Section:** Overview of the three national objectives

**Regulatory/Statutory Citations:** Section 101(c), Section 104(b)(3), 105(c), 570.208

**Other Reference Materials on This Topic:** Guide to National Objectives and Eligible Activities for Entitlement Communities Chapter 3: Meeting a National Objective

The authorizing statute of the CDBG program requires that each activity funded except for program administration and planning activities must meet one of three national objectives. The three national objectives are:

- Benefit to low- and moderate- income (LMI) persons;
- Aid in the prevention or elimination of slums or blight; and
- Meet a need having a particular urgency (referred to as urgent need).

An activity that does not meet a national objective is not compliant with CDBG requirements and may be subject to remedial actions.

Each national objective and the categories are discussed in further detail in the following sections of this chapter.

This chapter will also explore the strategic decisions grantees can make when qualifying an eligible activity under a national objective. It is possible for an activity to qualify under more than one national objective, although only one national objective may be selected for an activity. Additionally, activities can qualify under more than one category. This chapter will discuss considerations for making a decision regarding which category works best for an eligible activity.

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HUD has developed a matrix of the national objectives, eligible activities and IDIS matrix codes. Grantees may wish to refer to this matrix when selecting national objectives. A copy is attached to the IDIS chapter of this manual.

### 3.2 Benefit to Low and Moderate Income Persons or Households

This section describes each of the possible LMI national objectives.

**Key Topics in This Section:** Overview of the primary objective and associated expenditure cap; Area benefit activities (LMA); Limited Clientele Activities (LMC); Housing Activities (LMH); Job Creation and Retention Activities (LMJ)

**Regulatory/Statutory Citations:** Section 101(c), Section 104(b), 570.1, 570.200(a)(3), 570.208(a)

**Other Reference Materials on This Topic:** Guide to National Objectives and Eligible Activities for Entitlement Communities: Chapter 3: Meeting a National Objective; Chapter 4: Overall Expenditure Level –Benefit to LMI Persons; Appendix D: Determining Service Areas; CPD Notice 05-06: US HUD Suggested Survey Methodology to Determine the Percentage of LMI Persons in the Service Area of a Community Development Block Grant-Funded Activity

The LMI national objective is often referred to as the “primary” national objective because the statute requires that recipients expend 70 percent of their CDBG funds to meet the LMI national objective.

Additional information on how to meet the 70 percent test and certification to HUD is located later in this chapter.

In addition to meeting the 70 percent test, applicants must ensure that the activities proposed, when taken as a whole, will not benefit moderate-income persons to the exclusion of low-income persons. This does not mean that each activity has to include both low- and moderate income beneficiaries, but it further ensures that the CDBG program will primarily benefit low-income persons.

This section covers the four categories that can be used to meet the LMI national objective:

Area benefit activities;

Limited clientele activities;

Housing activities; or

Job creation or retention activities

#### 3.2.1 Low Mod Area Benefit (LMA)

The area benefit category is the most commonly used national objective for activities that benefit a residential neighborhood. An area benefit activity is one that benefits all residents in a particular area, where at least 51 percent of the residents are LMI persons.

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Examples of area benefit activities may include the following when they are located in a predominately LMI neighborhood:

- Acquisition of land to be used as a neighborhood park;
- Construction of a health clinic;
- Improvements to public infrastructure like the installation of gutters and sidewalks; and
- Development of a community center.

The activities listed above benefit all LMI residents in a service area and thus are the type of activities that may qualify under the LMI area benefit category for the purposes of meeting a national objective.

Grantees are responsible for determining the service area of an activity. HUD will generally accept a grantee's determination as long as it is reasonable.

The factors that should be considered in making a determination regarding the service area include:

### *The nature of the activity:*

In general the size and the equipment associated with the activity should be taken into consideration. A small park with a limited number of slides and benches would not be expected to serve the entire neighborhood. In the same way, a larger park that can accommodate a considerable number of people would not be expected to service just the immediately adjacent properties. The same applies to improvements or assistance to an alleyway versus a small two-lane street versus an arterial four-lane street within the same neighborhood. The service area for each of these infrastructure projects will be different in size and population.

### *The location of the activity:*

In general, the immediate area surrounding a facility is expected to be included in the service area. Additionally, when a facility is located near the boundary of a particular neighborhood, its service area could likely include portions of the adjacent neighborhood as well as the one in which it is located.

### *Accessibility issues:*

Geographic barriers can separate and preclude persons residing in a nearby area from taking advantage of a facility. Other limits to accessibility can include access fees, language barriers, time or duration that an activity is available, access to transportation and parking, etc.

### *The availability of comparable activities:*

Comparable activities within the service area should be taken into account so that the service area does not overlap with the service area of another comparable activity.

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### *Boundaries for facilities and public services:*

The service area for some public facilities and services are determined based on specified and established boundaries or districts. Examples of such services and facilities are police precincts, fire stations, and schools.

If the service area has not already been identified for an activity, the grantee has to determine the service area before CDBG assistance can be provided under the LMI Area Benefit category.

An area is considered to meet the test of being LMI if there is a sufficiently large percentage (51 percent) of LMI persons residing in the service area as determined by:

The most recently available decennial Census information, together with the Section 8 income limits that would have applied at the time the income information was collected by the Census Bureau; or

A current survey of the residents of the service area.

With respect to using Census information to document that the service area qualifies, grantees can obtain the following data:

A listing of all census tracts and block groups in the community's jurisdiction;

The number of persons that resided in each such tract/block group at the time of the last census; and

The percentage of such persons who were LMI (based on the CDBG definition) at that time.

The above data is available directly from HUD online at:  
<http://www.hud.gov/offices/cpd/systems/census/lowmod/sc/index.cfm>.

IDIS calculates this information for grantees.

If the proposed activity's service area is generally the same as a census tract or block group, then the Census data may be used to justify the income characteristics of the area served.

Additionally, grantees can compute the percentage of LMI persons in multiple census tracts and block groups because the data includes both the total number of persons as well as the number of LMI persons within a tract and block group.

HUD permits an exception to the LMI area benefit requirement that an area contain 51 percent LMI residents. This exception applies to entitlement communities that have few, if any, areas within their jurisdiction that have 51 percent or more LMI residents. These communities are allowed to use a percentage less than 51 percent to qualify activities under the LMI Benefit category.

This exception is referred to as the "exception criteria" or the "upper quartile".

A grantee qualifies for this exception when fewer than one quarter of the populated block groups in its jurisdictions contain 51 percent or more LMI persons.

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In such communities, activities must serve an area which contains a percentage of LMI residents that is within the upper quartile of all Census block groups within its jurisdiction in terms of the degree of concentration of LMI residents.

HUD assesses each grantee's census block groups to determine whether a grantee qualifies to use this exception and identifies the alternative percentage the grantee may use instead of 51 percent for the purpose of qualifying activities under the LMI Benefit Area category.

HUD determines the lowest proportion a grantee may use to qualify an area for this purpose and advises the grantee accordingly.

HUD uses the following steps in computing the upper quartile for a given community:

Identifies the total number of block groups in the grantee's jurisdiction;

Subtracts the block groups with zero persons to determine the net number of block groups in the jurisdiction;

Arranges the remaining block groups in descending order, based on LMI residents in the block group;

Computes the last block group in the upper quartile by multiplying the net number of block groups by 25 percent; and

Applies the "exception criteria" if the percentage of LMI persons in the last census block group in the top quartile is less than 51 percent.

Grantees which qualify for the exception criteria may use CDBG funds for area benefit activities in any service area, whether or not located in a block group in the highest quartile, if the percentage of LMI persons in the service area is equal to or exceeds the upper quartile percentage.

If the grantee will use the exception criteria, the percentage of LMI persons in the service area must be determined by use of the Census data provided by HUD.

This is because the "upper quartile" was determined using Census data collected at the point in time of the use of CDBG funds.

Income surveys are often used to determine LMI area in one of two instances:

If HUD data does not indicate the service area contains at least 51 percent LMI persons, and if a grantee has a compelling reason to believe the data is incorrect, then the grantee may conduct household surveys based on a change in either population or income of the area since the census.

Also, when the service area is not generally the same as a census tract or block group, then the grantee should conduct household surveys to determine the LMI percentage for the service area.

The survey instrument and methodology must be approved by HUD for the purpose of establishing the percentage of LMI persons in a service area.

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A survey must meet standards of statistical reliability that are comparable to that of the Decennial Census data for areas of similar size.

Additional guidance is available in CPD Notice 05-06.

Finally, the service area of the activity must be primarily residential and the activity must meet the identified needs of LMI persons.

An activity with a service area that is not primarily residential may not qualify under the LMI area benefit category even if the activity provides benefits to all residents in the service area and 51 percent of the residents are LMI persons.

This requirement does not apply to the location of the activity itself but rather the service area of the activity. As such it does not mean that activities located in commercial districts cannot be qualified under the LMI area benefit category on the virtue of their geography. The primarily residential test is applied to the service area of the activity.

For example, activities that support the infrastructure of a commercial district composed of institutions and firms that serve a national and international clientele will not qualify under LMI area benefit.

In contrast, if the commercial district is composed of stores and businesses that serve local customers such that the service area boundaries of the commercial district is around a primarily residential area with the requisite percentage of LMI residents, the activity qualifies under the LMI area benefit category.

Activities under Public Facilities and Improvements and some Public Service activities (e.g. police or fire services) tend to provide benefits to all residents in the service area. Additionally, public schools can be qualified under LMI area benefit because of the affect a school may have on the value of the residential property in the area. Public Schools are considered to benefit all the residents of the service area and may qualify under this category.

There are activities and facilities that are located in a service area but are designed to meet special needs. These activities cannot be qualified under this category. For example, a senior center would qualify under the LMI limited clientele category and not the LMI area benefit category.

With respect to exceptions and special situations, the statute allows two kinds of area benefit activities to meet the national objective of benefit to LMI persons even when the general requirements of the area benefit category cannot be met. The two kinds of area benefit activities are described below:

### 911 Systems (§ 570.208(a)(1)(iii))

With prior HUD approval, a grantee may develop, establish and operate for up to two years after the establishment of a uniform emergency telephone number system serving an area having less than the percentage of LMI persons otherwise required.

### Special Assessments (§ 570.208(a)(1)(iv))

The use of CDBG funds to pay special assessments levied against residential properties that are owned and occupied by LMI persons will qualify under the LMI area

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benefit category provided that this is the only use of CDBG funds in the financing of a public improvement. The activity will qualify even if the public improvement provides a benefit to all the residents of an area.

Finally, there are two special situations that can meet the national objective of benefiting LMI persons under either the area benefit category or the job creation or retention category, at the option of the grantee.

1. Activities undertaken pursuant to a HUD approved Neighborhood Revitalization Strategy Area (NRSA) for the purpose of creating or retaining jobs, and
2. Activities carried out for the purpose of creating or retaining jobs by a Community Development Financial Institution (CDFI) whose charter limits its investment area to a primarily residential area consisting of at least 51 percent LMI persons.

### **3.2.2 Low Mod Limited Clientele (LMC)**

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

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

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

Examples of activities that qualify under the limited clientele category include:

Acquisition of a building to be converted into a shelter for the homeless;

Rehabilitation of a center for training severely disabled persons to enable them to live independently;

Clearance of a structure from the future site of an neighborhood center that will exclusively serve the elderly; and

Public services activities like the provision of health services.

The listed examples qualify under the limited clientele category because the beneficiaries can be identified as LMI residents.

With respect to determining the beneficiaries of activities as LMI and qualifying under the limited clientele category, activities must meet one of the following tests:

Benefit a clientele that is generally presumed to be principally LMI. This presumption covers abused children, battered spouses, elderly persons, severely disabled adults (see the box below), homeless persons, illiterate adults, persons living with AIDS and migrant farm workers; or

Require documentation on family size and income in order to show that at least 51 percent of the clientele are LMI; or

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Have income eligibility requirements limiting the activity to LMI persons only; or

Be of such a nature and in such a location that it can be concluded that clients are primarily LMI. An example is a day care center that is designed to serve residents of a public housing complex.

In addition, the following activities may qualify under the limited clientele national objective:

Removal of architectural barriers to mobility for elderly persons or the severely disabled will be presumed to qualify under this category if it is restricted, to the extent practicable, to the removal of such barriers by assisting

The reconstruction of a public facility or improvement, or portion thereof that does not qualify under the area benefit category;

The rehabilitation of a privately owned nonresidential building or improvement that goes not qualify under area benefit or job creation or retention category: or

The rehabilitation of common areas in a residential structure that contains more than one dwelling unit and that does not qualify under housing activities category for meeting national objectives.

Microenterprise activities carried out in accordance with the HUD regulations when the person owning or developing the microenterprise is LMI; or

Activities that provide training and other employment support services when the percentage of persons assisted is less than 51 percent LMI may qualify if: the proportion of total cost borne by CDBG is no greater than the proportion of LMI persons assisted; and when the service assists businesses, CDBG is only used in the project to pay for the job training and/or supportive services.

There are two sets of activities that are precluded from qualifying under this category based on statutory limitations:

Acquisition, construction, or rehabilitation of property for housing, including homeownership assistance must qualify under the housing national objective which will be discussed below in further detail.

Creation or retention of jobs generally qualify under the jobs or the area benefit category of the LMI benefit national objective.

### **Definition of Severely Disabled**

Persons are considered severely disabled if they:

Use a wheelchair or another special aid for 6 months or longer;

Are unable to perform one or more functional activities (seeing, hearing, having one's speech understood, lifting and carrying, walking up a flight of stairs and walking);

Need assistance with activities of daily living (getting around inside the home, getting in or out of bed or a chair, bathing, dressing, eating and toileting) or instrumental activities of daily living (going outside the home, keeping track of money or bills, preparing meals, doing light housework and using the telephone);

Are prevented from working at a job or doing housework;

Have a selected condition including autism, cerebral palsy, Alzheimer's disease, senility or dementia or mental retardation; or

Are under 65 years of age and are covered by Medicare or receive Supplemental Security Income (SSI).

### **3.2.3 Low Mod Housing Activities (LMH)**

The housing category of LMI benefit national objective qualifies activities that are undertaken for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by LMI households.

Examples of eligible activities include, but are not limited to:

Acquisition of an apartment house to provide dwelling units to LMI households at affordable rents, where at least 51 percent of the units will be occupied by LMI households;

Site improvements on publicly-owned land to serve a new apartment structure to be rented to LMI households at affordable rents;

Housing rehabilitation for single family units;

Conversion of an abandoned warehouse to be reconfigured into new apartments, where at least 51 percent of the units will be occupied by LMI households at affordable rents.

In order to meet the housing LMI national objective, structures with one unit must be occupied by a LMI household. If the structure contains two units, at least one unit must be LMI occupied. Structures with three or more units must have at least 51 percent occupied by LMI households.

Rental buildings under common ownership and management that are located on the same or contiguous properties may be considered as a single structure.

For rental housing, occupancy by LMI households must be at affordable rents, consistent with standards adopted and publicized by the grantee.

Under the following limited circumstances, structures with less than 51 percent LMI occupants may be assisted:

Assistance is for an eligible activity that reduces the development cost of new construction of non-elderly, multi-family rental housing; and

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At least 20 percent of the units will be occupied by LMI households at an affordable rent; and  
The proportion of cost borne by CDBG funds is no greater than the proportion to be occupied by LMI households.

When housing activities are conducted by a community development financial institution (CDFI) or as part of an approved NRSA, multiple units (e.g. scattered site housing) may be aggregated for the purposes of meeting the LMI housing national objective.

NOTE: This flexibility does not apply to activities under the Direct Homeownership Assistance eligibility category (570.201(n)).

Please refer to the chapter on Revitalization Areas more information.

There are a number of activities that generally do not qualify under the LMI Housing national objective. These include code enforcement, interim assistance, microenterprise assistance, public services, and special economic development activities.

### **3.2.4 Low Mod Job Creation or Retention Activities (LMJ)**

The job creation and retention LMI benefit national objective addresses activities designed to create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to or held by LMI persons.

Some examples of activities that qualify when at least 51 percent of jobs created/retained will be for LMI persons include:

Clearance activities on a site slated for a new business;

Rehabilitation activity that will correct code violations and enable a business to survive and retain jobs;

Financial assistance to a manufacturer for the expansion of its facilities that is expected to create permanent jobs; and

Assistance to expand a small house cleaning service with four employees that agrees to hire three additional LMI employees.

The following requirements must be met for jobs to be considered created or retained.

If grantees fund activities that *create* jobs, there must be documentation indicating that at least 51 percent of the jobs will be held by, or made available to, LMI persons.

For funded activities that *retain* jobs, there must be sufficient information documenting that the jobs would have been lost without the CDBG assistance and that one or both of the following applies to at least 51 percent of the jobs:

The job is held by a LMI person; or

The job can reasonably be expected to turn over within the following two years and steps will be taken to ensure that the job will be filled by, or made available to, a LMI person.

The following requirements apply for jobs to be considered available to or held by LMI persons.

Created or retained jobs are only considered to be *available to* LMI persons when:

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Special skills that can only be acquired with substantial training or work experience or education beyond high school are **not** a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and

The grantee and the assisted business take actions to ensure that LMI persons receive first consideration for filling such jobs.

Created or retained jobs are only considered to be *held by* LMI persons when the job is actually held by a LMI person.

For the purpose of determining if the preceding requirements are met, a person may be presumed to be LMI if:

He/she resides in a Census tract/block numbering area that has a 20 percent poverty rate (30 percent poverty rate if the area includes the central business district); and the area evidences pervasive poverty and general distress; or

He/she lives in an area that is part of a Federally-designated Empowerment Zone (EZ) or Enterprise Community (EC); or

He/she resides in a Census tract/block numbering area where at least 70 percent of the residents are LMI.

Jobs created or retained by assisted businesses may also be presumed to be LMI if the job and business are located in an area that:

Has a 20 percent poverty rate (30 percent poverty rate if the area includes the central business district) **and** the area evidences pervasive poverty and general distress; or

Is part of a Federally-designated EZ or EC.

To determine if an area evidences pervasive poverty and general distress, the following standards are applicable

All block groups in the census tract have poverty rates of at least 20 percent;

The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or

Upon the written request of the grantee, HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under the job creation and retention category for meeting a national objective.

However, in certain cases, such as where CDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park), the requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property, provided such businesses are not otherwise assisted by CDBG funds.

Additionally, where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during any program year.

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As mentioned under the area benefit category, certain job creation or retention activities carried out by a CDFI or under a Neighborhood Revitalization Strategy can meet the national objective of benefiting LMI persons under either category. In these instances, the grantee will decide which category it will use to qualify the activity and record the decision in program files so that HUD will know which category is being applied.

### 3.3 Elimination of Slums and Blight

This section highlights the national objectives related to the elimination of slums and blight.

**Key Topics in This Section:** Overview of elimination of slum and blight; Area basis (SBA); Spot basis (SBS); Urban renewal (SBR)

**Regulatory/Statutory Citations:** Section 101(c), Section 104(b)(3), Section 105(c), 570.208(b)

**Other Reference Materials on This Topic:** Guide to National Objectives and Eligible Activities for Entitlement Communities, Chapter 3: Meeting a National Objective

Activities under this national objective are carried out to address one or more of the conditions which have contributed to the deterioration of an area designated as a slum or blighted area.

The focus of activities under this national objectives is a change in the physical environment of a deteriorating area. This contrasts with the LMI benefit national objective where the goal is to ensure that funded activities benefit LMI persons.

This difference in focus has an impact on the information that is required to assess the qualifications of an activity. Under the LMI benefit national objective, determining the number of LMI persons that actually or could potentially benefit from an activity is central to qualifying the activity. Under the elimination of slum and blight national objective, determining the extent of and physical conditions that contribute to blight is central to qualifying an activity.

There are three categories that can be used to qualify activities under this national objective:

Prevent or eliminate slums and blight on an area basis;

Prevent or eliminate slum and blight on a spot basis; or

Be in an urban renewal area.

#### 3.3.1 Slum Blight Area Basis (SBA)

This category covers activities that aid in the prevention or elimination of slums or blight in a designated area. Examples of activities that qualify when they are located within the slum or blighted area include

Rehabilitation of substandard housing located in a designated blighted area and where the housing is expected to be brought to standard condition;

Infrastructure improvements in a deteriorated area; and

Economic development assistance in the form of a low-interest loan to a business as an inducement to locate a branch store in a redeveloping blighted area.

To qualify under this category, the area in which the activity occurs must be designated as slum or blighted. The following tests apply:

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The designated area in which the activity occurs must meet the definition of a slum, blighted, deteriorated or deteriorating area under state or local law;

Additionally, the area must meet either one of the two conditions specified below:

Public improvements throughout the area are in a general state of deterioration; or

At least 25 percent of the properties throughout the area exhibit one or more of the following:

Physical deterioration of buildings/improvements;

Abandonment of properties;

Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;

Significant declines in property values or abnormally low property values relative to other areas in the community; or

Known or suspected environmental contamination.

Documentation must be maintained by the grantee on the boundaries of the area and the conditions that qualified the area at the time of its designation. The designation of an area as slum or blighted must be re-determined every 10 years for continued qualifications.

As stated above, qualified activities must address the identified conditions that contributed to the slum and blight.

NOTE: When undertaking residential rehab in a slum/blight area, the building must be considered substandard under local definition and all deficiencies making the building substandard must be eliminated before less critical work is undertaken.

### **3.3.2 Slum Blight Spot Basis (SBS)**

These are activities that eliminate specific conditions of blight or physical decay on a spot basis and are not located in a slum or blighted area. Examples include:

Acquisition and demolition of a dilapidated property;

Rehabilitation of a decayed community center that eliminates code violations that are detrimental to the health and safety of potential occupants like faulty wiring, falling plaster, or other similar conditions;

Preservation of a deteriorated building of historic significance; and

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

Activities under this category are limited to acquisition, clearance, relocation, historic preservation, remediation of environmentally contaminated properties, and building rehabilitation activities.

Furthermore, rehabilitation is limited to the extent necessary to eliminate a specific condition detrimental to public health and safety.

### **3.3.3 Slum Blight Urban Renewal Area (SBR)**

These are activities located within an Urban Renewal project area or Neighborhood Development Program (NDP) action area that are necessary to complete an Urban Renewal Plan.

A copy of the Urban Renewal Plan in effect at the time the CDBG activity is carried out, including maps and supporting documentation, must be maintained for record keeping purposes.

This national objective category is rarely used as there are only a handful of communities with open Urban Renewal Plans.

## **3.4 Urgent Need (URG)**

This section describes the urgent need national objective.

**Key Topics in This Section:** Overview of urgent need

**Regulatory/Statutory Citations:** Section 101(c), 104(b)(3), 105(c), 570.208(c)

**Other Reference Materials on This Topic:** Guide to National Objectives and Eligible Activities for Entitlement Communities, Chapter 3: Meeting a National Objective

Use of the urgent need national objective category is rare. It is designed only for activities that alleviate emergency conditions. Examples include:

Acquisition of property located in a flood plain that was severely damaged by a recent flood;

Public facility improvements like the reconstruction of a publicly-owned hospital that was severely damaged by a tornado;

Demolition structures that are severely damaged by a major earthquake;

Public services like additional police protection to prevent looting in an area damaged by a recent hurricane;

Interim assistance such as emergency treatment of health problems cause by a flood; and

Special economic development assistance to a grocery store that was damaged by an earthquake.

Urgent need qualified activities must meet the following criteria:

The existing conditions must pose a serious and immediate threat to the health or welfare of the community;

The existing conditions are of recent origin or recently became urgent (generally, within the past 18 months);

The grantee is unable to finance the activity on its own; and

Other sources of funding are **not** available.

### 3.5 LMI Benefit Expenditures

Grantees are required to expend a substantial portion of their funds in order to benefit LMI persons. This section describes the calculation of LMI benefit.

**Key Topics in This Section:** Expenditure requirement, Meeting the requirement, Excluded expenditures, Activities that meet the requirement

**Regulatory/Statutory Citations:** Section 101(c), Section 104(b), 105(c), 570.200(a)(3)

**Other Reference Materials on This Topic:** Guide to National Objectives and Eligible Activities for Entitlement Communities, Chapter 4: Overall Expenditures Level – Benefit to L/M Income Persons

The primary national objective of the CDBG Program is the development of viable urban communities principally for LMI persons.

To meet the primary national objective, the CDBG regulations require that grantees expend not less than 70 percent of CDBG funds for activities that benefit LMI persons.

Planning and administrative costs are excluded from the LMI benefit calculation.

Activities meeting this requirement are those which qualify under one of the four LMI benefit national objective category:

Area basis;

Limited clientele;

Housing activities; or

Job creation or retention.

The percentage calculation is based on aggregate CDBG expenditures over a period specified by the grantee (up to three years) in a certification to HUD. The certification must be included in grantee's annual Consolidated Plan action plan submission.

#### LMI Calculation Example

Total entitlement grant amount: \$1,000,000

Less actual planning and admin (up to 20 percent): (200,000)

Equals amount subject to LMI calculation: \$800,000

Multiplied by 70 percent: x 0.70

Equals **minimum to benefit LMI**: \$560,000

Amount subject to LMI calculation: \$800,000

Less LMI minimum: (560,000)

Equals maximum slum/blight and urgent needs allowable activities: \$240,000

\* NOTE: This example is for illustrative purposes only. It does not demonstrate the calculation for grantees on a multi-year certification cycle, and does not take into account program income.

Due to the 70 percent LMI benefit standard, grantees **must** limit expenditures under the Slum/Blight and Urgent Need national objectives in order to meet the LMI expenditure requirement.

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Under housing activities, the expended funds that count towards the 70 percent requirement may be limited depending on number of LMI units in the housing structure and the amount of the CDBG funds expended on the structure.

To determine the amount expended under housing activities that counts towards the 70 percent requirement, grantees should take the following steps:

Divide the number of units in an assisted structure that is occupied by LMI households by the total number of units to determine the percentage of units that are occupied by LMI households;

Multiply the total costs of the assisted activity (including those paid for with CDBG and non-CDBG funds) by the percentage of units that are occupied by LMI households; and

Exclude the amount of CDBG funds expended for the assisted structure that is in excess of the amount calculated in the above step.

### Excluded Housing Activity Expenditures Example

Number of units occupied by LMI households: 4

Total number of units in assisted structure: 6

**Divide** number of units occupied by LMI households by total number of units in assisted structure and multiple by 100:  $(4/6) * 100$

*Equals percent of LMI units in structure: 67%*

Total cost of the housing activity (all sources of funds): \$300,000

Multiplied by percent of LMI units in structure

(i.e. proportion of housing costs attributed to LMI units): \$200,000

CDBG assistance to the structure: \$250,000

*Excess CDBG funds that have to be excluded from LM expenditures: \$50,000*

\* NOTE: This example is for illustrative purposes only.

## 3.6 Choosing the Right National Objective

Grantees may have options regarding which national objective is used for a particular activity. This section provides tips on selecting the right national objective.

**Key Topics in This Section:** Activities that meet more than one national objective, Selecting the most appropriate national objective

**Regulatory/Statutory Citations:** 570.200(a)(3), 570.208

**Other Reference Materials on This Topic:** Guide to National Objectives and Eligible Activities for Entitlement Communities, Chapter 3: National Objectives

Activities may qualify for more than one national objective category. If an activity meets the LMI benefit national objective, then the best decision for most grantees will be to use the LMI Benefit national objective because of the 70 percent requirement associated with that national objective.

For the activities that meet more than one national objective, grantees may find it useful to document compliance with all the applicable national objectives, especially if there is some uncertainty regarding the ability of an activity to meet the chosen national objective upon completion.

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For example, grantees may have concern that an activity qualifying on the basis of creating jobs may not meet the test that at least 51 percent of the jobs created will benefit LMI persons. If the activity could also qualify under the slum/blight area category, the grantee may be best served by documenting compliance with both national objectives. This way, if the activity does not meet the LMI job creation criteria the grantee can switch the activity to the slum/blight area national objective rather than have the activity in non-compliance with CDBG rules. Note that switching the activity from LMI benefit to slum/blight area may affect the grantees certification that 70 percent of expenditures are associated with the LMI benefit national objective, so grantees should proceed with precaution.

### 3.7 Documenting National Objectives

It is critical that grantees document the results of their activity and the related national objective. This section highlights that required national objective documentation.

**Key Topics in This Section,** Timing of documentation activities, Documenting LMI Benefit national objective, Documenting Prevention/Elimination of Slums or Blight, Documenting Urgent Need

**Regulatory/Statutory Citations:** 570.208, 570.506(b)

**Other Reference Materials on This Topic,** Guide to National Objectives and Eligible Activities for Entitlement Communities, Chapter 3: National Objectives

Grantees must maintain records that funded activities meet one of the national objectives. The records depend on the national objective category. This section walks grantees through the documentation requirements under the associated national objective categories.

The Performance Measurement, Reporting, Recording Keeping and Monitoring chapter in this manual, Chapter 13, has more details regarding records that must be maintained to document compliance with CDBG regulations, including records on meeting national objectives.

The timing of documentation for activities is an important consideration. Compliance with national objectives can be documented upfront for a number of the categories. For example, compliance documentation for the following national objectives can be established upfront:

- Under the national objective of benefit to LMI persons, the LMI area benefit;

- Under the national objective of elimination of slums or blight, all three categories (area basis, spot basis, and urban renewal); and

- The urgent need national objective.

Some national objectives have to be documented over time. For example, it is likely that the future occupants of a rental rehabilitation activity cannot be identified up-front. Compliance with the LMI Housing requirement that 51 percent of the occupants have to be LMI households, will require collecting documentation demonstrating compliance during the lease-up period.

In the same way, future hires of created jobs cannot be identified and documentation of compliance cannot be obtained upfront. Rather, hires by the assisted business have to be monitored over a period of time.

### **3.7.1 Benefit to LMI Persons**

#### **LMI Area Benefit**

The following records will demonstrate compliance under this national objective category:

- Boundaries of service area;
- Percentage of LMI persons that reside in the service area; and
- The data used for determining percentage of LMI persons.

#### **LMI Limited Clientele**

One of the following five types of records must be kept:

1. Documentation showing that the activity is designed for exclusive use by a segment of the population presumed by HUD to be LMI persons; or
2. Documentation describing how the nature and the location of the activity establishes that it will be used predominantly by LMI persons; or
3. Data showing the family size and annual income of each person receiving the benefit; or
4. Data showing that barriers to mobility or accessibility have been removed and how the barrier removal was restricted to the extent feasible to one of the particular cases authorized under this category; or
5. Documentation showing that the activity qualifies under the special conditions regarding job services where less than 51 percent of the persons benefiting are LMI persons.

#### **LMI Housing**

The following records must be maintained:

A written agreement with each landlord or developer receiving CDBG assistance. The agreement must specify

The total number of dwelling units in each multi-unit structure, and

The number of those units which will be occupied by LMI households after assistance.

Total cost of the activity, including both CDBG and non CDBG funds

The household size and income eligibility for each of the LMI households occupying assisted units

For rental housing

The rent charged (or to be charged) after assistance for each dwelling unit in each assisted structure; and

Documentation of compliance with the locally established standards for housing that is “affordable to LMI households”.

When assisting structures with less than 51 percent LMI occupants, documentation of qualification under the special conditions:

Number of units to be occupied by LMI households at an affordable rent;

Total development cost of new construction; and

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Amount of CDBG funds expended for activity.

When aggregating scattered sites, documentation of the basis for aggregating scattered sites and considering them as a single structure.

When assisting with the delivery costs of HOME assisted projects and assistance, evidence that housing projects and/or tenant based rental assistance achieves HOME income targeting requirements.

While compliance with the housing national objective is based on the initial occupancy of the housing following completion of the CDBG-assisted activity, grantees are urged to establish their own requirements for replacing such households with other LMI households whenever the assisted unit becomes vacant within a period of time following completion that is commensurate with the amount of CDBG financial assistance that was provided to the developer.

Another consideration when document compliance is that occupancy of the unit may not be for some time after the completion of the activity. For example, there may be a time lag between the acquisition or land clearing activity subsidized by CDBG funds and the development of the housing units. It is not sufficient to document the intention to comply. The grantee is responsible for documenting that the housing units are constructed and that the appropriate number of units are initially occupied by LMI households.

### **LMI Job Creation and Retention**

Record keeping requirements in this category relate to both the status of the business, the jobs created or retained, and the LMI persons benefiting from the activity. The following is an outline of the documents that have to be maintained by grantees:

Written agreement with the business in which the following is specified:

A commitment from the assisted business to hire or retain LMI persons;

The type of job and whether the job will be full- or part- time, and

The actions that the business will take to ensure that at least 51 percent of the hires or retainees will be LMI persons.

Compliance with the written agreement must be documented as follows:

The jobs that were actually created and/or retained;

Whether each such job was held by or made available to a LMI person, and

The full-time equivalency status of the jobs.

For created jobs that will be held by LMI persons, the records must demonstrate:

Listing by job title of the jobs created;

Listing by job title of the jobs filled;

The name and income status of the person who filled each position; and

The full-time equivalency status of the jobs.

For created jobs that will be made available to LMI persons but are not taken by LMI persons:

The title and description of the jobs made available;

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The full-time equivalency status of the job;

The prerequisites for the job; special skills or education required for the job, if any; and the business commitment to provide needed training for such jobs; and

How first consideration was given to LMI persons for the job can be recorded as follows:

The name(s) of person(s) interviewed for the job and the date of the interview(s), and

The income status of the person(s) interviewed.

For retained jobs that would otherwise be lost:

Specific evidence that the jobs would be lost without the CDBG assistance.

If the retained job is held by a LMI person:

A listing by job title of permanent jobs retained;

The jobs that are known to be held by LMI persons at the time of assistance;

The full time equivalency status of each job; and

Family size and annual income of each LMI person.

For retained jobs that are projected to turnover to LMI persons:

A listing of the retained jobs that are projected to become available within two years of assistance;

The basis of the determination that the job is likely to turnover within two years of assistance;

The actual turnover date;

The name and income status of the person who filled the vacancy;

If the person who took the job was not a LMI person, records to demonstrate that the job was made available to LMI persons:

The name(s) of person(s) interviewed for the job and the date of the interview(s) and

The income status of the person(s) interviewed

Information on the family size and annual income of each LMI person hired.

There are five options for documenting the LMI status of an applicant or employee:

1. Referrals from an agency that has agreed to refer individuals who are determined to be LMI based on HUD's category. These agencies must maintain records, which must be available to the grantee or federal inspection, showing the basis upon which they determined that the person was LMI; or
2. A written self certification by the employee or applicant of his/her family size and total income that is signed and dated. Certification can either include actual size and income of family or can contain a statement that the annual family income is below the Section 8 low-income limit for the applicable family size; or
3. Qualification of employee or application for assistance under another program with income qualification that are as restrictive as those used by the CDBG program.

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Examples include referrals from Public Housing, Welfare Agency, or the JTPA Program, with the exception of the JTPA Title III program for dislocated workers; or

4. Evidence that the individual is homeless; or
5. Evidence that the individual may be presumed to be LMI by way of residence address and poverty rates of applicable census tract or documentation of area designation as EZ or EC.

The grantee can use any combination of documenting income status for the persons benefiting from a job creation or retention activity.

When documenting income, the income status of an individual is made at the time the CDBG assistance is provided. This may have an affect on the retention of high-paying unskilled jobs counting as eligible except for turnover purposes. This is because a person who occupies a high-paying but low-skilled job may not qualify as a LMI person. Whereas a LMI person may fill the job at a lower pay rate if it were created or if it became available through turnover.

### **3.7.2 Prevention/Elimination of Slums or Blight**

Under the categories of Area Basis and Spot Blight, the presence of blight has to be evidenced in record keeping. In documenting the presence of blight, the use of pictures is encouraged.

#### **Area Basis**

Records to be maintained include:

Area designation (e.g., boundaries) and date of designation

Documentation and description of blighted conditions (e.g., photographs, structural surveys, or development plans)

For residential rehabilitation:

Building qualification as substandard,

Pre-rehabilitation inspection report and work plan describing deficiencies,

Scope of work performed with documentation that substandard elements were addressed first; and

Evidence that the activities undertaken address the conditions that contributed to the deterioration.

#### **Spot Blight**

Grantee files should include the following:

Description of condition addressed by activity,

Documentation of eligibility of activity under this category, and

Records required for residential rehabilitation as listed above under Area Basis.

#### **Urban Renewal Area**

Records must contain:

A copy of the Urban Renewal Plan, and

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Documentation that activity was required to meet the goals outlined in the renewal plan.

### **3.7.3 Urgent Need**

Files should include:

Documentation of urgency of need and timing; and

Certification that other financing resources were unavailable and CDBG had to be used.