

**ARKANSAS COMMUNITY AND ECONOMIC  
DEVELOPMENT PROGRAM (ACEDP)  
Community Development Block Grant Program (CDBG)  
State Program for Small Cities**



**ACEDP Application Guidelines**

**Effective for 2018 Program Year (July 1, 2018 through June 30, 2019)**

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## Table of Contents

Staff Directory .....	3
Application Acceptance Dates .....	4
Introduction .....	5

### ***SECTION 1 GENERAL REQUIREMENTS***

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A. Compliance with a National Objective .....	6
B. Eligible Applicants and Funding Limitations.....	8
C. Eligible Activities.....	9
D. Ineligible Activities .....	11
E. Certifications .....	12
F. Threshold Review Requirements .....	12
G. Public Participation .....	13
H. Residential Anti-Displacement and Relocation Assistance.....	10
I. Activity Feasibility.....	15
J. Financing .....	15
K. Preliminary Design .....	15
L. Procurement.....	16
M. Submissions.....	17
N. Determining Amount of Grant Award.....	17
O. Asbestos Identification and Abatement.....	18
P. Lead Based Paint .....	19
Q. Documentation of Ownership.....	19
R. Special Policies .....	19
S. Program Income .....	20
T. Post Award Requirements.....	22

### ***SECTION 2 PROGRAM OVERVIEWS AND SUBMISSION REQUIREMENTS***

---

A. Referral Partner Programs .....	24
1. Rural Services .....	24
2. Economic Development .....	24
B. General Assistance .....	25

### ***SECTION 3 CONSOLIDATED PLAN ANNUAL UPDATE SUMMARY***

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Individuals who are hearing and/or speech impaired and have a TTY, may contact AEDC through the Statewide Relay System by calling (711) or (800) 285-1121 or (800) 285-1131 for TTY to Voice or TeleBraille. The relay operator should be asked to call AEDC at (888) 787-2527 or (501) 682-1121. Additional information is at the Arkansas Relay website <http://www.arkansasrelay.com/>. Arkansas Relay offers Spanish relay service for our Spanish-speaking customers. Spanish-to-Spanish (711) or (866) 656-1842 or Spanish-to-English (711) or (800) 285-1131. Arkansas le ofrece el servicio de relevo a nuestros clientes en español. Los consumidores de TTY pueden escribir por máquina en español y las conversaciones serán retransmitidas en español y inglés.

## Program Year 2018

### Application Acceptance Dates

<b>Categorical/Community Development</b>	2018-2019 Application Due Dates
General Assistance	March 28, 2019
Rural Services	August 9, 2018
<b>Economic Development</b>	Open Cycle, Year-round

# Introduction

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The Arkansas Community and Economic Development Program (ACEDP), funded through the Community Development Block Grant (CDBG) Program funded from the U.S. Department of Housing and Urban Development (HUD), provides federal funding to eligible cities and counties for projects in the following categories:

Categorical Projects/Community Development:

- General Assistance
- Rural Services

Economic Development

- Public Infrastructure
- Direct Assistance to For-Profit Companies
- Loans to Industry

Priorities for funding are determined each year based on the current Five-Year Consolidated Plan and Annual Action Plans or Annual Updates, and according to funds allocated for spending each fiscal year.

To obtain the majority of ACEDP program funds, pre-applications or formal applications must be submitted to referral partners of the Arkansas Economic Development Commission (AEDC). Selected pre-applications will then be eligible to apply for CDBG funds through AEDC. General requirements for submission and scoring criteria are provided in these Guidelines.

In order to apply for ACEDP funds it is important for applicants to review the 2015-2019 Consolidated Plan; the 2018 Annual Action Plan; and the Application Guidelines for each specific CDBG Programs.

Current Annual Action Plan and Consolidated Plan information, and current application guideline information and applications can be found on AEDC'S website at: <http://www.arkansasedc.com/grants>

To better understand the application process AEDC will also be conducting Application Workshops that will give applicants the opportunity to ask questions and obtain more information about the Guidelines. Attendance is strongly encouraged. Specific information on Workshop dates and times can be found on the AEDC website.

# Section 1. General Requirements

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## A. Compliance with a National Objective

The primary national CDBG objective is the development of viable communities by providing decent housing, suitable living environments, and expanding economic opportunities, principally for low- and moderate-income persons. Under these guidelines, this is accomplished by funding projects that meet at least one of three national objectives. Based on the amended 1974 HCD Act and HUD guidance, the national objectives are defined and clarified by AEDC as follows:

1. **Benefit to low-and moderate-income persons** (referred to throughout this document as LMI persons): LMI persons are defined as a member of a family having an income equal to or less than the income limits established by HUD for their resident county. The income limits as published by HUD at [www.huduser.org/datasets/il.html](http://www.huduser.org/datasets/il.html) are determined for each Arkansas County on the higher of either: 80% of the median income of the county, or 80% of the median income of the entire non-metropolitan area of the state.

Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to meet this national objective.

- a. **Area benefit activities:** An area benefit activity is available to all residents of an area that is primarily residential. In order to qualify on an area basis, the activity must meet the identified needs of LMI persons residing in an area where at least 51% of the residents are LMI persons. The benefits of this type of activity are available to all residents in the area regardless of income. If the assisted activity *serves* an area having a LMI concentration below 51%, the activity may not qualify even if there is reason to believe that it will actually be used primarily by LMI persons.

Such an area need not be coterminous with census tract or other officially recognized boundaries, but must be the ENTIRE area served by the activity (i.e. an arterial street or sewer interceptor line running through a neighborhood would serve more residents than those in the immediate neighborhood).

To determine the percentage of LMI persons in the service area, Grantees may use data from the most current U.S. Census or conduct an income survey in the project service area. Grantees may choose to conduct an income survey of the residents of the project service area if: data from the most current Census does not reflect current relative income levels in an area and is below 51%; or census boundaries do not coincide with the service area of an activity. AEDC will accept information obtained from income surveys if it is determined that the results are methodologically sound. Surveys must be conducted as set forth in Guidance for Survey

Methodology to Determine Low/Mod Status of CDBG Service Areas located at [www.arkansasedc.com/grants](http://www.arkansasedc.com/grants)

If an income survey has been conducted to determine the LMI percentage, the application must complete and submit Exhibit G-1 or G-2, LMI worksheet, and include a description of the methodology and income guidelines used. Income surveys conducted before July 1, 2015 will not be accepted.

- b. **Limited clientele activities.** These are activities that provide a benefit to a specific group of persons rather than everyone in a general area. It may benefit particular persons without regard to the area in which they reside, or be an activity that provides benefit on an area basis but only to a specific group of persons who reside in the area. In either case, at least 51% of the beneficiaries of the activity must be LMI persons. To qualify under this subcategory, the activity must meet one of the following tests:
- i. Exclusively benefit a clientele who are generally presumed by HUD to be principally LMI persons. The following groups are currently presumed by HUD to be made up principally of LMI persons: abused children, battered spouses, elderly persons, adults meeting Bureau of Census' definition of severely disabled adults, homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or,
  - ii. Require information on family size and income so that it is evident that at least 51% of the clientele are persons whose family income does not exceed the LMI limit, this includes the case where the activity is restricted exclusively to LMI persons; or,
  - iii. Be of such nature and in such location that it may reasonably be concluded that the activity's clientele will primarily be LMI persons (e.g. a daycare center that is designed to serve residents of a public housing complex); or,
  - iv. Be an activity that removes material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting Bureau of Census' Current Population Reports definition of "severely disabled," provided it is restricted, to the extent practicable, to the removal of such barriers by assisting the reconstruction of a public facility or improvement or rehabilitation of a privately-owned nonresidential building that does not qualify under LMI area benefit criteria.

Activities that serve an area generally cannot qualify under the Limited Clientele criterion. For example, while a clinic serving only persons with AIDS living in a particular area would clearly qualify as a Limited Clientele activity, a clinic providing CDBG-subsidized health services which

are available to all persons in the area would not. It must instead meet the criteria for an Area Benefit activity.

2. **Aid in the prevention or elimination of slums and blight:** “Blight” has the same meaning as blighted areas as defined in Ark. Code § 14-168-301. A copy of this section of the Arkansas Code is available upon request from AEDC.

Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to meet this national objective.

- a. **On an area basis:** An activity will be considered to meet this objective if: (1) the area is designated by official action of the local government as substandard or blighted in accordance with Ark. Code § 14-168-301; (2) there is a substantial number of deteriorated or deteriorating structures throughout the area, or public improvements throughout the area are in a general state of deterioration; (3) the assisted activity is designed to address one or more of the conditions which contributed to the deterioration of the area; (4) documentation is provided and maintained by the recipient on the boundaries of the area and the conditions which qualified the area at the time of its designation; and (5) activities to be assisted with CDBG funds must be limited to those that address one or more of the conditions that contributed to the deterioration of the area. Submit Exhibit F-1.
  - b. **On a spot basis:** An activity must be designed to eliminate specific conditions of blight or physical decay not located in a designated slum or blighted area; and be limited to one of the following: acquisition, clearance, relocation, historic preservation, or rehabilitation of buildings, but only to the extent necessary to eliminate specific conditions detrimental to public health and safety. (Public improvements cannot qualify under this standard except for rehabilitation of public buildings and historic preservation of public property that is blighted). Submit Exhibit F-2.
3. **Urgent Need:** Urgent need activities must be designed to alleviate existing conditions, certified by the local government and determined by the state to pose a serious and immediate threat to the health or welfare of the community. Urgent need grants will be considered if the threat is of recent origin or recently became urgent, the applicant is unable to finance the activity on its own, or if other sources of funding are not available to carry out the activity. Applicants applying under the Urgent Need national objective are urged to contact the AEDC Grants Division prior to application, and must utilize Exhibit J, Urgent Need Certification.

## **B. Eligible Applicants and Funding Limitations**

With the exception of Economic Development projects, eligible applicants (non-entitlement cities and counties) may submit applications for single-activity projects only.



A city can have only **one** active Categorical/Community Development application or active grant in progress at any time.

A county can have no more than **two** Categorical/Community Development applications, or grants in progress (combined) at any time. Counties may propose activities in either incorporated or unincorporated areas, or both, except that a county cannot usually propose activities located within the jurisdiction of an entitlement city. When a county proposes activities within a city or town, that city or town may submit its own application for different activities.

The above submittal limitations do not apply to cities or counties that submit applications to ameliorate conditions designated as an imminent health threat.

A joint application will be required if no jurisdiction has 51% of the projects potential beneficiaries living within its jurisdiction. The jurisdiction with the most beneficiaries will be the major applicant responsible for signing and submitting the application. A local government **must** be a party to an application whenever 25% or more of the project's beneficiaries live within that jurisdiction. The percentage of proposed beneficiaries must be indicated for each party to the joint application.

*Note: Grants are considered active until the grantee is notified **in writing** that the grant is closed or has been closed pending final audit, or "administratively closed."*

All local governments involved in a joint application must execute a cooperative agreement to identify a lead-administering jurisdiction and define respective jurisdictional responsibilities should the application receive funding.

All parties to the joint application must also sign and submit with the application a certification stating that the application meets the state's requirements for multi-jurisdictional applications.

Economic Development applications/projects do not count toward the number of active applications/grants that cities or counties may have per the restrictions above. Also, the ceiling establishing the maximum number of active applications/grants allowable will not be affected whenever jurisdictions are minor parties to applications.

### **C. Eligible Activities**

Activities eligible for assistance under the state's CDBG program are only those authorized in Section 105(a) of the amended 1974 HCD Act. The general rule is that any activity listed in Section 105(a) may be funded in whole or in part with CDBG funds. Below is a partial list of activities from Section 105(a). Communities should be aware that although an activity may be legally eligible under federal statute and HUD regulations, it may not be competitive under the guidelines and ranking system in the Arkansas CDBG Program. The State has adopted priorities, listed in Section 3, which increase the likelihood of funding of certain activities. Restrictions are identified in Section J below.

- The acquisition of real property (including air rights, water rights, and other interests therein) which is (a) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (b) appropriate for rehabilitation or conservation activities; (c) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (d) to be used for the provision of public works, facilities, and improvements eligible for assistance under this program; or (e) to be used for other public purposes.
- The acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements.
- Code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area.
- Clearance, demolition, removal, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation, or privately owned properties and including the renovation of closed school buildings).
- Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons.
- Payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for relocation of individuals and families displaced by CDBG activities.
- Disposition (through sale, lease, donation, or otherwise) of any real property acquired with CDBG funds or its retention for public purposes.
- Payment of the nonfederal share required in connection with a federal grant-in-aid program undertaken as part of activities assisted under this program.
- Relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate activities.
- Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in Section 701(e) of the Housing Act of 1954 on the date prior to the enactment of the Housing and Community Development Amendments of 1981.
- Activities which are carried out by public or private nonprofit entities, including (a) acquisition of real property; (b) acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), site improvements, and utilities.

## D. Ineligible Activities

This section identifies ineligible activities.

- Buildings, or portions thereof, used predominantly for the general conduct of government cannot be assisted with CDBG funds. Such buildings are defined as city halls, county courthouses, state capitols, or office buildings or other facilities in which the legislative or general administrative affairs of the government are conducted. This definition does not include such facilities as neighborhood service centers or special purpose buildings located in LMI areas that house various non-legislative functions or services provided by government at decentralized locations. This does not exclude, however, the removal of architectural barriers in order to make public buildings accessible to elderly and handicapped persons.
- General government expenses cannot be paid with CDBG funds, except for those costs that are directly attributable to administration of a local CDBG program and are documented as such. (Eligible cost expenses are detailed in 2 CFR Part 200).
- CDBG funds cannot be used to pay for facilities or equipment used for political purposes or to engage in other political activities such as candidate forums, voter transportation, or voter registration. However, a facility originally financed in whole or in part with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.
- The purchase of equipment with CDBG funds is generally ineligible, except (a) the purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to 2 CFR 200 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible; (b) fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible; and (c) the purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with 2 CFR 200, as applicable) for such items when necessary for use by a municipality or county in the administration of activities assisted with CDBG funds, or when eligible as firefighting equipment, or when such items constitute all or part of a public service.
- **The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible.** Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of operating and maintaining a facility used in providing a public service would be eligible, even if no other costs of providing such a service are assisted with such funds. Examples of ineligible operating and maintenance expenses are: (a) maintenance and repair

of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar public facilities. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs; and (b) payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.

- CDBG funds may be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction when required to provide last resort housing under the Uniform Relocation Act. Activities in support of the development of LMI housing including clearance, site assemblage, provision of site improvements and public improvements and certain housing preconstruction costs are considered activities to subsidize or assist new residential construction.
- The general rule is that CDBG funds cannot be used for income payments for housing or any other purpose. Examples of ineligible income payments include: payments for income maintenance, housing allowances, down payments, and mortgage subsidies. One time payments made on behalf of persons or families to meet emergency needs such as housing or essential utilities is not an income payment and is eligible.

#### **E. Certifications**

All ACEDP applicants must submit an ACEDP Applicant's Statement of Assurances and Certifications as part of the funding application. This form certifies that the following major programmatic requirements have or will be met, should the applicant receive funding (this list is not exhaustive):

1. Completion of a Community Development/Citizen Participation Plan.
2. Passage of an Authorization Resolution approving application submission by the applicant's Chief Elected Officer.
3. Enactment of an Anti-Displacement Plan.
4. Enactment and enforcement of a policy prohibiting the use of excessive force against individuals engaged in non-violent civil rights demonstrations.
5. Prohibition against the use of federal funds to foster lobbying activities.
6. Certification that the grantee, as far as practical, will eliminate the hazards of lead poisoning due to the presence of lead-based paint in any structure improved with the Arkansas Economic Development Commission funds.

Any questions regarding the above-identified requirements should be addressed to the Arkansas Economic Development Commission Grants Management Division at 501-682-1211.

#### **F. Threshold Review Criteria**

The following threshold requirements must be met by the local government applicant in order to be eligible for ACEDP resources:

1. Activities proposed are eligible and comply with CDBG National Objectives and State CDBG priorities. See the CDBG National Objective Section for more information;
2. Applicant has not significant, unresolved audit findings;
3. Applicant has no legal actions underway that may significantly impact its capacity;
4. Applicant is following a detailed Citizen Participation Plan and Anti-Displacement Plan;
5. Applicant has adopted an authorizing Participation Resolution;
6. Applicant must have addressed and cleared all compliance findings from monitoring;
7. Applicant is current with all reporting requirements (Semi-Annual Status Reports, closeout reports, audit reports, notification of annual audits, etc.).

### **G. Public Participation**

To promote maximum public participation during development of ACEDP projects, all applicants for ACEDP funding are required to complete a formal public participation process. Written documentation regarding this process consists of the applicant's Citizen Participation Plan.

The citizen participation plan must contain provisions for the involvement of citizens, particularly LMI residents, in all phases of the project. Each local government submitting a single application or participating in a joint application, where applicable, must have and follow a citizen participation plan. The plan must provide for:

1. Proper notice and access to all meetings and project records;
2. Technical assistance on request to group's representative of LMI persons;
3. A **minimum of two public hearings**, each at a different stage of the program, for the purpose of obtaining citizen's views, responding to proposals and questions (specifically during the application phase, the hearing(s) must cover community and housing needs, development of proposed activities to be undertaken, the amount of funds requested, the estimated amount proposed to benefit LMI persons, the amount and source of matching funds, if any, and the applicant's plans for minimizing displacement of persons as a result of CDBG assisted activities and for assisting persons actually displaced; and specifically during the implementation phase, the hearing(s) must review program performance).
4. The minutes of the public hearing and the public hearing notice are to include each listed statement. Public hearings for joint applicants must be held in each participant's jurisdiction and the application must be available for public inspection at each locality.
5. A process for responding to complaints and grievances within 15 working days; and
6. The needs of non-English speaking residents where a significant number of them can be expected to participate in public hearings.

## H. Residential Anti-Displacement and Relocation Assistance

A Residential Anti-Displacement and Relocation Assistance plan must be adopted and certified by the local government and be available to the public. A certification and plan is required even if the applicant is not proposing activities which will result in demolition or in the conversion of an LMI unit to a use other than LMI housing. The plan must contain two components (a) one-for-one replacement unit requirement, and (b) a relocation assistance component.

1. **One-For-One Replacement Unit Requirement** applies to all occupied and vacant occupiable LMI dwelling units that will be demolished or converted to another use as a direct result of a CDBG assisted activity. Occupiable dwelling unit is a residential unit that is in standard condition or in a substandard condition, but suitable for rehabilitation.
  - a. An LMI dwelling unit is defined as a unit with a market rental, including utility costs, that does not exceed the Section 8 fair market rent (FMR) as established by HUD. Whenever assisted rehabilitation raises the rent above the FMR that unit must be replaced.
  - b. A “vacant occupiable dwelling unit” is a unit in standard condition or a unit in substandard, but is suitable for rehabilitation; or a dwelling unit that has been occupied (except for a squatter) at any time one year prior to the Notice of Approval date for an approved application.
  - c. A unit is “standard condition” is ready to be lived-in with only a minimal amount of deferred maintenance or repair required at a reasonable cost.
  - d. A unit “suitable for rehabilitation” is defined for purposes of this certification as a unit whose estimated repair, rehabilitation, weatherization, and/or general improvement costs do not exceed one-half of its replacement value after rehabilitation. The local government may use their own definition for “suitable for rehabilitation” provided such definition is made public and DED determines the definition to be acceptable.
  - e. Replacement LMI units must be provided within three years from the start of demolition or conversion and must be:
    - i. Located within the same jurisdiction;
    - ii. Sufficient in number and size to house at least the number of occupants that were or could have been housed; according to local occupancy codes;
    - iii. Provided in standard condition or brought up to a standard condition; and
    - iv. Designed to remain LMI for ten (10) years.
    - v. Replacement units may include public housing and housing with Section 8 project-based assistance.
  - f. Assistance cannot be obligated to the demolition or conversion activity until the local government makes public and submits to DED information that identifies:
    - i. The activity – the location and number of units by bedroom size;
    - ii. The proposed demolition or conversion schedule;

- iii. The number and placement of replacement units and their size;
- iv. The source of funding and time schedule for replacement units; and
- v. The basis for concluding that each replacement unit will remain a LMI unit for 10 years.

- 2. **Relocation Assistance** must be provided to each LMI family displaced by the demolition or conversion to another use of any housing unit because of an assisted activity. Persons must be provided assistance as prescribed in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) or 24 CFR 570.496a(c).

### **I. Activity Feasibility**

Applications must demonstrate the feasibility of the proposed activity and the local government's ability to afford the project and implement grant-funded improvements. In reviewing the feasibility of a project, the Arkansas Economic Development Commission will require that the most efficient, least costly and most appropriate design is proposed, and that the solution is one that the community can afford to maintain and operate.

Previous state or federal determinations of lack of capacity or poor performance in administering grant activities or unresolved audit findings on other publicly funded projects may, depending on the severity of the problem, result in the rejection of the proposal from further consideration, or in an applicant being required to comply with special conditions to receive funding.

### **J. Financing**

The applicant must document that all other available sources of project financing have been committed. Applicants will be expected to explore the viability of other financing, such as loans, grants, general obligation bonds and revenue bonds, and will be required to obtain the maximum amount of all other funds for which they qualify.

Projects which have a revenue capacity, such as user fees, will be expected to utilize such fees and/or amend current rate structures as necessary to reflect realistic pricing of services based on statewide averages. Applicants will be expected to explore local financing resources but will not be penalized should resources be unavailable. The Arkansas Economic Development Commission is not obligated to accept an applicant's proposed use of funds, ACEDP or otherwise. Final approval of the structure and financing of the project is subject to the Arkansas Economic Development Commission's approval.

### **K. Preliminary Design**

The design of each proposed activity must meet the Arkansas Economic Development Commission criteria and be consistent with state standards, priorities, and codes, where such exist.

Sufficient preliminary design work and cost estimates must be completed before grant amounts can be determined. Some project types may not require preliminary design work and, therefore, will not be subject to this requirement.

NOTE: The Grantee must ensure that the use of any building constructed or improved with ACEDP funds will remain as defined in the grant. Violation of this requirement may result in the repayment of grant funds in whole or in part.

## **L. Procurement**

Information documenting the procurement of professional services should not be submitted to Economic Development Commission with the grant application. Instead, all procurement activities will be monitored by the Arkansas Economic Development Commission, should grant funds be awarded. Reference to the Procurement chapter of the ACEDP Administrative Procedures Manual should be made prior to procurement of any services, materials or equipment. A grantee must use procurement procedures that are in conformance with state and local laws and regulations.

There are a number of reasons why a community may want to use consultants or grant administrators to assist with preparing a Community Development Block Grant application or administering a grant, such as when:

1. Work requires special professional services, such as accounting, architectural, engineering, legal, or planning services;
2. Local staff is inexperienced in the area of grant writing or project administration, or is already committed to other ongoing activities; or,
3. Work involves a short-term, but somewhat specialized project activity that does not justify hiring experienced, full-time staff.

Projects that are awarded CDBG funds will also be required to be administered by an AEDC trained and approved grant administrator. The application package for each set-aside should be reviewed for guidelines concerning preparation requirements.

Grantees must establish and maintain effective internal control over the CDBG award, providing reasonable assurance that all parties involved are in compliance with federal, state, and local statutes, regulations, and the terms and conditions of the CDBG award.

*Overall, recipients of CDBG funds are responsible for ensuring **competitive procurement** for goods and services, in accordance with established rules and regulations using **full and open competition**. Complete documentation of this process is required.*

Applicants for ACEDP funds may obtain the services of professional consultants (e.g. administrators, engineers or architects) prior to grant award to assist with development or submittal of pre-application or application materials. Although the Arkansas Economic Development Commission recommends procurement of professional services as early as possible, Arkansas Economic Development Commission will



not reimburse any costs associated with pre-grant services. Any financial arrangements regarding pre-grant services shall be made at the convenience of the applicant and not the Arkansas Economic Development Commission.

Care should be taken in the procurement of these professionals, however, since applicants often desire to continue these professional relationships throughout grant implementation. If, during monitoring, improper or incomplete procurement documentation is noted, the grantee may be required to advertise improperly procured services or will be issued a sanction until proper documentation is provided. Costs for services, materials or equipment improperly procured may not be reimbursed with ACEDP funds.

The following requirements apply to all procurement activities:

1. All procurement activities must be conducted in accordance with the Procurement Chapter of the ACEDP Administrative Procedures Manual laws and regulations referenced therein.
2. Procurement actions must avoid actual or apparent conflicts of interest.
3. Although procurement of professional services prior to grant award is allowable, the Arkansas Economic Development Commission will not reimburse costs for any professional services performed ***prior to the execution of a grant agreement or approval of a request to incur cost.***
4. Any contracts resulting from an ACEDP grant award are subject to Arkansas Economic Development Commission review and approval and must not be executed prior to grant award if the Arkansas Economic Development Commission funds are expected to pay for these services.

### **Local Staff Capacity & Involvement**

Whenever you retain a consultant to assist you with preparing a grant application or managing a CDBG project, make sure that someone from the city or county works with the consultant and understands the community's application or the management issues involved. The local governing official or primary local staff person should become familiar with the regulations for the CDBG program and work closely with the consultant or grant administrator in developing the application or managing the project. A consultant is a technical resource.

### **M. Submissions**

Only application materials submitted on the Arkansas Economic Development Commission forms (or copies of these forms) and additional sheets as necessary will be accepted for review. Please use only binder clips submit application materials.

### **N. Determining Amount of Grant Award**

The grant amount awarded by the Arkansas Economic Development Commission may be more or less than the amount requested, based on the feasibility of project activities and the applicant's ability to maximize debt from available sources. The Arkansas Economic Development Commission will consider unusual

project circumstances, reasonableness of project design, and other sources of project funding when determining grant amounts.

#### **O. Commitment of Funds**

Applicants will be notified in writing of funding decisions. Applicants who have satisfactorily completed all application requirements will receive a commitment when funds are available. If funds are not available, funding may be considered based upon the order of application approval whenever additional grant funds are allocated or become available for redistribution.

#### **P. Asbestos Identification and Abatement**

It is important that applicants are aware of the potential liability associated with the presence of asbestos containing building materials in existing structures. The presence of asbestos in existing buildings is recognized as a serious public health hazard.

Although there is currently no statutory requirement to identify or take remedial measures on asbestos in public buildings, the fact that asbestos represents a significant health hazard poses potential liability problems. This liability extends to:

- The occupation and use of a current facility (even if no improvements are undertaken);
- Relocation to another building (for which you may assume liability); and,
- Renovation or rehabilitation of an existing facility.

If the proposed project involves the renovation or rehabilitation of an existing building, you will be required to do the following:

- a. Have an accredited asbestos inspector/management planner conduct a thorough inspection of the building according to the Asbestos Hazard Emergency Response Act (AHERA) guidelines, including sampling and laboratory analysis. Testing costs will depend on the size and design of the building and are the applicant's responsibility.
- b. Sign a waiver releasing and holding harmless the Arkansas Economic Development Commission and all Commission employees individually of any liability, claims, judgments or action whatsoever as a result of allowing grant funds to be used in the renovation of a building containing asbestos (a sample waiver may be provided by the Grants Division).
- c. Establish adequate justification that the cost and time associated with renovating a building containing asbestos is more cost effective than renovating a building that does not contain asbestos or new construction. This justification must be provided as part of the application and can be obtained from the architect that has been procured for the project.

Each of the above items must be submitted with the application whenever building renovation or rehabilitation is proposed.

If you have any questions regarding the Arkansas Asbestos Abatement Regulation, or for details about safe asbestos removal and disposal, contact the Air Division, Asbestos and Lead-Based Paint Section, of the Arkansas Department of Environmental Quality, at (501) 682-0718 for technical assistance.

#### **Q. Lead-Based Paint**

There is a general prohibition against the use of lead-based paint in connection with any federally funded activity involving the construction or rehabilitation of residential structures. All housing units in a project assisted with CDBG funds must comply with the regulations found at 24 CFR Part 35. In addition, for properties constructed prior to 1978, the grantee must notify tenants or purchasers of properties owned by the grantee or sub-grantee and acquired or rehabilitated with federal funds, of the hazards of lead-based paint poisoning.

For housing built prior to 1978 being rehabilitated with federal funds which may be occupied or frequented by families with children under seven years of age, the grantee must undertake steps to ensure that such housing is inspected for defective paint and those surfaces found to be defective must be tested for the presence of lead paint. If lead-based paint is detected, all interior and exterior chewable surfaces found to contain lead must be treated in accordance with 24 CFR 570.608(c)(4).

If you have any questions regarding lead-based paint rules and regulations in Arkansas, contact the Lead-Based Paint Program of the Arkansas Department of Health at (501) 672-1472 for technical assistance.

#### **R. Documentation of Ownership**

Applicants are required to own buildings rehabilitated, renovated, expanded or constructed with ACEDP funds. For all projects to be funded, the applicant must submit documentation that the applicant owns or has an option to own the property on which construction is to occur. If the applicant does not own the building or land, documentation indicating intent to purchase must be provided with the application.

If the assisted facility is owned by a nonprofit, the CDBG regulations stipulate that the facility must be open to the public during normal working hours.

#### **S. Special Policies**

1. **Facilities containing both Eligible and Ineligible Uses.** A public facility otherwise eligible for assistance under the CDBG program may be provided with CDBG funds even if it is part of a multiple use building containing ineligible uses, if:
  - a) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and
  - b) The grantee can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility. Allowable costs are limited to those attributable to the eligible portion of the building or facility.

2. **Fees for Use of Facilities.** Reasonable fees may be charged for the use of the facilities assisted with CDBG funds, but charges, such as excessive membership fees, which will have the effect of precluding LMI persons from using the facilities, are not permitted.
3. **Special Assessments.** The term special assessment means the recovery of the capital costs of a public improvement, such as streets, water, or sewer lines, curbs, and gutters, through a fee or charge levied or filed as a lien against a parcel of real estate as direct result of benefit derived from the installation of a public improvement, or a one-time charge made as a condition of access to a public improvement. This term does not relate to taxes on property or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes, and does not include periodic charges based on the use of a public improvement, such as water or sewer user charges, even if such charges include the recovery of all or some portion of the capital costs of the public improvement.

Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be used to recover capital costs as follows:

- a) Special assessments to recover the CDBG funds may be made only against properties not owned and occupied by LMI persons (such assessments are program income), or,
- b) Special assessments to recover the non-CDBG portion may be made provided that CDBG funds are used to pay the special assessment on behalf of all properties owned and occupied by LMI persons; except that CDBG funds need not be used to pay the special assessments on behalf of properties owned and occupied by moderate income persons if the grantee certifies that it does not have sufficient CDBG funds to pay the assessments on behalf of all of the LMI owner-occupant persons (funds collected through such special assessments are not program income).

## **T. Program Income**

Program income for the State's CDBG program is regulated by the provisions of 24 C.F.R. §570.489(e). The text of this regulation should be consulted for definitions and for other guidance concerning program income. Grantees that receive a CDBG award will be governed by the policies written in the current Annual Action Plan and the five-year Consolidated Plan. Related policy guidance can be found in the ACEDP Administrative Procedures Manual in the "Program Income" chapter. Lastly, Program Income are addressed within each Grant Agreement (per project).

The State CDBG objective for program income is to provide adequate financing for local development to ensure Arkansas's economic prosperity and to use all resources in a timely manner. The State is responsible for ensuring that program income at the state and local levels is used in accordance with applicable federal laws and regulations.

*Program Income – Definition:*

Program Income is defined as gross income received by a State, a unit of general local government, or a sub-recipient of the unit of general local government that was generated from the use of CDBG funds, regardless of when the CDBG funds were appropriated and whether the activity has been closed out, except in limited circumstances [See also 24 CFR 570.489(e)(2)]. When Program Income is generated by an activity that is only partially assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used.

All Program Income is and remains subject to all requirements of the HCDA and CDBG regulations. Program Income which may become a part of an AEDC approved CDBG project subject to all requirements of the HCDA and CDBG regulations. This means all loans made from such a fund, including second and subsequent generation loans, are, and continue to be, subject to all CDBG requirements.

All Program Income earned during the grant period must be expended on the project activities prior to drawing down additional CDBG funds under the grant. Program Income earned after the completion of the grant activities is subject to the same CDBG requirements.

Program income includes, but is not limited to, the following:

1. Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds except in instances where the proceeds are received more than 5 years after expiration of the grant agreement between the state and the unit of general local government.” [See also 24 CFR 570.489(e)(2)(v)];
2. Proceeds from the disposition of equipment purchased with CDBG funds;
3. Gross income from the use or rental of real or personal property acquired by the unit of general local government or sub-grantee of the unit of general local government with CDBG funds, less the costs incidental to the generation of the income;
4. Gross income from the use or rental of real property, owned by the unit of general local government or other entity carrying out a CDBG activity that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income;
5. Payments of principal and interest on loans made using CDBG funds;
6. Proceeds from the sale of loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that are not otherwise eligible costs;
7. Proceeds from the sale of obligations secured by loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that are not otherwise eligible costs;
8. Interest earned on funds held in a revolving loan fund's cash balance interest-bearing account;
9. Income earned on program income pending disposition of the income;
10. Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households not of low and moderate income, if the special assessments are used to recover all or part of the CDBG portion of a public improvement; and
11. Gross income paid to a unit of general local government or sub-recipient of the unit of general local government from the ownership interest in a for-profit entity acquired in return for the provision of CDBG assistance.

## U. Post Award Requirements

Consideration should be given to a variety of federal and state regulations that can have scheduling or cost implications. Among these are:

1. **Records.** All information on grant-assisted activities must be retained for five years following completion and closeout of the grant. During the grant period, performance reports are required semi-annually.
2. **2 CFR Part 200 Subpart F.** Local governments and nonprofits that expend \$750,000 or more must conduct a single audit of federal and local funds.
3. **Davis-Bacon Act.** This and related acts require that prevailing wage rates be paid to all employees working on a construction contract of \$2,000 or more.
4. **Acquisition/Relocation.** Regulations for acquisition and relocation emphasize anti-displacement and should be discussed with the AEDC Grants Division staff at the beginning of the project. The Uniform Relocation and Real Properties Acquisition Act (URA) apply to all federally assisted activities that involve the acquisition of real property or the displacement of persons. If CDBG funds are used in any part of the project, the URA would govern the acquisition of real property, including easements, and any resulting displacement, even if local funds are used to pay the acquisition costs. The URA requirement may include formal notification of the affected property owner(s), preparation of an appraisal to determine fair market value, and a written purchase offer based on an amount determined to be fair market value. The only exception is a voluntary transaction that meets certain criteria. Regulations emphasize anti-displacement. However, if displacement is necessary, relocation assistance must be provided to persons displaced by rehabilitation, acquisition, demolition, or the conversion of units for use other than low- to moderate-income dwelling units. Grantees will be required to replace every occupied unit that is demolished or converted with CDBG funds on a one-for-one basis within a three-year period.
5. **Regulations emphasize anti-displacement.** However, if displacement is necessary, relocation assistance must be provided to persons displaced by rehabilitation, acquisition, demolition, or the conversion of units for use other than low-to-moderate income dwelling units. Grantees will be required to replace every occupied unit that is demolished or converted with CDBG funds on a one-for-one basis within a three-year period.
6. **Procurement.** Open and free competition on solicitation of professional services or construction bidding is also required. If the applicant intends to use CDBG funds to pay all or a portion of fees, or intends to claim fees as match, then CDBG procurement guidelines must be followed. For more information see the ACEDP Administrative Procedures Manual.
7. **Environmental Review.** Grant recipients are required to obtain appropriate environmental clearance for their projects and to maintain an Environmental Review Record for each project. The review process involves consultation with various agencies, groups and individuals regarding: historic properties, floodplain management, wetland protection, noise control, air quality, explosive and flammable operations, airport hazards, water quality, threatened and endangered species, wild and scenic rivers, farmland protection, environmental justice, contamination and

toxic substances. The environmental review and Request for Release of Funds/Certification, if required, must be completed before the grantee, or any participant in the development process, incur costs against the project.

8. **Equal Opportunity, Fair Housing, and Handicap Accessibility.** Laws require that CDBG grantees administer their projects in a manner that affirmatively furthers fair housing and equal opportunity. All grantees will be required to undertake specific activities to further fair housing. Grantees must also assure that all activities and services are accessible to those with disabilities.
9. **Continued Use.** All community facilities assisted with CDBG funds must remain in the same use for five years after grant closeout. For more information see 24 CFR 570.489.

# Section 3: Program Overviews, Submission Requirements, and Method of Distribution

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All project types discussed immediately below must be referred to the Arkansas Economic Development Commission by the applicable review agency indicated prior to application development.

## A. Referral Partner Programs

### 1. Rural Services

The Arkansas Rural Development Commission will review and makes recommendations for funding of Rural Services projects to benefit rural communities with a population of less than 3,000 persons. Applicants should contact the AEDC Division of Rural Services to obtain an application for submission to Rural Services. In order to receive funding from the Arkansas Economic Development Commission, the applicant must receive approval from the Arkansas Rural Development Commission. For information contact:

AEDC Division of Rural Services  
Attn: Megan Earnhart, Grants Manager  
900 W. Capitol, Ste. 400  
Little Rock, Arkansas 72201  
1-888-RURAL-AR

Arkansas Economic Development Commission participation for rural service projects during the fiscal year will be as defined in the Annual Action Plan.

### 2. Economic Development

The State has reserved a portion of its ACEDP funds to assist cities and counties in undertaking and meeting local economic development objectives, especially in the creation and expansion of businesses that will provide employment, primarily for low and moderate-income persons. Funding will be awarded on a first-come, first-served basis until available funds are exhausted.

In distributing these funds, the State is mandated by law to assist projects, which meet the national objective of benefiting low and moderate-income families with business creation or expansion.

The fundamental premise for an applicant's request for financial assistance is that funding is necessary to accomplish its economic development objectives. The primary purpose of the Economic Development set-aside IS NOT to provide capital to businesses in Arkansas at terms more favorable than otherwise available.



There is no limitation on the number of economic development applications and/or active projects which an eligible applicant may have with the Commission except as limited by the requirements defined in the current Method of Distribution of the current Action Plan. Approximately 55% of the FY2017 allocation will be used for this category and 100% of any program income received by the Commission.

Funds may be used by eligible applicants to:

1. Provide infrastructure necessary to serve the location of a new or expansion of an existing industry which will create new jobs or retain existing jobs; or
2. Provide loans to industry for economic development purposes when it can determine that the provision of such financing is necessary to create new jobs and/or retain existing jobs. Eligible activities for loans include, but are not limited to the following: acquisition, construction and equipment; or
3. Provide funds for the construction of facilities; or
4. Provide funds for a AEDC-approved training program; or
5. Undertake any combination of 1 through 4 above, provided that all other requirements can be met.

For more detailed information on the Economic Development Set-Aside, please see the Economic Development Application & Application Guidelines.

## **B. General Assistance**

Funding for General Assistance is designed to provide cities and counties with the opportunity to apply for grant assistance for a variety of projects not covered under other funding categories. Applicants may apply for assistance for any eligible project that meets the following criteria:

1. The project must meet one of the national objectives of the Community Development Block Grant (CDBG) program: benefit to low- to moderate-income persons, elimination of conditions of slum or blight, or to address an urgent need.
2. The activity to be undertaken is an eligible activity under the regulations that govern the CDBG program.
3. The project must address one of the goals and objectives described in the current Consolidated Plan.
4. The project must not be eligible for funding under any of the other line items in the current Action Plan.

Grant requests should range from a minimum of \$75,000 to a maximum of \$200,000, including design fees. Water or wastewater projects for the construction of new systems or extensions of existing systems where new customers will be added are eligible to apply for up to \$1 million. Administrative fees will be added to the announced award amount. Successful applicants will be notified approximately 60 days after the deadline. Additional project awards may be made throughout the year from the existing pool of applications as funds become available. Technical assistance will be available.

Applications will be evaluated on the following criteria:

- Project Need
- Project Impact
- Project Readiness
- Citizen Participation
- Leverage
- LMI Benefit

Water/Wastewater applicants must obtain Water/Wastewater Advisory Committee (WWAC) approval of the project before applying for an ACEDP grant.

The WWAC meets monthly to review pre-applications. Applicants must submit new projects to the WWAC no later than December 15<sup>th</sup>, for review at the January WWAC meeting, and so-on throughout the year. Applicants must also submit LMI information with the WWAC pre-application packet.

Applicants must submit WWAC pre-applications on forms supplied by the WWAC. The WWAC will review submissions monthly according to WWAC policies and schedules.

For a list of eligible projects, grant amount limits, scoring criteria, and any other instruction on the application and award of projects from this category, please reference the current application for General Assistance.

# Section 4 Consolidated Plan Annual Action Plan

## Summary

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### Eligible Recipients

Eligible recipients of ACEDP funds are all Arkansas cities and counties except; Little Rock, North Little Rock, Conway, Pine Bluff, Fayetteville, Springdale, Rogers, Fort Smith, Hot Springs, Texarkana, Jacksonville, Jonesboro and West Memphis, which are entitlement cities which cannot seek funding from the State CDBG program.

### 2018 CDBG Allocations

The Arkansas Economic Development Commission received an allocation of \$17,714,610 for the 2018 Program Year. Anticipated distribution of this allocation is as follows:

**Distribution of CDBG Funds**  
**Current July 1, 2018 – June 30, 2019**  
**\$17,714,610**

Economic Development	55%	\$9,743,035
General Assistance Public Facilities & Infrastructure (non-water/wastewater), 11%, \$1,911,484 Water/Wastewater, 25%, \$4,428,653	36%	\$6,340,137
Rural Services	6%	\$1,000,000
Administration & Technical Assistance	3%	\$631,438

Note 1: Arkansas Economic Development Commission will review each expenditure category listed above in January and again in April to determine whether or not money is being expended in a timely manner. Arkansas Economic Development Commission reserves the right to transfer unallocated money among categories after the later review.

Note 2: Amounts for state Administration and Technical Assistance combined cannot exceed 3% of the total fiscal year allocation and program income received plus \$100,000.

In accordance with requirements of Title I of the Housing and Community Development Act of 1974, as amended, Arkansas Economic Development Commission will only fund projects that meet one of three national objectives. These objectives include projects that:

- a. Provide benefit primarily for low and moderate-income families;
- b. Aid in the prevention or elimination of slum and blight; or
- c. Meet other community development needs 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.

Funds will be distributed to eligible applicants for specific Community Development or Economic Development projects. All funding considerations will be made according to reasonableness of cost and assurance that the grant amount represents the smallest amount of financing needed to cover the gap between reasonable project costs and local funding capacity.

ACEDP funds may not be utilized to provide more than 50% of an eligible applicant's required match for any grant program requiring such match.