



# **Texas Community Development Block Grant Program**

2022 Colonia Fund: Construction (CFC)

Request for Applications (Application Guide)

**Table of Contents**

TxCDBG Goals and Requirements ..... 2

Recommended Steps in Application Process ..... 2

Part I: CFC Fund-Specific and other Program Requirements..... 3

Application Submittal and Deadline Requirements..... 3

Amount of Grant Funds Requested ..... 3

National Program Objectives (NPO) ..... 3

Eligible Activities ..... 4

Colonia Designation..... 4

Eligible Applicants..... 5

Scoring Criteria ..... 6

## **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 Texas 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, and rural health 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.

*Note: The Texas Department of Agriculture is currently conducting a review of its Community Development Block Grant (CDBG) program rules, Texas Administrative Code, Title 4, Chapter 30. The guidance in this Request for Applications (RFA) reflects proposed revisions to this chapter. It is TDA's intent that any rule changes will be adopted prior to award of grants funds under this RFA. If public comment to the proposed changes results in revision to this RFA, TDA will provide notice prior to the application due date to applicants that have initiated an application in TDA-GO. See TDA website for information about this pending rule change.*

## **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 within 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 complete application must be available for public review for no less than five (5) days:
  - after the local resolution is passed;
  - after the notice of availability; and
  - prior to the application submittal deadline.
12. Submit the application to TDA.

# **Part I: CFC Fund-Specific and other Program Requirements**

## **Application Submittal and Deadline Requirements**

The application procedures for the 2022 TxCDBG Colonia Fund: Construction (CFC) 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 2022 TxCDBG CFC Fund applications is 11:59 p.m. C.T. on July 8, 2022.

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-Grants Online (TDA-GO!) system. The system may be accessed by navigating to <https://tda-go.intelligrants.com/>.

## **Amount of Grant Funds Requested**

For the Colonia Fund Construction application, the maximum application request amount is \$1,000,000 and the minimum is \$150,000. **Each application must include one or more “stand-alone” projects and cannot depend on work proposed in any other pending TxCDBG application.**

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 \$60,000, whichever is less
- Engineering Services – up to 25% of funds requested for construction and acquisition activities or \$85,000, whichever is less.

## **National Program Objectives (NPO)**

For Colonia Fund: Construction (CFC), an application must meet the Low/Moderate Income NPO. 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 [www.TexasAgriculture.gov](http://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 activities funded through the Colonia Fund Construction program must be designed exclusively for the benefit of colonia residents. Generally, this means that the work will be constructed within the established boundaries of the colonia community AND the beneficiaries are primarily colonia residents. The reported beneficiaries for public improvements must include not only the colonia residents but any residents outside the colonia boundaries that will also benefit from the improvements, so that TDA can evaluate the entire service area of the improvements for eligibility.

If work is proposed outside of those boundaries, the applicant must demonstrate that:

- the work is necessary in order to adequately serve the colonia residents;
- the proposed location and scope of the work is the most reasonable and efficient option available; and
- the non-colonia beneficiaries do not exceed ten (10) housing units or 25% of the total beneficiaries, whichever is less.

Under no circumstances will CFC grant or match funding be used for housing rehabilitation or other improvements on private property that is not located within a colonia community.

Per HUD's Office of Community Planning and Development, states and units of general local government are strongly encouraged to use CDBG colonia set-aside funds for projects addressing lack of potable drinking water supply, lack of adequate sewage systems, and lack of decent, safe and sanitary housing. Although Section 916(b)(3) of the Cranston-Gonzalez National Affordable Housing Act (Act) permits colonia set-aside funds to be used for any activities eligible for assistance under Section 105(a) of the Housing and Community Development Act (HCDA) of 1974, as amended, basic infrastructure (water and wastewater treatment systems) and housing activities should have priority under the colonia set-aside pursuant to the language in Section 916(a) of the Act. The state should provide a funding priority under the colonia set-aside for these types of activities and should only fund other activities if they are undertaken in conjunction with funding of basic infrastructure and housing activities; therefore, **at least 51% of the proposed activities/projects within an application must principally address basic infrastructure (water and wastewater systems) or housing.**

Additionally, projects that are eligible for the Colonia Economically Distressed Areas Program (CEDAP) must comply with all CEDAP contract requirements. Please contact TDA staff for additional guidance.

Details regarding TxCDBG eligible activities can be found in the **TxCDBG Guide to National Program Objectives**.

## **Colonia Designation**

Each application activity must provide benefit to residents of a colonia that is eligible under the Cranston-Gonzales Act. Clear documentation of a colonia's eligibility includes:

1. Documentation of the colonia's existence prior to November 28, 1990. Acceptable documentation includes:
  - Documentation of subdivision platting;
  - Documentation of residential unit construction, minimum of 25% of current number of units or 11 units, whichever is less;
  - Photos of the colonia community; or
  - Newspaper articles or similar publications the reference or describe the colonia community; or
  - Other available documentation, with TDA approval prior to the application deadline;
2. Documentation of the colonia's proximity to the United States-Mexico border;

3. Documentation of the colonia's geographic location and boundaries;
4. Summary of colonia's current potable drinking water supply, sewage systems, and inventory of decent, safe and sanitary housing. Included in the summary should include current photos of the proposed project site, illustrating conditions to be addressed by the project's activities.

## **Eligible Applicants**

Funds for colonia construction projects or activities are available to eligible applicants that are non-entitlement units of general local government (counties and in certain cases cities) that do not participate in the entitlement portion of the Federal CDBG Program.

Eligibility is limited to counties with areas meeting the definition of a colonia that are located within 150 miles of the Texas-Mexico border. Under the TxCDBG Program, a "colonia" is an unincorporated, identifiable community defined by a set of criteria, which includes:

- lack of potable water supply;
- lack of adequate sewage systems;
- lack of decent, safe, and sanitary housing; and
- whether the community existed as a colonia prior to the date of enactment of the Cranston-Gonzalez National Affordable Housing Act (November 28, 1990).

Any county within 150 miles of the Texas-Mexico border that is part of a metropolitan statistical area with a population exceeding 1,000,000 is not eligible. Hidalgo County, while a designated CDBG urban county, is eligible for funding under the Colonia Fund.

Eligible counties with areas located within 150 miles of the Texas-Mexico border are:

Aransas (Part); Bee; Blanco (Part); Brewster; Brooks; Cameron; Coke (Part); Concho (Part); Crane; Crockett; Culberson; DeWitt (Part); Dimmit; Duval; Ector; Edwards; El Paso; Frio; Gillespie (Part); Glasscock (Part); Goliad (Part); Hidalgo; Hudspeth; Irion; Jeff Davis; Jim Hogg; Jim Wells; Karnes (Part); Kenedy; Kerr; Kimble; Kinney; Kleberg; La Salle; Live Oak; Llano (Part); Loving; Mason (Part); Maverick; McCulloch (Part); McMullen; Menard; Midland (Part); Nueces; Pecos; Presidio; Reagan; Real; Reeves; Refugio; Runnels (Part); San Patricio; Schleicher; Starr ;Sterling (Part); Sutton; Terrell; Tom Green; Upton; Uvalde; Val Verde; Ward; Webb; Willacy; Winkler (Part); Zapata; Zavala

For projects that are located in multiple jurisdictions, please contact TDA for guidance.

According to Section 43.907 of the Local Government Code, a colonia annexed on or after September 1, 1999, remains eligible for five (5) years after the effective date of the annexation to receive any form of assistance for which the colonia would be eligible if the annexation had not occurred. Therefore, an area annexed by a city on or after September 1, 1999, is eligible to receive Colonia Fund assistance for a period of up to five years after annexation if the area meets the definition of a colonia as well as any other CDBG requirements set forth for all applicants. An application for the colonia may be submitted by the county or the city in which it is located.

While eligibility is only provided to a group of specific counties, these applicants may choose to propose projects that will provide benefits through other sub-recipient groups serving their jurisdiction. For example, a county applies 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).

Another example is a county applying for funding for the installation of water lines for new service in a colonia area annexed by a municipality. Again, the improvements themselves would become the property of the municipality, but the programmatic and fiscal compliance responsibilities would remain with the applicant (the county).

A colonia construction application must include an assessment of the effect of the Model Subdivision Rules established pursuant to Section 16.343 of the Texas Water Code and enforcement actions throughout the county, and provide the colonia identification number for the colonia that would receive the project benefit.

NOTE: If only a portion of a county’s territory is located within 150 miles of the Texas-Mexico border, an application submitted by that county can only serve the portion that is located within the 150-mile range.

## **Scoring Criteria**

<b>Colonia Construction</b>	<b>365 Total Possible Points</b>
<b>Community Need – 15 Points (Maximum)</b>	
<b>Percentage of housing units without complete plumbing</b>	<b>5 points</b>
<p>Determined by reviewing the most recent U.S. Census American Community Survey (ACS) 5-year estimate, Table S2504 for the applicant county. Points are awarded as follows:</p> <ol style="list-style-type: none"> <li>1. The applicant’s number of housing units without complete plumbing (HWOP) is calculated by subtracting the number of housing units “<b>with</b> complete plumbing facilities” from the total number of occupied housing units.</li> <li>2. Divide the applicant’s HWOP by the total number of occupied housing units to calculate the HWOP Factor</li> <li>3. Applicant’s HWOP factor divided by the statewide HWOP factor = Points Received</li> </ol>	
<b>Median Household Income</b>	<b>10 Points</b>
<p>Determined by reviewing the most recent U.S. Census American Community Survey (ACS) 5-year estimate, Table S1901 for the county. Points are awarded as follows:</p> <ol style="list-style-type: none"> <li>1. Applicant’s Median Household Income (MHI) divided by Texas MHI = MHI %</li> <li>2. Subtract the applicant’s MHI % from 1 to calculate the applicant’s MHI Factor</li> <li>3. MHI Factor multiplied by 10 = Points Received</li> </ol> <p>Applicant’s whose Median Household Income is above the statewide Median Household Income shall receive zero (0) points.</p>	
<b>Project Design Criteria – 350 Points (Maximum)</b>	
<b>Benefit to Low/Moderate-Income Persons</b>	<b>49 Points</b>
<p>The application will be reviewed and verified by TDA to determine the proposed total number of persons benefitting from the project activities. Then the LMI% for the project will be determined by dividing the LMI beneficiary population by the total beneficiary population.</p> <p>Points Received = LMI % multiplied by 100, minus 51.00          Example: Scoreland County proposes a project with 102 beneficiaries, of which 78 are LMI persons.  <math>= 78 / 102 = 0.7647</math>  <math>= 0.7647 * 100 = 76.47</math>  <math>= 76.47 - 51.00 = 25.47</math> Points Received</p>	

<b>Project Priorities</b>	<b>195 Points</b>
<ul style="list-style-type: none"> <li>• Activities (service lines, service connections, and/or plumbing improvements) providing public access to EDAP-funded water or sewer systems</li> </ul>	195 points
<ul style="list-style-type: none"> <li>• First time public water service activities (including yard service lines)</li> </ul>	145 points
<ul style="list-style-type: none"> <li>• First time public sewer service activities (including yard service lines)</li> </ul>	

	145 points
• Housing activities	140 points
• Drainage activities	135 points
• First time water and/or sewer service through a privately-owned for-profit utility	135 points
• Expansion or improvement of existing water and/or sewer service	120 points
• Installation of approved residential on-site wastewater disposal systems for failing systems	120 points
• Street paving	100 points
• All other eligible activities	20 points

A weighted average is used to assign scores to applications that include activities in the different Project Priority scoring levels. Using as a base figure the TxCDBG funds requested minus the TxCDBG funds requested for engineering and administration, a percentage of the total TxCDBG construction dollars for each activity will then be multiplied by the appropriate Project Priorities point level. The sum of these calculations determines the composite Project Priorities score.

<b>Cost per Beneficiary</b>	<b>30 Points</b>
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A formula is used to determine the cost per LMI beneficiary. The total TxCDBG funds requested is divided by the total number of low- to moderate-income persons benefitting from the project. Points are then awarded in accordance with the following scale:

Up to \$3,000 per LMI Beneficiary	30 Points
\$3,000.01 to \$5,000 per LMI Beneficiary	25 Points
\$5,000.01 to \$10,000 per LMI Beneficiary	20 Points
\$10,000.01 to \$15,000 per LMI Beneficiary	15 Points
\$15,000.01 to \$20,000 per LMI Beneficiary	5 Points
\$20,000.01 to \$40,000 per LMI Beneficiary	0 Points
Greater than \$40,000 per LMI Beneficiary	Negative 5 points for each \$20,000 increment

<b>Comprehensive Approach</b>	<b>30 Points</b>
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Application will provide water and/or sewer service to all residents of each colonia included in the application	30 Points
Application represents one phase of infrastructure work in a single colonia area AND all previous phase(s) of the project have been completed prior to application submittal.	30 Points
Application includes multiple activities to address needs in a single colonia	25 Points
Application includes infrastructure work in multiple colonia areas, but will not result in new or improved service to all residents of those colonias.	10 Points
None of the above	0 Points

<b>Project-Specific Design Criteria</b>	
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Of the 65 points available for this factor, deduct points as follows:	
• Applicant requests assistance for first time water/wastewater service, and service provider has NOT waived connection fees for LMI beneficiaries	Deduct 10 points
• Applicant requests assistance for projects other than water/wastewater, and basic water/sewer needs have NOT been met for all residents of the colonia	Deduct 20 points
• Applicant requests assistance for OSSF activities, and received TxCDBG funding for OSSF installation since 2/1/2016 but did NOT fully expend the grant funds.	Deduct 20 points
• Applicant has experienced drought conditions since 2/1/2016, and the project does NOT address drought conditions or impact	Deduct 5 points



<ul style="list-style-type: none"> <li>Applicant requests assistance for a new water well, and has NOT completed a test well that demonstrates water of sufficient quality and quantity would be available for the proposed project at the well site</li> </ul>	Deduct 10 points
<b>Match Ratio</b>	
<i>Applicant(s) population is equal to or less than 5,000 according to the most recent Census:</i>	
<ul style="list-style-type: none"> <li>Match equal to or greater than 2% of grant request</li> </ul>	20 points
<ul style="list-style-type: none"> <li>Match at least 1%, but less than 2% of grant request</li> </ul>	10 points
<ul style="list-style-type: none"> <li>Match less than 1% of grant request</li> </ul>	0 points
<i>Applicant(s) population is equal to or less than 10,000 but over 5,000 according to the most recent Census:</i>	
<ul style="list-style-type: none"> <li>Match equal to or greater than 3% of grant request</li> </ul>	20 points
<ul style="list-style-type: none"> <li>Match at least 2%, but less than 3% of grant request</li> </ul>	10 points
<ul style="list-style-type: none"> <li>Match less than 2% of grant request</li> </ul>	0 points
<i>Applicant(s) population is equal to or less than 25,000 but over 10,000 according to the most recent Census:</i>	
<ul style="list-style-type: none"> <li>Match equal to or greater than 5% of grant request</li> </ul>	20 points
<ul style="list-style-type: none"> <li>Match at least 3%, but less than 5% of grant request</li> </ul>	10 points
<ul style="list-style-type: none"> <li>Match less than 3% of grant request</li> </ul>	0 points
<i>Applicant(s) population is over 25,000 according to the most recent Census:</i>	
<ul style="list-style-type: none"> <li>Match equal to or greater than 7.5% of grant request</li> </ul>	20 points
<ul style="list-style-type: none"> <li>Match at least 5%, but less than 7.5% of grant request</li> </ul>	10 points
<ul style="list-style-type: none"> <li>Match less than 5% of grant request</li> </ul>	0 points
The applicant's population is determined by reviewing the applicant county's most recently available U.S. Census American Community Survey (ACS) 5-year estimate, Table B01003.	
<b>Citizen Participation</b>	
Five (5) 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 the application deadline.	

<b>Past Performance on previously awarded contracts (Awarded 2/1/2017 – 11/1/2020)</b>	
Methodology: Each applicant is initially awarded full points in each Past Performance score factor. Points are deducted based upon performance of an applicant on a previously awarded contract. The final Past Performance score will be the average of points for each contract awarded between 2/1/2016 – 9/1/2020.	
<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>	5 Points

<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>	
<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>	<p>5 Points</p>
<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>	<p>1 Point</p>

## **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;
- Annual Audit, as discussed in greater detail below ; 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.

## **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, Division 2, Section 30.25 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) Past performance. Demonstrate satisfactory performance on previously awarded TxCDBG grant agreements;
- (6) Pending 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>
<i>FAST</i> 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

- (7) Delinquent audits. A community must submit any past due audits to the department within the timeframes prescribed by the department (For audit requirements, see 4 TAC §30.26); and
- (8) 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**

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. Designate a person(s) (e.g., County Judge, County Commissioner, or Mayor) who will be authorized to execute documents in conjunction with the application, and any resulting grant agreement;
6. 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
7. 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 a multi-jurisdiction application, a cooperative agreement must also be included and signed by all participating local governments, and must state which participant will serve as the lead administrative entity if the project is funded. Additionally, each locality participating in a multi-jurisdiction application must submit a resolution adhering to the guidelines above.

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.

For a sample resolution, 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 2022 funding, a public hearing conducted on or after January 1, 2022, will be accepted unless the hearing notice limited the topic of discussion to specific funding categories.

2. 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.

### **Public 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.

The applicant must publish 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.

To satisfy the requirements of the application, the public notice of application must be published:

- 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.

Public notice must be given in one of the following ways:

- a. Published in a local newspaper at least five (5) days prior to application submittal; or
- b. Published on the applicant's website AND posted in public places (e.g. city hall/county courthouse) at least five (5) days prior to application submittal.

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**

The following items are required as evidence of adherence with public hearing and public notice requirements:

1. A copy of the actual published public hearing notice (full page of the newspaper with publication title and date or publisher's affidavit and a copy of the notice or affidavit of posting AND copy of notice publication on applicant's website) for the required public hearing. The notice must conform to the TxCDBG Citizen Participation Plan.
2. A copy of the actual published notice of the application(s) activities and availability of the application(s) for public review. This may be either a full newspaper page with the publication title and date or publisher's or posting affidavit and a copy of the notice. The notice must conform to the Public Participation requirements of the TxCDBG Project Implementation Manual including the timing of the published notice and the information included in the notice.
3. 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. Again, the written notification must conform to the Public Participation requirements of the TxCDBG Project Implementation Manual including specifying the date, time, and location of the hearing and the topics of discussion.

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.

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

### **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.

### **Annual Audit**

Applicants must comply with the audit requirements in the Texas Local Government Code for the fiscal year identified in the *Request for Applications & Guide Part I*. The applicant is required to submit its most recent annual audit or audit opinion letter with its application to demonstrate financial capacity. Unless otherwise specified in Part I, the audit opinion letter is preferred to the whole audit (Note: not the management letter). A certified public accountant (CPA) who is licensed in this state or a public accountant who holds a professional license to practice from the Texas State Board of Public Accountancy must conduct the audit and prepare the annual financial statement. Applicants may not submit self-performed audits, unless the organization employs a dedicated audit staff. The audit must be an organizational-wide audit and cannot be limited to certain parts of the organization. Annual audits for fiscal years ending

on or before December 31, 2019 will not be accepted. Failure to submit an audit for FY 2020 or FY 2021 by the application deadline will result in automatic disqualification.

## **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, and in the [TxCDBG Guide to Meeting a National Program Objective](#).

## **Documentation of Match**

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 services/equipment use;
3. Materials or supplies;
4. Land; or
5. Any combination of the above.

For more information on the acceptability of each of the different types of match, refer to Appendix II: Matching Funds.

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.

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.

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. This evidence 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.

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.

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

Applicants with projects that include the provision of 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 homeowners (including addresses) 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 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 conduct a separate public hearing. This hearing will address the community's housing and community development needs and how the proposed activities are designed to meet those needs.
- 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 be TxCDBG eligible. For example, if a city and county are partnering on an application and the city is currently ineligible due to past performance issues, 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 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 signing the 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.

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**

Refer to 4 TAC §30.6.

## **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

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.

### **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](http://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: Matching Funds**

TxCDBG will not accept matching funds from the United States Department of Agriculture Rural Development Programs for TxCDBG applications unless the applicant has submitted the preliminary application for the Rural Development grant or loan matching funds to Rural Development prior to the TxCDBG application deadline. Applicants planning to use Rural Development funds as match for TxCDBG funds cannot submit a TxCDBG application for the Community Development Fund or Colonia Construction Fund unless the applicant has submitted the application for Rural Development funds prior to the TxCDBG application deadline.

TxCDBG will not accept matching funds from the Texas Water Development Board programs for TxCDBG applications unless the applicant has submitted the preliminary application or the required questionnaire for the Texas Water Development Board grant or loan matching funds to the Texas Water Development Board prior to the TxCDBG application deadline. Applicants planning to use Texas Water Development Board funds as match for TxCDBG funds cannot submit a TxCDBG application for the Community Development Fund, or Colonia Construction Fund unless the applicant has submitted the application or completed the required questionnaire for Texas Water Development Board funds prior to the TxCDBG application deadline.

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

An applicant may procure professional 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 contract management purposes if the application is funded. However, costs for application preparation are not eligible for reimbursement with TxCDBG funds.

TDA strongly recommends that applicants follow the professional services procurement guidelines included in the most recent TxCDBG Implementation Manual to contract for such services. Following those guidelines will ensure a competitive process and compliance with all applicable state and federal requirements.

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.

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:

#### ***Cash***

Acceptable documentation for cash match is described in “*Letter(s) of Commitment*” section (e.g., local government resolution, letters of commitment from other local entities, state/federal agency contract award letter, etc.).

#### ***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.

***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.

***Land***

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.

## **Appendix III: 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 downpayment assistance provided as a public service. If housing counseling is provided to those applying for downpayment 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 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> 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. 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> Salaries and overhead costs associated with property inspections and followup 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> Rehabilitation of historic buildings for residential use.</p>
<b>16B</b>	<p><b>Non-Residential Historic Preservation</b> 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> 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> 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> 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> 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 V: Public Participation Form and Document Samples**

### *Sample Resolution*

#### RESOLUTION

A RESOLUTION OF THE COMMISSIONERS COURT OF (XYZ) 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); AND AUTHORIZING (THE COUNTY JUDGE) TO ACT AS THE COUNTY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE COUNTY'S PARTICIPATION IN THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

WHEREAS, the Commissioners Court of (XYZ) 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

*(if appropriate* 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 (XYZ) County to apply for funding under the Texas Community Development Block Grant Program;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONER'S COURT OF (XYZ) 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 (\$500,000.00) of grant funds to provide (first-time water service).
4. That the Commissioners Court directs and designates the following to act in all matters in connection with this application and the County's participation in the Texas Community Development Block Grant Program:
  - (The County Judge, Mayor, City Manager) shall serve as the County's Chief Executive Officer and Authorized Representative to execute this application and any subsequent contractual documents;
  - The (Mayor, Mayor Pro-Tem, City Manager, County Judge, County Clerk, County Treasurer) is authorized to execute environmental review documents between the Texas Department of Agriculture and the City/County; and
  - If this application is funded, the (Mayor, Mayor Pro-Tem, City Manager, City Secretary, City Council Member, County Judge, County Clerk, County Auditor, County Treasurer) is authorized to execute the Request for Payment Form documents and/or other forms required for requesting funds to reimburse project costs.
5. 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.
6. That it further be stated that (XYZ) County is committing (\$25,000.00) from its (General Fund) as a cash contribution toward the administration activities of this (first-time water service) project.



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

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Mary Smith, County Clerk  
(XYZ) County, Texas

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John Doe, County Judge  
(XYZ) County, Texas

***Sample Public Hearing Notice and Application Activities Notice***

**SAMPLE PUBLIC HEARING NOTICE:**

Published on (July 15, 20XX):

**PUBLIC HEARING NOTICE**

**(XYZ) COUNTY**

**TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

(XYZ) County will hold a public hearing at 7:00 p.m. on July 18, 20XX, at (XYZ) County Courthouse regarding the submission of an application to the Texas Department of Agriculture for a [FUND CATEGOR(IES)] Texas Community Development Block Grant Program (TxCDBG) grant. 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 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 NOTICES:**

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.

**Sample – Affidavit of Posting – Notice of Public Hearing**

I, [Authorized Official], do hereby certify that pursuant to the laws of the State of Texas and of the [Grant Recipient], a Notice publishing the [Document] for TxCDBG Application No. [Application] was conspicuously posted in a manner plainly visible to the general public on [first date of posting] through [final date of required posting]. Pursuant to TxCDBG program requirements, the notice has been posted in two locations:

Location of Posted Notice: [for example, lower left corner of east window of City Hall, or in the center of the north door of the County Courthouse, etc.]

\_\_\_\_\_

Second Location of Posted Notice: [City's/County's website URL or second physical location]

\_\_\_\_\_

Attached to this affidavit is a photograph of the Notice as posted on the premises in which the notice is legible, and screen shots of the web posting, if applicable.

.....

\_\_\_\_\_  
Grant Recipient Signature and Title

\_\_\_\_\_  
Date

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

State of Texas

County of \_\_\_\_\_

Subscribed and sworn to before me by \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
SEAL Notary Signature

\_\_\_\_\_  
My Commission expires:

## **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)*.