

TITLE 2 PUBLIC FINANCE
CHAPTER 110 LOCAL GOVERNMENT GRANTS
PART 2 SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT

2.110.2.1 ISSUING AGENCY: Department of Finance and Administration Infrastructure Planning and Development Division, Suite 202 Bataan Memorial Building Santa Fe, New Mexico 87501.
[2.110.2.1 NMAC - Rp, 2 110.2.1 NMAC, 7/29/2025]

2.110.2.2 SCOPE: All counties and incorporated municipalities, except the cities of Albuquerque, Farmington, Las Cruces, Santa Fe and Rio Rancho.
[2.110.2.2 NMAC - Rp, 2 110.2.2 NMAC, 7/29/2025]

2.110.2.3 STATUTORY AUTHORITY: Title 1 of the Housing and Community Development Act of 1974, as amended.
[2.110.2.3 NMAC - Rp, 2 110.2.3 NMAC, 7/29/2025]

2.110.2.4 DURATION: Permanent.
[2.110.2.4 NMAC - Rp, 2 110.2.4 NMAC, 7/29/2025]

2.110.2.5 EFFECTIVE DATE: July 29, 2025, unless a later date is cited at the end of a section.
[2.110.2.5 NMAC - Rp, 2 110.2.5 NMAC, NMAC, 7/29/2025]

2.110.2.6 OBJECTIVE: The objective of Part 2 of Chapter 110 is to establish procedures to be used by counties and incorporated municipalities when applying for a small cities community development block grant.
[2.110.2.6 NMAC - Rp, 2 110.2.6 NMAC, 7/29/2025]

2.110.2.7 DEFINITIONS:

A. Definitions beginning with “A”: “**Asset management**” means a systematic process of maintaining, upgrading, and operating physical assets cost-effectively. It combines engineering principles with sound business practices and economic theory, and it provides tools to facilitate a more organized, logical approach to decision making. It is a planning process that ensures the most value from each asset with a plan to rehabilitate and replace them when necessary. An accurate and up-to-date asset management plan will help communities comply with the government accounting standards board's statement #34 (GASB 34), an accounting standard for publicly owned systems.

B. Definitions beginning with “B”: [RESERVED]

C. Definitions beginning with “C”:

(1) “**CDBG**” means the small cities community development block grant program.

(2) “**Council**” means the New Mexico community development council.

(3) “**Council of governments**” means a regional association of municipalities, counties and special districts formed to provide planning and other services to its member organization.

D. Definitions beginning with “D”:

(1) “**Department**” means the department of finance and administration.

(2) “**Division**” means the infrastructure planning and development division.

E. Definitions beginning with “E”: [RESERVED]

F. Definitions beginning with “F”: “**Federal rules**” means code of federal regulations, housing and urban development 24 CFR Part 570 which governs the CDBG program.

G. Definitions beginning with “G”: [RESERVED]

H. Definitions beginning with “H”: [RESERVED]

I. Definitions beginning with “I”: “**ICIP**” means an infrastructure capital improvement plan. An ICIP is a planning document developed by a unit of local government, water association, or land grant/merced that includes capital improvement priorities over a five year period and is developed and updated annually. An ICIP includes policy direction, funding time frames, estimated costs, justifications, and details of each specific infrastructure capital improvement project proposed, by year, over the five year period.

J. Definitions beginning with “J”: [RESERVED]

K. Definitions beginning with “K”: [RESERVED]

L. Definitions beginning with “L”:

(1) **“Land grant/merced”** means a political subdivision of the state organized under Section 49-1-1 through 49-1-23 NMSA 1978, Land Grants General Provisions.

(2) **“Low and moderate income person”** means a member of a household whose income would qualify as “very low income” under the Section 8 housing assistance payments program. Section 8 limits are based on fifty percent of the county median income. Similarly, CDBG moderate income is based on Section 8 “lower income” limits, which are generally tied to eighty percent of the county median low and moderate income.

M. Definitions beginning with “M”: [RESERVED]

N. Definitions beginning with “N”: **“Non-rural”** means a county or an incorporated municipality that does not meet the definition of rural.

O. Definitions beginning with “O”: [RESERVED]

P. Definitions beginning with “P”: [RESERVED]

Q. Definitions beginning with “Q”: [RESERVED]

R. Definitions beginning with “R”: **“Rural”** means a county with a population of less than 25,000 and an incorporated municipality with a population of less than 3,000. For purposes of determining population a unit of local government, water association, or land grant/merced must use Attachment I at the end of 2.110.2 NMAC.

S. Definitions beginning with “S”:

(1) **“SBA”** means the United States small business administration.

(2) **“Set-aside”** means a portion of all CDBG funding received by the CDBG program that is annually allocated by the council to be used only for certain set-aside categories that are chosen by the council.

T. Definitions beginning with “T”: [RESERVED]

U. Definitions beginning with “U”: **“Units of local government”** means an incorporated municipality or county.

V. Definitions beginning with “V”: [RESERVED]

W. Definitions beginning with “W”: **“Water association”** means political subdivisions of the state organized under Section 3-29-1 through Section 3-29-20 NMSA 1978, the “Sanitary Projects Act” or Section 73-21-1 through Section 73-21-55 NMSA 1978, the “Water and Sanitation District Act”.

X. Definitions beginning with “X”: [RESERVED]

Y. Definitions beginning with “Y”: [RESERVED]

Z. Definitions beginning with “Z”: [RESERVED]

[2.110.2.7 NMAC - Rp, 2 110.2.7 NMAC, 7/29/2025]

2.110.2.8 ADMINISTRATION:

A. The council is responsible for allocating grants under the CDBG program to assist local communities with basic infrastructure and community development needs.

B. These application regulations will govern the CDBG appropriation allocated to the state from the United States department of housing and urban development.

C. As part of their administrative responsibility, the council and the division will continue to provide technical assistance to prospective applicants and grantees. The nature of these programs requires a thorough outreach effort to ensure that units of local government are aware of program requirements.

D. The council and the division assure local entities and citizens of the state of New Mexico that public comment will be solicited should the council choose to make any substantial changes to these application regulations.

[2.110.2.8 NMAC - Rp, 2 110.2.8 NMAC, 7/29/2025]

2.110.2.9 PROGRAM OBJECTIVES:

A. The CDBG program was established under Title I of the Housing and Community Development Act of 1974, as amended, to assist communities in providing essential community facilities, providing decent housing for residents, promoting economic development, and maintaining a suitable living environment.

B. State and national objectives of the CDBG program require that assistance be made available for activities that address at least one of the following, which are described in greater detail in 2.110.2.16 NMAC:

(1) benefit principally low and moderate income families;

(2) aid in the prevention or elimination of slums or blight;

(3) meet other community development needs of recent origin having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community where other financial resources are not available to meet such needs.

C. The state encourages successful applicants to award a fair share of contracts and subcontracts to small, minority, and women's businesses and to commit itself to hire locally for any employment opportunities that will be created as a result of project funding.

[2.110.2.9 NMAC - Rp, 2 110.2.9 NMAC, 7/29/2025]

2.110.2.10 ELIGIBLE APPLICANTS:

A. All counties, incorporated municipalities, and New Mexico mortgage finance authority (MFA) are eligible to apply except: the city of Albuquerque, the city of Farmington, the city of Las Cruces, the city of Santa Fe and the city of Rio Rancho which cannot apply since they receive funding directly from the department of housing and urban development (Title I, Section 106) as entitlement cities.

B. Other entities such as water associations, sanitation districts, land grants, public nonprofit groups, council of governments, mutual domestic water consumer associations, etc., cannot apply directly for assistance, other than planning grants.

C. However, these entities may be involved in the execution of an approved CDBG project if the eligible applicant chooses to operate the program through such an entity under a contractual agreement.

D. Indian pueblos and tribes receive funding directly from the department of housing and urban development (Title I, Section 107). Native American tribes are encouraged to submit applications to the Albuquerque HUD Office of Native American Programs, 201 3rd St., N.W., Suite 1830, Albuquerque, New Mexico 87102-3368, (505) 346-6923.

[2.110.2.10 NMAC - Rp 2 110.2.10 NMAC, 7/29/2025]

2.110.2.11 ELIGIBLE ACTIVITIES/CATEGORIES: Applicants may apply for funding assistance under the following categories:

A. **Community infrastructure:** Eligible activities may include, but are not limited to:

- (1) real property acquisition;
- (2) construction or rehabilitation of the following:
 - (a) water systems;
 - (b) sewer systems;
 - (c) municipal utilities;
 - (d) roads;
 - (e) streets;
 - (f) highways;
 - (g) curbs;
 - (h) gutters;
 - (i) sidewalks;
 - (j) storm sewers;
 - (k) street lighting;
 - (l) traffic control devices;
 - (m) parking facilities;
 - (n) solid waste disposal facilities.

B. **Public facility capital outlay:** Eligible activities may include, but are not limited to:

- (1) real property acquisition;
- (2) construction or improvement of community centers;
- (3) senior citizen centers;
- (4) non-residential centers for the handicapped such as sheltered workshops;
- (5) other community facilities designed to provide health, social, recreational or similar

community services for residents.

C. **Emergency:** The emergency fund provides funding for emergency projects that address life threatening situations resulting from disasters or imminent threats to health and safety.

(1) Applications under this category will be accepted throughout the year.

(2) Application shall include verification of emergency from an authoritative state agency documenting the need for the emergency project, and shall be submitted no later than 18 months from the date of the authoritative state agency's written verification of emergency.

(3) An applicant for emergency funding must verify that it does not have sufficient local resources to address the life threatening condition; and that other federal or state resources have been explored and are unavailable to alleviate the emergency.

D. Planning: Municipalities, counties, water associations, water and sanitation districts, and land grants are eligible to apply directly for planning grants. Municipalities or counties who have a comprehensive plan dated five years or greater from the date of application submission are required to use CDBG planning grant funds solely for the development of a comprehensive plan. A comprehensive plan must be focused on a community's physical development over the next 15-20 years related to the goals and policies of the community, developed with input from all segments of the community, adopted by resolution or ordinance, and include as a minimum the following required elements and may include the following optional elements:

- (1) required elements:
 - (a) land use including:
 - (i) an analysis and mapping of existing land patterns and an inventory of the amount, type and intensity of uses by land category;
 - (ii) a projection of the distribution, location and extent of future land uses by land use category over a 20-year period;
 - (iii) goals, objectives and policies that address maintaining a broad variety of land uses, including the range of uses existing when the plan is adopted or amended; and
 - (iv) specific actions and incentives that the entity may use to promote planned development, reduction in greenhouse gas emissions, or otherwise encourage certain identified development patterns and the locations where such development patterns should be encouraged;
 - (b) housing including:
 - (i) an analysis of existing housing supply and demand, and forecasted housing needs;
 - (ii) goals, objectives and policies for the improvement of housing quality, variety and affordability, for reduction of greenhouse gas emissions, and for provision of adequate sites for housing and housing opportunities for all segments of the community;
 - (iii) a description of the actions that may be taken to implement housing goals, objectives and policies; and
 - (iv) must comply with the affordable housing act.
 - (c) transportation including:
 - (i) description and assessment of the location, type, capacity and condition of existing transportation facilities, such as freeways, arterial and collector streets, mass transit or other modes of transportation as may be appropriate;
 - (ii) goals, objectives and policies for encouraging safe, convenient, efficient and economical transportation, including mass transit and facilities for bicyclists and pedestrians, for reduction of greenhouse gas emissions, and potential funding mechanisms; and
 - (iii) a description and assessment of proposed location, type and capacity of proposed transportation facilities designed to implement transportation goals, objectives and policies and a description of funding mechanisms that will be used to fund proposed transportation improvements;
 - (d) infrastructure including:
 - (i) a description and assessment of the location, type, capacity and condition of existing infrastructure, including emergency services, sewage, drainage, local utilities and other types of facilities;
 - (ii) goals, objectives and policies for promoting the efficient provision of infrastructure; and
 - (iii) a description and assessment of proposed facility expansion and improvements designed to support planned uses and implement infrastructure goals, objectives and policies;
 - (e) economic development including:
 - (i) a description of existing job composition and trends by industry and location characteristics, such as access to transportation or proximity to natural or human resources, that influence the economic development potential of the entity;
 - (ii) goals, objectives and policies for promoting economic development; and
 - (iii) a description of the actions that the entity will take to implement economic development goals, objectives and policies;

- (f) water including:
 - (i) description and assessment of the sources of water supply;
 - (ii) the existing demand for water by residential, commercial, institutional, industrial and recreational sectors;
 - (iii) assessment of the unaccounted for water losses due to leaks, theft or other reasons;
 - (iv) goals, objectives and policies for promoting the efficient use of water and for managing periods of drought; and
 - (v) an analysis of the demand for water that will result from future growth projected in the plan, when added to existing uses, and how the demand for water that will result from future projected growth will be served by current water supplies, water conservation, water reuse or a plan to obtain additional water supplies or increase water use efficiencies;
- (g) hazard including:
 - (i) an analysis of the risks of hazards such as wildfire, floods, extreme weather conditions, accidents, and terrorism;
 - (ii) goals, objectives and policies for hazard mitigation; and
 - (iii) a description of the actions that will be taken to mitigate hazards; and
- (h) implementation; a compilation of the plan's goals, objectives, policies, standards or guidelines, along with specific actions to be completed in a stated sequence, which start with adoption of the comprehensive plan by ordinance;
- (2) optional elements:
 - (a) drainage;
 - (b) parks, recreation and open space;
 - (c) tourism;
 - (d) growth management;
 - (e) fiscal impact analysis;
 - (f) intergovernmental cooperation;
 - (g) social services;
 - (h) historic preservation;
 - (i) asset management plan.
- (3) if the entity has a comprehensive plan that is not more than five years old at the date of application, it may apply for funding assistance for any of the following planning activities:
 - (a) data gathering analysis and special studies;
 - (b) base mapping, aerial photography, geographic information systems, or global positioning satellite studies;
 - (c) improvement of infrastructure capital improvement plans and individual project plans;
 - (d) development of codes and ordinances, that further refine the implementation of the comprehensive plan;
 - (e) climate change mitigation and adaptation plan;
 - (f) preliminary engineering report (according to United States department of agriculture/rural utilities service (USDA/RUS) guidelines);
 - (g) related citizen participation or strategic planning process;
 - (h) other functional or comprehensive planning activities;
 - (i) asset management plan; or
 - (j) regionalization of infrastructure and service delivery.
- (4) applicants may apply for planning assistance throughout the year.

E. Colonias:

- (1) The Colonias category is established in the amount of ten percent of the annual CDBG allocation for specific activities including water, sewer and housing improvements, which are the three conditions that qualify communities for designation to be carried out in areas along the U.S. - Mexican border.
- (2) Eligible applicants for the Colonias set aside are municipalities and counties located within 150 miles of the U.S. - Mexico border.
- (3) Colonias must be designated by the municipality or county in which it is located. The designation must be on the basis of objective criteria, including:
 - (a) lack of potable water supply; or

- (b) lack of adequate sewage systems; or
- (c) lack of decent, safe and sanitary housing.

(4) Appropriate documentation to substantiate these conditions must be provided along with the application for funding.

[2.110.2.11 NMAC - Rp, 2 110.2.11 NMAC, 7/29/2025]

2.110.2.12 OTHER ELIGIBLE ACTIVITIES:

A. Administrative costs associated with implementing a program such as preparing environmental reviews, and other costs for services are eligible activities.

B. Although the costs of conducting program audits are considered an eligible activity, it is recommended that they be paid by the applicant to expedite grant closeout.

C. The council may pledge future CDBG allocations to guarantee repayment of loans to non-entitlement municipalities and counties for CDBG eligible projects in accordance with Section 108 of the Housing and Community Development Act of 1974, as amended.

[2.110.2.12 NMAC - Rp, 2 110.2.12 NMAC, 7/29/2025]

2.110.2.13 INELIGIBLE ACTIVITIES: The following are among the activities that are not eligible for CDBG funding assistance:

A. construction or rehabilitation of buildings used for the general conduct of government, such as city halls or county courthouses; compliance with the Americans with Disabilities Act is an eligible activity;

B. general operation and maintenance expenses associated with public facilities or services;

C. income maintenance;

D. housing allowance payments and mortgage subsidies;

E. expenditures for the use of equipment or premises for political purposes, sponsoring or conducting candidates' meetings, engaging in voter registration, voter transportation or other political activities;

F. costs involved in the preparation of applications and securing of funding.

[2.110.2.13 NMAC - Rp, 2 110.2.13 NMAC, 7/29/2025]

2.110.2.14 RURAL ALLOCATION:

A. A minimum of fifteen percent of the CDBG allocation will be awarded to rural counties and municipalities.

B. Rural applicants and non-rural applicants may apply for funding from the community infrastructure Colonias, and public facility capital outlay categories.

C. Rural and non-rural applicants may apply for funding from the planning category.

[2.110.2.14 NMAC - Rp, 2 110.2.14 NMAC, 7/29/2025]

2.110.2.15 PROGRAM PUBLIC PARTICIPATION REQUIREMENTS: Applicants must provide opportunities for public participation in the development of community development goals, objectives, and applications for funding assistance by undertaking the following activities:

A. provide for and encourage citizen participation within their areas of jurisdiction with particular emphasis on participation by persons of low and moderate income;

B. provide citizens with reasonable and timely access to local meetings, information, and records relating to proposed and actual use of funds;

C. provide for technical assistance as determined by the applicant, groups and representatives of low and moderate income persons that request assistance in developing proposals; the level and type of assistance is to be determined by the applicant.

D. provide for public hearings to obtain citizen participation and respond to proposals and questions at all stages;

E. prior to selecting a project and submitting an application for CDBG funding assistance, conduct at least one public hearing for the following purposes:

(1) to advise citizens of the amount of CDBG funds expected to be made available for the current fiscal year;

(2) to advise citizens of the range of activities that may be undertaken with the CDBG funds;

(3) to advise citizens of the estimated amount of CDBG funds proposed to be used for activities that will meet the national objective to benefit to low and moderate income persons;

(4) to advise citizens of the proposed CDBG activities likely to result in displacement, and

the unit of general local government's anti-displacement and relocation plans;

(5) to obtain recommendations from citizens regarding the community development and housing needs of the community:

F. After considering all recommendations and input provided at the public hearing(s), the governing body must select one project for which to submit an application for funding assistance at an official public meeting.

G. The applicant must conduct a second public hearing prior to the submission of the application. Public hearing notices must be published in the non-legal section of newspapers, or posted in a minimum of three prominent public places within the project area, with public access. Notice of any public hearing must be published or posted at least 10 days in advance of the hearing date. Emergency hearings may be called upon 72 hour's notice unless threat of personal injury or property damage requires less notice. Emergency hearings may be called only under unforeseen circumstances, which demand immediate action to protect the health, safety and property of citizens or to protect the applicant from substantial financial loss. All applicants must be in compliance with all provisions of the Open Meetings Act Section 10-15-1 NMSA 1978 et., seq.

H. Evidence of compliance with these public participation requirements must be provided with each application, i.e., hearing notice, minutes of public meetings, list of needs and activities to be undertaken, etc.

I. Applicants must provide for timely written answers to written complaints and grievances within 15 working days where practicable.

J. Applicants must identify how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

[2.110.2.15 NMAC - Rp, 2 110.2.15 NMAC, 7/29/2025]

2.110.2.16 PROGRAM REQUIREMENTS FOR MEETING NATIONAL PROGRAM OBJECTIVES:

A. Each CDBG application must meet the following national objectives.

B. Low and moderate income benefit - an activity identified as principally benefiting fifty-one percent persons of low and moderate income will be considered eligible only if it meets one of the following criteria:

(1) the activity must be carried out in a neighborhood or area consisting predominantly of persons of low and moderate income and provide services to such persons; or

(2) the activity must involve facilities designed for use by a specific group of people or clientele predominantly of low and moderate income.

[2.110.2.16 NMAC - Rp, 2 110.2.16 NMAC, 7/29/2025]

2.110.2.17 APPLICATION REQUIREMENTS:

A. Number of applications - all eligible applicants may submit one application for CDBG funding assistance in the community infrastructure, public facility capital outlay, or Colonias categories.

B. Planning applicants should contact the division about funding availability. Applicants may submit a planning grant application at any time, subject to funding availability.

C. Counties may submit multiple applications for planning grants on behalf of eligible applicants.

D. Planning applications may be submitted even if the applicant has not completed previously awarded CDBG projects.

E. Single purpose application -an application must be limited to a project specific activity or set of activities that address a particular need in a designated target area of a unit of local government.

F. Joint applications - Joint applications are allowed when two or more eligible applicants within reasonable proximity of each other wish to address a common problem.

(1) Joint applications must satisfy certain criteria found in federal rules and must receive division approval prior to submitting an application for funding assistance.

(2) One community will be designated to serve as the lead applicant and will be subject to administrative requirements and to the application limit requirements.

(3) Other parties to the joint application may submit another application.

G. The following minimum requirements apply to all applications for CDBG funding:

(1) Applications must involve a project that will be fully functional on a stand-alone basis once awarded CDBG and other committed funds have been expended.

(2) Projects shall be completed within 36 months of an executed grant agreement signed by both parties.

(3) Any funding limits for applications not stated in this document may be established in application materials, or at a council meeting. Applications exceeding five hundred thousand dollars (\$500,000.00)

must be accompanied by a certified cost estimate from an engineer, architect, or landscape architect licensed to do business in the state of New Mexico, which must be certified no more than 120 days prior to application submission.

(4) Application must be complete, with all documentation provided as listed on the submission and attachment checklist included in the application, otherwise application will be deemed ineligible and the application will be returned to the applicant and will not be considered for funding.

(5) Applications must include a determination of rural or non-rural status.

(6) Applications must include project cost estimates.

H. Threshold requirements - a project must be completed by the deadline for threshold compliance.

(1) Any open CDBG project must be completed at the time of application (certificate of occupancy or certification of operation must be in place).

(2) Any previous CDBG project's monitoring findings and concerns must be resolved.

(3) The current applicant's fiscal operating budget must be certified by the division.

(4) The applicant's quarterly/monthly financial reports to the division must be current.

(5) An applicant must have submitted to the New Mexico state auditor its most current audit(s) that were required to be conducted and submitted for review per the New Mexico state auditor's required report due dates for the previous fiscal year(s) and an applicant must be in compliance with the budget certification rule, 2.2.3 NMAC.

(6) The set aside category; planning is exempt from threshold requirements set forth in Subsections I of 2.110.2.17 NMAC.

I. Matching requirements - to extend available resources and to ensure applicants are invested in projects, the following matches will be required.

(1) Non-rural applicants must provide, at a minimum, a ten percent cash match during the project period from local, state or other public resources, excluding local work force or local equipment.

(2) Local funds expended by an eligible applicant for engineering, architectural design or environmental review prior to project approval may be applied towards the required match if approved by the division.

(3) Applicant may request a waiver of the matching requirement if documentation can be provided to demonstrate the absence of local resources to meet the required match. Criteria used by the division to recommend council approval/disapproval will be as follows:

(a) the required match must exceed five percent of the applicant's general fund budget;

(b) the required match must equal or exceed the available balance of funds in the applicant's overall budget.

J. Other funding commitments - if other funding is necessary to make a proposed project feasible, funding commitments must be in place and letters of commitment or grant agreement from the funding agency must be submitted with the application.

K. Asset management - communities that implement an asset management program and use that approach as the basis for their rate analysis will be credited in the application process for their achievement. To support the long term operation, maintenance, repair and replacement of system facilities, infrastructure, public facilities, or other eligible activities the following will be required to be submitted at the time of application. The model for the asset management program is the international infrastructure asset management model. This approach includes five core components:

(1) current state of the assets: an asset inventory that includes at a minimum: asset name, asset location, asset condition, useful life, and an estimate of replacement value;

(2) level of service: a description of type and level of service provided;

(3) criticality: an evaluation of which assets are critical to sustaining the operation;

(4) life cycle costing: at a minimum, a capital improvement plan that describes the replacement of assets and some consideration of operation and maintenance of the assets;

(5) financing plan: a description of the funding sources that will be used to pay for capital and operational needs.

[2.110.2.17 NMAC - Rp, 2 110.2.17 NMAC, 7/29/2025]

2.110.2.18 APPLICATION SUBMISSION PROCEDURES AND CONTENT: The application packet provided by the division must be used. It is only necessary to answer the questions on the application that pertain to the relevant single project category.

A. An applicant must submit an original (hard copy) and two separate electronic copies of each

application to the division, and one electronic copy to the appropriate council of governments.

B. Applications for community infrastructure and public facility capital outlay must be received by the division on or before 5:00 p.m. on the designated application deadline. Applications received after that time will not be processed.

[2.110.2.18 NMAC - Rp, 2 110.2.18 NMAC, 7/29/2025]

2.110.2.19 APPLICATION REVIEW AND EVALUATION PROCESS:

A. Upon receipt of an application, division staff will review for eligibility, completeness, feasibility, and compliance and ensure that all other funding necessary to make the project functional is in place. Applications not meeting the criteria will be returned to the applicant and will not be considered for funding.

B. Applications will be forwarded to appropriate state agencies for technical review and comment. Review agencies may include, but are not limited to, the environment department, department of transportation, department of health, state engineer's office, agency on aging and long term services, economic development department, state fire marshal and governor's commission on disability.

C. An eligible applicant will be allowed to make a presentation to the council and division staff at the official hearing. Testimony related to the application will be presented by an official or designee of the applicant who may be assisted by technical staff.

D. Rating criteria to evaluate and score CDBG applications for the community infrastructure, public facility and Colonias categories will include the following:

- (1) description;
- (2) need;
- (3) cost analysis;
- (4) planning and readiness;
- (5) risk analysis;
- (6) optional additional criteria;
- (7) additional colonias criteria.

E. Planning grant criteria: The planning grant applications will be rated with the below:

- (1) description;
- (2) need;
- (3) cost analysis;
- (4) risk analysis;
- (5) division support and approval.

F. Planning applications that are in compliance with all applicable rules and regulations are received and evaluated throughout the year.

G. The council delegates to the division director the authority to award, in the division director's discretion, set aside funding for applications for supplemental funding and planning projects in compliance with applicable rules and regulations. The division will provide the council with an update on all such awards at each council meeting.

[2.110.2.19 NMAC - Rp, 2 110.2.19 NMAC, 7/29/2025]

2.110.2.20 SELECTION OF CDBG GRANTEES BY COUNCIL:

A. Division staff will present its recommendation to the council at least seven days prior to each allocation meeting.

B. The council will review staff recommendation and funding allocation and make funding decisions in an open public meeting.

C. The council, in making its final decisions, will consider the past performance of the applicant in administering CDBG projects.

D. The council may adjust the scope and dollar amount to stay within available funding or for purposes of consistency.

E. The council may deviate from staff recommendation and funding allocation, if the council by majority vote determines and substantiates that any of the following conditions apply: To not fund a project recommended by the division staff other funding sources for the project are available or other applications were deemed to be a priority or circumstances have changed since the application was submitted.

F. The council will make funding determinations by a majority vote.

G. The council may waive or adjust any division imposed CDBG application requirement as long as the waiver will not result in violation of state or federal statutes, regulations, rules, or penalize other applicants.

H. If the council sets aside funding for supplemental funding; the council may at any time during the calendar year, transfer funds between categories if there is limited demand in the funded categories. The transferred funds may be used to fund projects that were previously submitted for funding.
[2.110.2.20 NMAC - Rp, 2 110.2.20 NMAC, 7/29/2025]

2.110.2.21 REVERSIONS, SUPPLEMENTAL FUNDING AND UNDERRUNS:

A. Decision of the division to impose special conditions or fiscal agent requirements - if a CDBG award is provided to a grantee that has deficiencies identified in the audit(s) approved by the state auditor's office, the division reserves the right to impose special conditions or fiscal agent requirements dependent upon the specific findings or opinions as described in the audit(s).

B. Decision by the council or division to revert funds - if, within 12 months of a CDBG award for a project by the council, the CDBG award has not resulted in an executed agreement between the division and the applicant or the applicant has not made adequate progress on the project or reasonable suspicion exists that there was fraud or misrepresentation regarding the project by the applicant, the division may recommend to the council to revert all or part of the award and the council may vote to revert all or part of the award. The applicant shall receive written notice from the division of the council's decision to revert all or part of award by certified mail. The applicant may appeal, in writing, the council's decision to revert all or part of the award within 30 days of receipt of the written notice of the council's decision. The appeal of the council's decision by the applicant shall be held at a council meeting no later than 90 days from the council's receipt of the written appeal. The council's decision on the appeal of the reversion shall be final. The council may grant the applicant a reasonable period of time to cure the particular default that was the basis of the reversion. At the end of the cure period, the council shall vote again on the issue of the reversion and this decision shall be final.

C. Reversions and supplemental funding - When funds are reverted from a previously approved project grant or additional funds are made available for any other reason, the council may decide that the funds will:

- (1) be set aside to supplement current projects that require additional funding to complete the project(s); or

- (2) be returned to the category of the program from which it was awarded;
- (3) go into any other category; or
- (4) take other action as deemed appropriate.

D. Underruns - if upon completion of the approved activities a balance of funds remains after all payments have been made, this balance shall be handled as follows: if the grantee has not accomplished all work called for in the original application submitted for funding consideration, the grantee may request division staff to approve the expenditure of underrun funds for a portion or all of the remaining work; if appropriate justification and sufficient funding exist, division staff may approve the request for use of underrun funds and amend the grant agreement accordingly;

[2.110.2.21 NMAC - Rp; 2 110.2.21 NMAC, 7/29/2025]

2.110.2.22 [RESERVED]

[2.110.2.22 NMAC - Repealed xx/xx/2025]

2.110.2.23 CITIZEN ACCESS TO RECORDS: Citizens and units of general local government will be provided with reasonable access to records regarding the past use of CDBG funds.

[2.110.2.23 NMAC - Rp, 2 110.2.23 NMAC, 11/15/2016]

2.110.2.24 NM COMMUNITY ASSISTANCE FUNDS: The council will allocate and administer New Mexico community assistance underrun funds in accordance with the provisions of the Community Assistance Act.

[2.110.2.24 NMAC - Rp, 2 110.2.24 NMAC, 11/15/2016]

2.110.2.25 MEETING PROCEDURES:

A. Special meetings. Special meetings of the council may be called by a majority of the council members or the chairperson of the council, and will be held at the time and place fixed by the division.

B. Notice. Written notice stating the time, place and, if a special meeting, the purpose, will be delivered either personally, by mail, or email by the division, to each council member at least 72 hours before the scheduled date of the meeting. The meeting notice and agenda will be available to the public and posted on the department of finance and administration web site. The council may establish dates and times for regularly scheduled meetings.

C. Quorum. A majority of the current members of the council in attendance either in person or by telephone will constitute a quorum at council meetings.

D. Record of meetings. The meeting shall be recorded and the division shall have the minutes made into a written record. The original of this record shall be retained by the division and a copy shall be forwarded to the council members. Copies shall be available upon request.

E. Participation methods. A member of council may participate in a meeting of the council by means of a video conferencing or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by virtually can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the council who speaks during the meeting.

[2.110.2.25 NMAC - Rp, 2 110.2.25 NMAC, 7/29/2025]

2.110.2.26 [RESERVED]

[2.110.2.26 NMAC - Repealed 7/29/2025]

Attachment I
(Referenced by: 2.110.2.7 NMAC)
CDBG projects are designed to meet the national objectives: low and moderate income Applicants may choose between two different processes to determine low and moderate income eligibility: (1) conduct a special survey using the HUD approved methodology in accordance with Section A “Survey Methodology” and Section C “HUD Section 8 Income Limits” below; or (2) use the most recent low and moderate income data from section B “American Community Survey” and Section C “HUD Section 8 Income Limits” below.
A. Survey Methodology
The division recommends using the following HUD approved methodology:
This survey methodology was designed by HUD to assist States and entitlement cities in determining whether most of the individuals in a proposed target area are of low and moderate income.
Upon requesting permission from the division to conduct a sample survey, an applicant should indicate the justification for the sample survey. Applicants must provide to the division a map of the project service area, a brief description of the proposed project, and a description of how the six steps described in the suggested methodology will be implemented.
If the applicant conducts a sample survey, such applicant must be prepared to document all efforts. There must be a master list (with telephone numbers, where possible) to match the surveys. The master list must be coded to the individual surveys.
Such documentation must include a separate survey for each household, for unreachables that could not be replaced from the universe, and for “non-households” in the survey area, such as empty lots, business and government property. The sixth step of the methodology provides a complete listing of the information that an applicant must maintain in its files and submit to the division.
The six steps of the survey methodology are located on the department of finance and administration website, infrastructure planning and development division, community development bureau, CDBG information page.
B. American community survey (ACS)
The U.S. census bureau provides a fact finder source for population, housing, economic, and geographic information. This source may be used by applicants to determine eligibility for low to moderate income persons. This source is located at the American FactFinder website, community facts.
C. HUD Section 8 Income Limits
HUD Section 8 income limits must be used in conjunction with either the survey methodology or ACS data to determine low and moderate income eligibility. Applicants should contact the division for the most current data

HISTORY OF 2.110.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DFA Rule 85-3, State of New Mexico Regulations Governing the 1986 Small Cities Community Development Block Grant Program and 1985 New Mexico Community Assistance Program, 10/4/1985.

DFA Rule 87-3, State of New Mexico 1988 Small Cities Community Development Block Grant Program New Mexico Community Assistance Program Application Regulations, 12/4/1987.

DFA Rule 89-3, 1989 Small Cities Community Development Block Grant Program New Mexico Community Assistance Program Applications Regulations, 3/2/1989.

DFA Rule 90-1, 1990 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 12/28/1989.

DFA #91-1, 1991-1992 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 1/14/1992.

DFA #93-1, 1993 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 7/9/1993.

DFA-LGD No. 93-1, 1994 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 6/13/1994.

DFA-LGD Rule No. 95-1, 1995 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 5/31/1995.

DFA-LGD Rule No. 95-2, 1996 Small Cities Community Development Block Grant Application Regulations.

History of Repealed Material:

2.110.2 NMAC, Small Cities Community Development Block Grant - Repealed, 8/30/2001.

2.110.2 NMAC, Small Cities Community Development Block Grant - Repealed, 6/5/2015.

2.110.2 NMAC, Small Cities Community Development Block Grant - Repealed, 11/15/2016.

2.110.2 NMAC, Small Cities Community Development Block Grant, filed 11/15/2016 Repealed effective 7/29/2025.

Other: 2.110.2 NMAC, Small Cities Community Development Block Grant, filed 11/15/2016 Replaced by 2.110.2 NMAC, Small Cities Community Development Block Grant effective 7/29/2025.