

# ***CDBG WEBCAST***

***HUD, OFFICE OF BLOCK GRANT ASSISTANCE***





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# MODULE 2: *State Program*

# WELCOME

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- ❑ Training Presented by HUD, Office of Community Planning and Development, Office of Block Grant Assistance (OBGA)
  - ◆ Richard Kennedy, Director, OBGA
  - ◆ Stan Gimont, Deputy Director, OBGA
  - ◆ Steve Johnson, Director of Entitlement Programs
  - ◆ Diane Lobasso, Director of State Programs
  - ◆ Paul Webster, Director of Financial Management Division

# CDBG TRAINING SERIES



- ❑ Eight modules in series:
  - ◆ Module 1: Welcome, CDBG Statutory/Regulatory Context, National Objectives
  - ◆ **Module 2: State CDBG Program**
  - ◆ Module 3: Administration/Planning, Financial Management, Including Program Income
  - ◆ Module 4: Housing and Other Real Property Activities
  - ◆ Module 5: Public Facilities And Public Services
  - ◆ Module 6: Economic Development, Including Public Benefit
  - ◆ Module 7: Section 108
  - ◆ Module 8: IDIS, Performance Measurement, Reporting
- ❑ Training presented by OBGA staff
- ❑ Available on HUD's website at:  
<http://www.hud.gov/offices/cpd/communitydevelopment/programs/index.cfm>

# MODULE 2 TOPICS AND TRAINERS

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## □ Topics:

- ◆ History and purpose of the State CDBG Program
- ◆ Key differences from the Entitlement Program
  - Maximum feasible deference
  - Method of distribution
  - Differences in program implementation

## □ Trainers:

- ◆ Dick Kennedy
- ◆ Diane Lobasso
- ◆ Steve Rhodeside

# STATE CDBG HISTORY



- ❑ 1975–1981 HUD conducted annual competition to fund small cities
- ❑ In 1982 states began the administration of Small Cities program
- ❑ Today all states except Hawaii run own program
- ❑ 70% of annual appropriation goes to entitlements, 30% to states
  - ◆ In approximately 22 states – CDBG allocation is larger than the amount received by entitlements

# MAXIMUM FEASIBLE DEFERENCE

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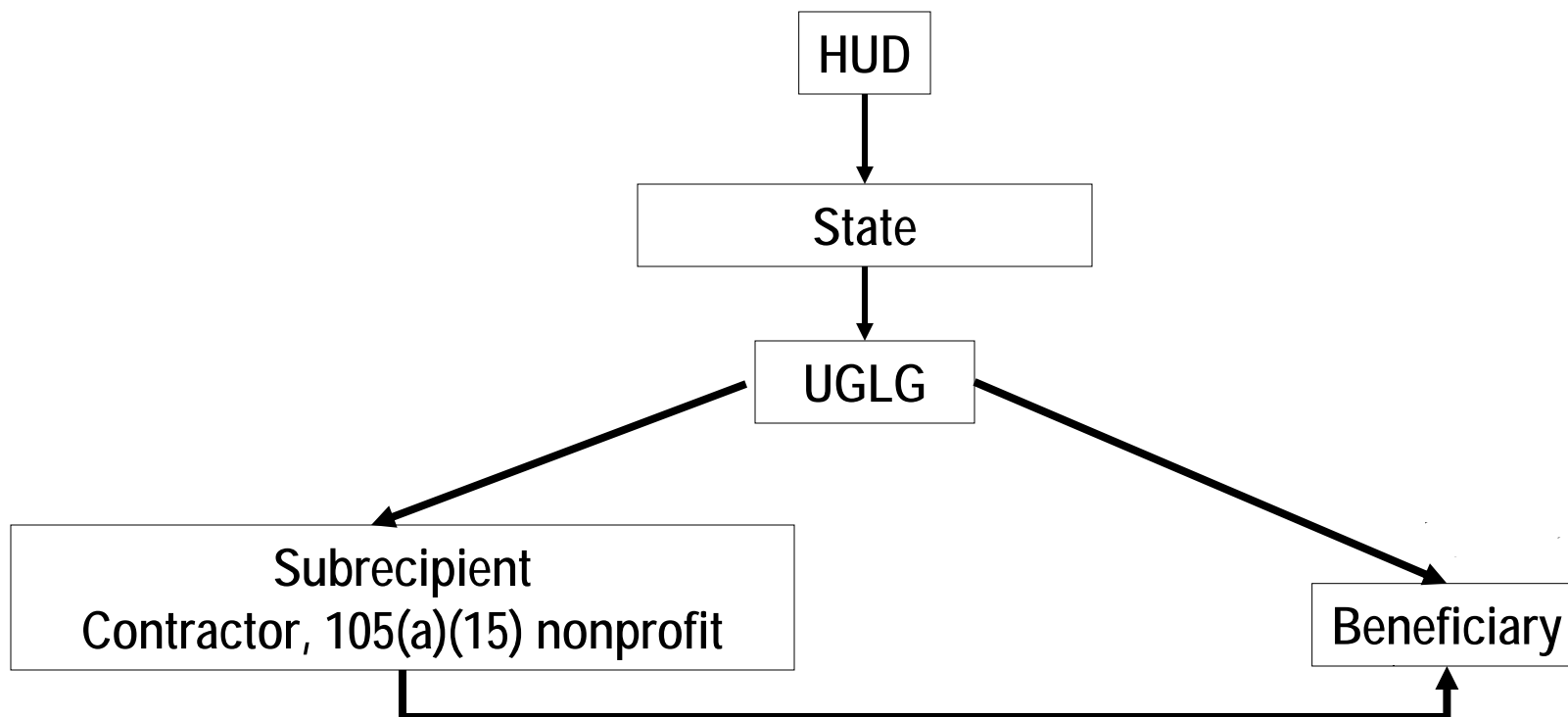


- ❑ Term is not in statute, created by General Counsel in interpreting statutory intent
  - In the regulations at 24 CFR 570.480(c)
- ❑ Provides for minimal regulation beyond statute
- ❑ States can adopt more restrictive requirements, provided they are not contradictory of HCDA
- ❑ HUD's other applicable regulations may not apply

# STATE DISTRIBUTION OF CDBG FUNDS



- States must award funds to units of general local government (UGLGs)





# KEY STATE PARTNERS

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- ❑ Recipient = State
  - ◆ State is ultimately responsible for CDBG compliance
- ❑ Units of general local government (UGLG)
  - ◆ Local towns, cities, counties
  - ◆ Can run programs of behalf of state
  - ◆ Cannot include entitlements (for state program)
  - ◆ Not a subrecipient, but treated similarly
    - Follow all CDBG rules
    - Can work with subrecipients, consultants, contractors
    - States must monitor

# METHOD OF DISTRIBUTION



- ❑ State process for providing funds to UGLG called Method of Distribution (MOD)
- ❑ Must be described in Con Plan:
  - All criteria used to select applications, including the relative importance of the criteria if developed (see new Con Plan rule)
  - How all CDBG resources will be allocated among all funding categories
  - The threshold factors & grants size limits to be applied

# METHOD OF DISTRIBUTION (cont)

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- ❑ The MOD shall also contain descriptions of:
  - Available Section 108 loan guarantee amounts & how applications will be selected, if state will allow 108
  - State's process & criteria for approving local community revitalization strategies, if state will allow CRSA
  - Information so that UGLG can prepare responsive applications
  - Criteria for application selection

# TIMELY DISTRIBUTION OF FUNDS

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- ❑ State encouraged to adopt goal of obligating and announcing 95 percent of funds to UGLG within 12 months of state signing grant agreement
  - ◆ 24 CFR 570.494
  - ◆ HUD will assess if \$\$ has been obligated & announced to UGLG within 15 months of state signing grant agreement

# ELIGIBLE ACTIVITIES

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- ❑ Eligible activities listed in statute
  - ◆ Eligible activities not generally listed in state regulations—found in statute at 105(a)
  - ◆ Maximum feasible deference allowed in interpretation of activities
  - ◆ Entitlement regulations may be used for guidance
    - Some states adopt entitlement regulations which is evidenced in their operating instructions or program handbook

# ELIGIBLE ACTIVITIES (cont)



## ❑ Statute examples (please note this does not include all):

<ul style="list-style-type: none"><li>◆ Acquisition</li><li>◆ Public facilities &amp; privately owned utilities</li><li>◆ Clearance, rehabilitation, reconstruction, construction</li><li>◆ Architectural barrier removal</li><li>◆ Loss of rental income</li><li>◆ Disposition of real property</li><li>◆ Public services</li><li>◆ Payment of non-federal share</li><li>◆ Relocation</li><li>◆ Planning and capacity building</li><li>◆ Program administrative costs</li></ul>	<ul style="list-style-type: none"><li>◆ Activities carried out through Nonprofit Development organizations</li><li>◆ Economic development</li><li>◆ Activities under 105(a)(14), (15) and (17)</li><li>◆ Technical assistance</li><li>◆ Housing services</li><li>◆ Assistance to institutions of higher learning</li><li>◆ Microenterprise assistance</li><li>◆ In-rem housing</li><li>◆ Homeownership</li><li>◆ Tornado shelters</li></ul>
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## ❑ Refer to the HUD *Guide to National Objectives and Eligible Activities for the State CDBG Program*

# STATUTORY V. REGULATORY COMPARISON

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- ❑ Entitlement regulations may have more descriptions than than the HCDA Statute
  - ◆ Example: Rehabilitation section has more detail about eligible types
  - ◆ Example: Primarily religious activities—Entitlement regulations provide detail, not listed in the Statute
  - ◆ Example: CBDOs vs. 105(a)(15) Nonprofits –language in the Statute is broader than Entitlement regulations

# ADMINISTRATIVE CAP



- ❑ Overall planning and administration expenditures may not exceed 20% of the sum of:
  - ◆ CDBG annual grant, + program income + reallocations
- ❑ States can spend \$100K (administration only) + up to 3% of the sum of: the annual grant + plus reallocations + PI (for state admin)) for state administration and technical assistance costs.
  - ◆ All admin amounts must be matched by state or in-kind funds (beyond the 100K)
  - ◆ State admin amounts count within the overall 20% planning & admin cap



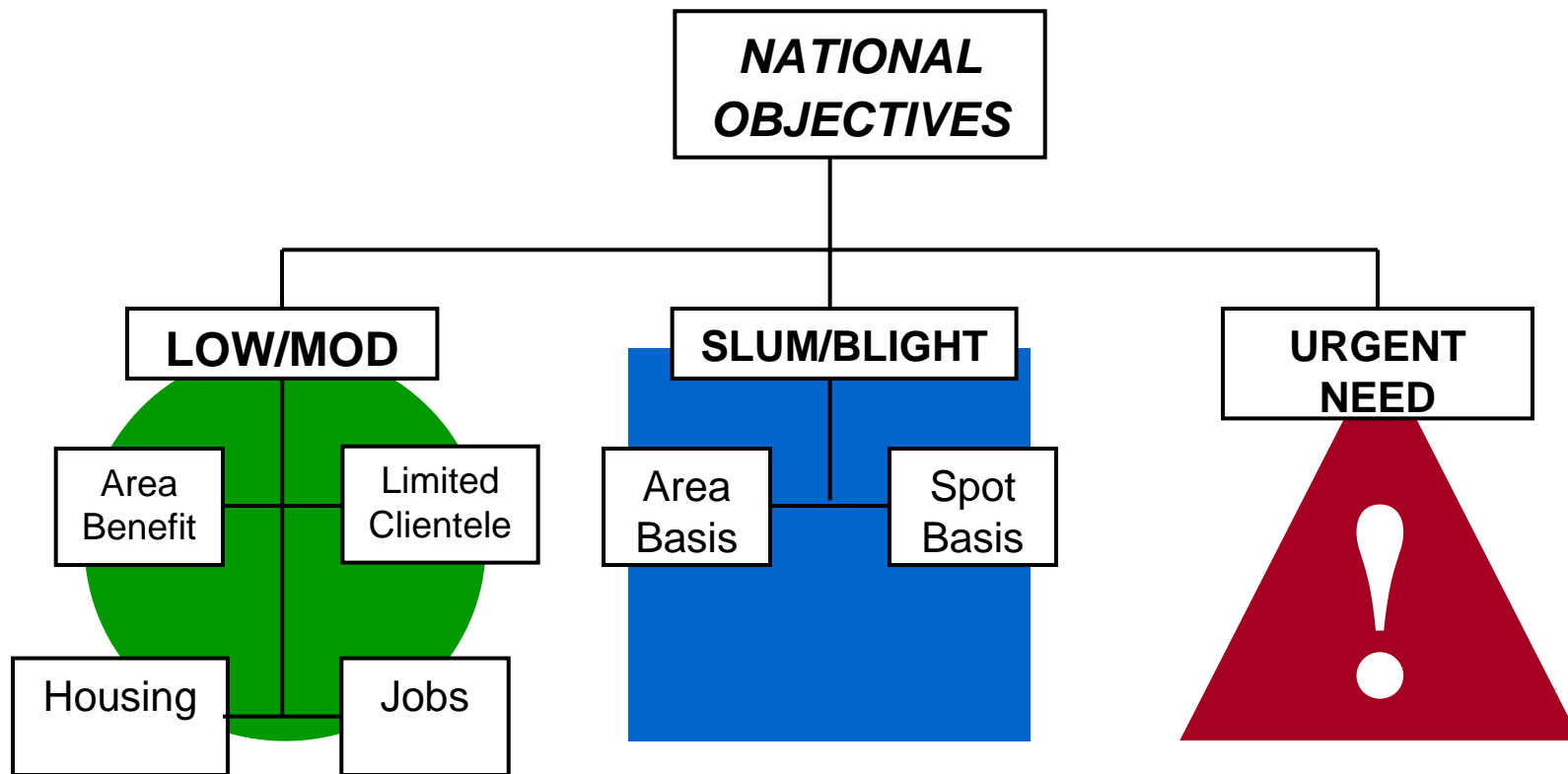
# PUBLIC SERVICES CAP

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- ❑ Calculated as:
  - ◆ 15% of the sum of:
    - State's annual CDBG grant +
    - Program income under that year's method of distribution +
    - reallocations
- ❑ Applies to the entire state not each UGLG

# STATE PROGRAM NATIONAL OBJECTIVES



# STATE V. ENTITLEMENT NATIONAL OBJECTIVES

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- ❑ Very similar across two programs
- ❑ Key differences:
  - ◆ State program does not mandate specific income definition
  - ◆ No exception communities for L/M area benefit
  - ◆ No urban renewal subcategory of the Slum/Blight national objective

# APPLICABLE OTHER FEDERAL REQUIREMENTS



1. Fair Housing, Equal opportunity (Title VI & VIII) and Handicapped accessibility
2. Section 3 Economic Opportunities for Low and Very Low Income Persons
3. Environmental Review (NEPA & related laws)
4. Lead Based Paint Hazard Reduction
5. Davis-Bacon Labor Standards and Related Acts
6. The HUD Reform Act
7. Real estate acquisition and relocation under the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (Uniform Act or URA) and one-for-one replacement under Section 104(d)

# KEY OTHER FEDERAL DISTINCTIONS



## □ Environmental review:

- ◆ Pursuant to Section 104 (g) (4) of the HCD Act the State assumes HUD's role and provides release of funds
- ◆ UGLGs submit Findings of No Significant Impact (FONSIs) and request for release of funds to state
- ◆ State is acting for HUD in this regard and must monitor for compliance (See 24 CFR 58.18)

## □ Procurement:

- ◆ Defer to state law w/ HUD minimum standards
  - Promote competition
  - Specify methods -- cost plus percentage NOT allowed
  - Standards of conduct
  - Purchase orders and contracts reference applicable authorities

# PROGRAM INCOME



- ❑ Program income = funds generated due to expenditure of CDBG \$\$\$ that are paid to state grantee, UGLG or a subrecipient
- ❑ PI rules described in CDBG statute and regulations
  - ◆ Section 104(j)
  - ◆ 24 CFR §570.489
- ❑ Statute was changed in 1992 to clarify PI but regulations not yet updated
- ❑ Refer to HUD Notice CPD 04-11 (10/27/04)
- ❑ New PI rule forthcoming

# PROGRAM INCOME (cont)



- CDBG defines PI as:
  - ◆ Sale, lease, or rental proceeds of property acquired with/improved by CDBG
  - ◆ Payments of principal and interest on CDBG loans
  - ◆ Proceeds from sale of CDBG loans or obligations
  - ◆ Interest earned on program income pending re-use
  - ◆ Special assessments collected from non-LMI households to cover part of CDBG portion of public improvement
  - ◆ Income paid to UGLG or subrecipient from ownership interest in for-profit entity acquired in exchange for CDBG \$\$\$
  - ◆ Other income not specifically mentioned in regulations as exclusions

# PROGRAM INCOME (cont)



- ❑ CDBG specifically excludes some income from PI:
  - ◆ Income received and retained by UGLG and its subrecipients in a single year which is less than \$25,000
  - ◆ Income generated by some Section 108 activities
  - ◆ Income received by a nonprofit under 105(a)(15) of the statute
- ❑ Income earned and retained by 105(a)(15) nonprofit is not PI
  - ◆ Must be doing neighborhood revitalization, community economic development, or energy conservation



# PROGRAM INCOME (cont)



- ❑ State CDBG program has had historical question on the timing of income received by UGLG
- ❑ Statute changed in 1992 on this topic
- ❑ Prior to 1992:
  - ◆ Any PI returned to state recipient must follow CDBG rules in perpetuity
  - ◆ UGLG could retain PI earned under state program
    - Funds retained by UGLG prior to grant close-out were treated as PI and subject to all CDBG rules
    - Funds earned by UGLG after grant close-out not subject to CDBG rules unless UGLG had open CDBG grant or continued same activity

# PROGRAM INCOME (cont)



- ❑ In 1992, statute amended to delete exception for UGLG income earned after close-out
- ❑ Now, income retained by UGLG (and its subrecipients) is PI and subject to CDBG rules regardless of when earned
  - ◆ Previously noted exclusions apply
- ❑ State may require repayment of PI to state
  - ◆ Exception: required to allow UGLG to keep PI if UGLG is using income for same activity from which it came
  - ◆ State has flexibility to define “activity”
- ❑ State can also permit unit of local UGLG to retain program income
- ❑ PI paid to state or UGLG (or its subrecipient) must follow CDBG rules

# PROGRAM INCOME (cont)



- ❑ Program income retained by UGLG and subrecipients is also subject to all CDBG requirements
- ❑ Must use program income prior to drawing new CDBG funds from line of credit at HUD
  - ◆ Program income cannot be held for specific projects
  - ◆ Program income cannot be banked
- ❑ Revolving loan fund exception

# COMMUNITY REVITALIZATION STRATEGY AREAS



- ❑ CPD Notice 97-01 or Appendix E of National Objectives Guide
- ❑ States can set up a process for review and approval of CRSAs for UGLGs
- ❑ Similar regulatory flexibilities as entitlement NRSAs
- ❑ Local CRSA area must be clearly defined AND:
  - (1) primarily residential and 70% LMI;
  - (2) Empowerment Zone/EC; or
  - (3) least a 20% poverty rate and at least 90% of Census Tracts have at least a 25% poverty rate and the area is primarily residential

# COMMUNITY REVITALIZATION STRATEGY AREAS (cont)



- ❑ State must consider how CRSA will be supported over long term
- ❑ Also consider integration of other funding sources & planning
- ❑ UGLG with CRSAs must also:
  - ◆ Consult with citizens
  - ◆ Assess its economic conditions
  - ◆ Promote economic empowerment
  - ◆ Identify CRSA results

# STATE REPORTING REQUIREMENTS

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- ❑ Must submit an annual performance and evaluation report (PER)
- ❑ The PER serves as the CDBG portion of the state's Consolidated Annual Performance and Evaluation Report (CAPER)

The Con Plan Regulations require reporting on:

- ❑ Detailed financial information on accomplishments, beneficiary data & civil rights
- ❑ Narratives to include summary resources, accomplishments & performance measurement information
- ❑ Status of actions taken & self evaluation

# STATE REPORTING REQUIREMENTS (cont)

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## PER (Performance and Evaluation Report)

- ❑ Original report
- ❑ CPD–94-23 or similar format
- ❑ Details activities, funding, and accomplishments by program year
- ❑ Includes civil rights information
- ❑ New notice forthcoming on abbreviated PER within IDIS

# STATE REPORTING REQUIREMENTS (cont)



- Report due dates:
  - ◆ Based on program year
  - ◆ Due after 15 day comment period, <90 days after covered year ends/subsequent year begins
    - For example, program year ends June 30 with PER due by September 30
  - ◆ If 90 days on weekend/holiday, due preceding business day