

**Notice of Funding Availability/  
Program and Application Guidelines**

**State of Delaware FY2025  
Community Development Block Grant**

*Program administered by the*

**DELAWARE STATE HOUSING AUTHORITY**

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**If you need language assistance to understand this document and/or any other DSHA housing assistance program, please call 302-574-3656.**

***Si usted necesita asistencia en español para entender este documento, o algún otro programa de asistencia de vivienda de DSHA, por favor llame al 302-574-3656.***

# I. Introduction

## A. Scope and Applicability

These Program Guidelines describe the Delaware Community Development Block Grant (CDBG) Program for Kent and Sussex Counties in Delaware. Funds for this program, when appropriated by the U.S. Congress, are provided in a block grant to the state by the U.S. Department of Housing and Urban Development (HUD) pursuant to Section 106 of the Housing and Community Development Act of 1974, as amended by the Housing and Community Development Act of 1992, and in accordance with HUD rules, regulations, and program memoranda.

## B. Administration

The Delaware State Housing Authority (DSHA) administers the Delaware CDBG Program. The purpose of DSHA is to provide affordable, decent, safe, and sanitary housing to low- and moderate-income persons.

## C. Program Design and National Objectives

The Delaware FY2025 CDBG Program has been designed so as:

1. to give maximum feasible priority to activities which will benefit low- and moderate-income families;
2. to aid in the prevention of slums and/or blight; and
3. to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and where other financial resources are not available to meet such needs.

Each CDBG activity must be an eligible activity, and it must comply with one of the above three national objectives. State Recipients shall ensure that the following records are maintained and kept up to date: 1) records demonstrating that each activity undertaken meets one of the national objectives; and 2) a full description of each activity carried out (or being carried out) in whole or in part with CDBG funds, including the nature and purpose of the activity, its location (if the activity has a geographical location) and the amount of CDBG funds budgeted, obligated and expended for the activity.

EXCEPT THAT the aggregate use of Title I funds received by the state during the period of Federal Fiscal Years 2023, 2024, and 2025 shall principally benefit persons of low and moderate income in a manner that ensures that not less than 70 percent of such funds are used for activities that benefit low- and moderate-income persons. To comply with the 70 percent principal benefit requirement, it is further agreed that not less than 70 percent of the total FY2025 CDBG Grant shall be utilized for activities that benefit low- and moderate-income persons as defined in Section IV. of these Program Guidelines.

## II. Application Submission Deadline and Important Dates

- December 18, 2024 CDBG 2025 funding round opens
- January 8, 2025 Virtual CDBG Public Hearing
- February 7, 2025 Public comment period closes
- February 11, 2025 Final Guidelines posted
- February 14, 2025 Target Area proposals due to DSHA
- February 21, 2025 Target Area proposals approved
- April 2, 2025 CDBG applications due to DSHA by **4:00 p.m.\***
- June 2025 DSHA announces funding awards

\* Applications received after the posted deadline will be considered ineligible for funding.

## III. Funding Availability and Eligible Activities

### A. Funding Set-Asides based on FY2024 Allocation

- CDBG Allocation \$2,570,045
- Rehab Housing Activities \$2,020,045
- Program Delivery \$300,000
- Administration \$250,000

B. NOTE: There is no limit in the amount of funding requests; however, approved funding amounts may be different than the funding request depending on the total number of applications approved for funding and the applicant's past performance history. Notwithstanding the foregoing, DSHA reserves the right to redistribute the allocations so that the total amount of awards will not exceed \$2,570,045.

## IV. Definitions

- A. **Low-Income Household/Family:** A household/family having an income equal to or less than the Section 8 Very Low-Income limit (50% of the area median income) as established by HUD. (These income limits are periodically revised by HUD and are made available by DSHA to all units of general local government and counties in Delaware eligible for this program. See Attachment "A" to these Program Guidelines for the most recent figures.)
- B. **Moderate-Income Household/Family:** A household/family having an income equal to or less than the Section 8 Low-Income limit (80% of area median income) established by HUD, but greater than the Section 8 Very Low-Income limit (50% of area median income) established by HUD.
- C. **Low- and Moderate-Income (LMI) households:** All persons occupying the same housing unit, regardless of their relationship to each other, whose combined incomes do not exceed the income limits outlined in Attachment "A" to these Program Guidelines.

- D. **Homeless Facility Activity:** A public facility activity for the rehabilitation of temporary shelters for the homeless, including victims of domestic violence, dating violence, sexual assault or stalking. The populations served by these facilities are populations that are presumed to be LMI persons or families. The operating costs, maintenance and any future repairs of this activity are considered ineligible.
- E. **Infrastructure:** The installation or improvement of water systems, sewer systems, streets, storm drainage systems, sidewalks, etc. In relation to public facilities activities, this includes infrastructure projects such as off-site water, sewer, roads, drainage, railroad spurs and other types of public facilities or improvements.
- F. **Neighborhood Facility Activity:** A public facility activity for the rehabilitation or installation of recreational facilities, parks and playgrounds. The public facility activity must benefit all residents of an area where at least 51% of the residents are LMI, as evidenced by documentation and data concerning beneficiary family size and income. The operating costs, maintenance and any future repairs of this activity are considered ineligible.
- G. **Program Income:** Amounts earned by a unit of general local government or its subrecipient that were generated from the use of CDBG funds allocated by the State in a contract with a unit of general local government.
- H. **Public Facilities/Public Improvements:** Interpreted to include all facilities and improvements that are either publicly owned, or that are traditionally provided by the government or that are owned by a nonprofit and operated to be open to the general public.

## V. General Information for Applicants

### A. Eligible Applicants

Eligible applicants are units of general local government in Kent and Sussex Counties, the Kent County Levy Court and the Sussex County Council.

### B. Number and Type of Applications

Each unit of local government and each county government may make only one application for funds in each program year, with the exception of applications for emergency activities and infrastructure for new housing development. An application from the Kent and Sussex County Governments may include unincorporated portions of the county, as well as those incorporated areas whose governing bodies have specifically requested to be included in the county's application. Written evidence of that request must be included with the county's application. If a local government has requested to be included in a county application it may not make a separate application, except applications for emergency activities and infrastructure for new housing development submitted after the normal application deadline.

### C. Activities Outside an Applicant's Boundaries

An applicant may apply for CDBG funds for eligible program activities, which are partially outside its boundaries if it can be demonstrated that these activities are appropriate to meet the applicant's needs and objectives. Such activities must be consistent with State and local law, and the county or municipality within which these activities will take place must agree to such activities.

### D. Activities Within an Application

Within a single application or fiscal year, an applicant may seek funding for activities, which address more than one community development need, as long as the total does not exceed the maximum allocation of \$1,200,000. The CDBG funds requested, either by themselves or in combination with other funds, must be sufficient to complete the proposed activities. An allocation exceeding \$600,000 would have to be extremely competitive.

### E. Eligible Activities

The 2025 program will provide funds to units of general local government and to counties not entitled to receive CDBG funds directly from HUD to undertake eligible approved activities, as listed in these Program Guidelines. The program is competitive in nature, and it is anticipated that the demand for funds will far exceed the total amount available to the State. Therefore, eligible applicants selected for funding will be those communities and counties whose applications best address locally determined needs of low- and moderate-income families as contained in the Delaware Consolidated Plan for FY2020 - 2025, and which are also consistent with the 51 percent principal benefit requirement or otherwise meet one of the three National Objectives, and which meet one or more State priorities.

Applicants should be aware that proposed activities, which do not meet a state priority will be deemed unresponsive and not considered by the review panel, unless sufficient fundable activities meeting a State priority are not received by DSHA.

### F. Documentation of National Objectives and Low- and Moderate-Income Benefit

#### 1. Documentation of National Objective.

##### a. Infrastructure (public works) Activities:

For each activity determined to benefit low- and moderate-income persons based on the area served by the activity, State Recipients must maintain records containing: 1) the boundaries of the service area; and 2) a summary of the income characteristics of the persons in the service area showing that at least 51 percent of area residents are low/moderate income. Grantee will use current income guidelines by household size and County locale as published periodically by HUD.

b. Housing Rehabilitation Activities:

For each direct benefit activity determined to directly benefit low- and moderate-income persons based on the household income of those directly benefiting and where the activity involves the submission of an application or the completion of a personal record, State Recipients must maintain sufficient evidence to ensure such benefits would accrue to low- and moderate-income persons, the income limits applied, and the point in time when the benefit was determined.

Individual household incomes must be thoroughly documented to verify that they are 100 percent low to moderate income before each housing unit is provided housing rehabilitation assistance. No rehabilitation assistance shall be provided to households that are not low to moderate income, except as provided under Section IV.C.2.c. of these Program Guidelines (urgent need).

State Recipients must maintain records including the number of units to be rehabilitated, and the amount to be spent on each unit to be rehabilitated. These records should be provided to DSHA prior to commencement of construction and updated on a quarterly basis throughout the duration of each project.

The replacement/purchase of appliances or other equipment, as defined by DSHA and outlined in 24 CFR 570.207, will not be eligible under Housing Rehabilitation Activities.

c. Housing Code Enforcement/Demolition:

Documentation to be maintained by State Recipients for each activity determined to aid in the prevention or elimination of slums or blight based on addressing one or more of the conditions which qualified an area as a slum or blighted area must include: 1) the boundaries of the area; and, 2) a description of the conditions which qualified the area at the time of its designation in sufficient detail to demonstrate how the area met the requirements in 24 CFR 570.208(b)(1).

Documentation to be maintained by State Recipients for each activity determined to aid in the prevention or elimination of slums or blight based on the elimination of specific conditions of blight or physical decay not located in a slum or blighted area must include a description of how the threats to public health and safety are to be corrected.

d. Transitional Housing Construction/Rehabilitation:

For each activity determined to benefit low- and moderate-income persons because the activity involves a facility or service designed for use predominantly by low- and moderate-income persons, State Recipients shall maintain sufficient evidence to ensure that the predominant users would be low- and moderate-income persons.

e. Urgent Needs:

For each activity determined to meet a community development need having a particular urgency, State Recipients shall maintain documentation including: 1.) the nature and degree of seriousness of the conditions requiring assistance; 2.) evidence that the recipient certified that the CDBG activity was designed to address the urgent need; 3.) information on the timing of the development of the serious condition; and, 4.) evidence confirming that other financial resources to alleviate the need were not available.

2. Target Areas

- a. Community-wide low- and moderate-income percentages are noted in Attachment B to the Program Guidelines. The list is from HUD's **ACS 5-year 2011-2015** Low/Moderate Income Summary Data. These community-wide low- and moderate-income percentages will normally be used only for infrastructure activities such as a town well.
- b. Infrastructure (public works) activities must utilize either the community-wide low- and moderate-income figures noted in Attachment B, a survey following the methodology contained in the 9/23/14 HUD Notice CPD-14-013, "Guidelines for Conducting Income Surveys to Determine the Percentage of Low- and Moderate-Income (LMI) Persons in the Service Area of a Community Development Block Grant (CDBG)-Funded Activity," or the available Census data at the tract or block group level, to show that target area residents are 51 percent low/moderate income. Census maps can be found **using the Response Outreach Area Mapper (ROAM) at: <http://data.census.gov>. Estimates of the number of low- and moderate-income individuals can be found at: <https://www.hudexchange.info/programs/acs-low-mod-summary-data/acs-low-mod-summary-data-block-groups-places/>.** Past surveys not utilizing the HUD methodology will not be accepted.
- c. Housing rehabilitation activities do not have to document that the target area residents are 51 percent LMI. Instead, the target area will be defined on the basis of the number of substandard dwelling units contained within its boundaries. The total number of dwelling units shall also be enumerated. Documentation of these figures shall normally be accomplished through a windshield survey. A substandard dwelling unit is defined as failing to meet the standards of the Delaware State Housing Code or the housing code adopted by the jurisdiction where the unit is located.

Where no discernible target areas exist within a community's corporate limits, the entire community may be identified as a rehab target area. The total number of dwelling units, and the number of substandard dwelling units, shall be documented as for any other target area.

d. Housing Code Enforcement/Demolition:

Unless housing code enforcement/demolition activities meet the national criteria for slum and blight, these activities require target area determinations utilizing the HUD Survey Methodology or Census data documenting a 51 percent benefit to low/moderate-income persons.



e. DSHA Pre-Approval:

All target area survey instruments, descriptions of how surveys were conducted, survey results, maps clearly indicating service area boundaries, a rationale/justification for the service area determination, and a rationale for the method used to determine low- and moderate-income benefit (if Census information is not used) must be approved by DSHA prior to the submission of an application. Census data must be used to the maximum extent feasible for determining the income of persons residing in service areas. Both target areas and applications must have, and request funding for, at least four eligible units per target area. All target area information must be sent to [Nicole.starecheski@delaware.gov](mailto:Nicole.starecheski@delaware.gov) no later than 4:00 p.m. on **February 14, 2025**.

- f. Service Area Determination guidance can be found at the Section titled “Determining the service area” on pages 3-9 to 3-11 of the “Guide to National Objectives & Eligible Activities for State CDBG Programs,” available from DSHA, or at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/library/stateguide](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/library/stateguide).

g. Areas of Minority Concentration

To affirmatively further Fair Housing, DSHA will provide up to 5 points in the Application Review scoring to applications that target areas having disproportionate housing needs by race and ethnicity. Areas of racial and ethnic minority concentration are defined as geographic areas where the percentage of a specific minority or ethnic group is 10 percentage points higher than in the jurisdiction overall, as of the 2020 Census. In Kent County the following Census tracts are identified as having concentrations of Black or African American residents, 402.03, 402.04, 402.05, 402.06, 405.01, 405.02, 410, 412, 415, and 418.02. Kent County also has one Census tract having a concentration of Hispanic residents: 425. In Sussex County, the following Census tracts have concentrations of Black or African American residents: 501.05, 502, 504.05, 504.06, 504.07, 504.08, 505.05 and 518.02. Sussex County also has the following Census tracts having concentrations of Hispanic residents: 503.02, 505.03, 505.06, 514 and 515.01.

G. Program Outcome Performance Measurement

1. On pages 11470 to 11481 of the March 7, 2006, Federal Register, HUD published a “Notice of Outcome Performance Measurement System for Community Planning and Development Formula Grant Programs”. This Notice on Performance Measurement is to be followed in establishing and reporting outcome performance measures for each activity for FY2025. State Recipients are required to provide proposed outcome/objective statements for each activity in their CDBG applications, and actual outcome/objective statements with indicators in their quarterly and closeout reports.

2. Grantee shall provide statistical program data as required by Grantor. Grantor will provide a preformatted Quarterly Report to Grantee to complete and submit to Grantor on a quarterly basis.
  - a. January 1 – March 31 report due no later than April 10
  - b. April 1 – June 30 report due no later than July 10
  - c. July 1 – September 30 report due no later than October 10
  - d. October 1 – December 31 report due no later than January 10
3. Grantee shall have a documented quality control inspection process in place for all repairs (including, but not limited to, before and after photos, even for 3<sup>rd</sup> party sub-contractor work). Grantee shall perform a documented final inspection of all completed repairs, findings and corrections.

#### H. Affirmatively Furthering Fair Housing

1. In addition to typical reporting requirements, in an effort to affirmatively further Fair Housing, DSHA will increase monitoring and require increased reporting relative to Fair Housing issues. Eligible jurisdictions will be required to submit reports (1) detailing addresses of beneficiaries and their membership in protected classes and (2) a narrative report updating DSHA about progress on meeting objectives outlined in the Statewide Fair Housing Plan and other efforts to affirmatively further Fair Housing, such as training, outreach and new programs.

## VI. State Priorities and Set-Asides

The following are the State's priorities and set asides for FY2025 CDBG funding:

#### A. Maintenance of Existing Housing

1. Rehabilitation of substandard residential properties occupied by 100 percent low- and moderate-income households.
  - a. General
    - i. Applicants must submit a list of all residential properties to be rehabilitated, with each property identified as owner- or renter- occupied. However, local governments with current waiting lists containing at least twice the number of applicants than are proposed for assistance may simply submit a certification to that effect, without submitting the normal list of properties to be rehabilitated. Applicants' waiting lists must be updated each year, prior to submission to DSHA. Applicants must provide a picture and an address and directions to each house for the top four rehab applicants on each waiting list. In addition, applicants must contact each of the top four (4) applicants on a rehab waiting list to confirm that they still: are interested in and eligible for CDBG assistance and have eligible rehabilitation needs.

For the FY2025 program year, if eligible rehab applicants are exhausted in targeted areas before funds are exhausted in those areas, excess funds from those areas can be transferred to the scattered site activity of the same program year or other target areas with DSHA approval.

The following must accompany all funding transfer requests:

1. Documentation of current waiting list in initial target area(s); or
2. Statement from the municipality stating no applicants on current waiting list in target area.

No more than two activity funding transfers to scattered site rehabilitation will be approved for any one program year, except for those activities with balances less than \$3,000.

- ii. All residential properties receiving CDBG assistance must be rehabilitated up to the standards of the Delaware State Housing Code or the local equivalent code, except that those properties only receiving assistance under a funded Emergency Home Repair activity under Section VI.A.1.g. do not need to be brought completely up to code at the time the emergency repair is completed. All CDBG applicants must include a clause in their rehabilitation contracts, which enables them to rescind the contract in the event it is determined during the course of construction that the proposed rehabilitation is not feasible due to unforeseen conditions not known at the time the contract was executed. The limit of CDBG funds that may be expended per dwelling unit for rehabilitation of owner-occupied stick-built or modular housing is \$50,000 (see Attachment “F” to these Program Guidelines for factory-built housing definitions). Owner-occupied stick-built or modular units on a permanent foundation requiring more than \$40,000 in rehabilitation assistance must provide proof of compliance with the Substantial Reconstruction requirements in Section III.A.6. of these Program Guidelines as well as notifying DSHA prior to commencement. Any rehabilitation over \$40,000 will require a grant restriction agreement of a minimum of 15-years.
  1. All applicants requesting CDBG rehabilitation assistance must have adopted and be enforcing a housing code equivalent to or more restrictive than the Delaware State Housing Code. (Municipalities may be under contract for the enforcement of the code by county government.) The CDBG State Recipient must certify that the property is up to housing code standards when rehabilitation is completed.
  2. The CDBG housing rehabilitation program is a deferred loan program. The loan interest rate is 0%. The deferred loans can be reduced on a pro-rata basis over the time period for the lien. At the end of the loan term, the total amount of the loan would then be forgiven and satisfied.

a. A lien in the amount of the rehabilitation costs must be placed against all properties receiving CDBG rehabilitation assistance, except that: no lien will be required to be placed on properties receiving less than \$5,000 in CDBG only rehabilitation assistance for water/sewer hookups, meter installations, and emergency repairs. Properties receiving rehabilitation assistance funded in whole or in part with HOME funds will have a lien placed regardless of amount.

b. Except as noted above, terms for CDBG Rehabilitation Assistance:

For all homeowners regardless of age:

Under \$15,000	5 Years
\$15,000 to \$40,000	10 Years
>\$40,000	15 Years & Grant Restriction Agreement

c. Deferred loans may be recorded in second position behind the homeowners' first mortgage, if required. Pro-rata payback of a CDBG-deferred loan to the State Recipient is required when the property is sold or transferred, except the lien may continue on the property without repayment when the property is sold or transferred to a low/moderate-income household.

The applicant must have adopted a rehabilitation manual containing all forms and procedures to be used, including procedures for coordinating with similar rehabilitation programs and an executed Programmatic Agreement (PA) with the National Advisory Council and State Historic Preservation Office.

3. Applicants may use up to 50 percent of their CDBG funds for community-wide rehabilitation. Counties proposing to use their community-wide funds in incorporated communities must obtain a resolution from that community authorizing such rehabilitation to be done.
4. Applicants must use 51 percent of their CDBG funds in designated DSHA-approved target areas. Subject to DSHA approval, where no identifiable smaller target areas exist, the target area requirement may be waived for a particular community.
5. Except in cases of emergency rehabilitation, applicants must certify that units to be rehabilitated will be insured for at least the amount and period of the rehab loan.
6. Local officials shall determine the suitability of providing rehabilitation

assistance to any given residential property.

7. Applicants are encouraged to support the Statewide initiative to hire minority-, veteran- or women-owned businesses. The company must be (a) 51 percent owned by minority, Veteran and/or woman or (b) 51 percent managed by minority group, service-disabled veteran/veteran and/or woman and (c) certified as a MVWBE (or home state equivalent) in home state of business as for-profit business. For further information please refer to <http://gss.omb.delaware.gov/osd/index.shtml>.
- b. Lead-Based Paint: This Section applies to activities renovating or rehabilitating housing units occupied by 100 percent low- and moderate-income households constructed prior to January 1, 1978, receiving Federally funded project-based assistance.
    - i. Grantees shall follow the lead-based paint regulations found at 24 CFR part 35 Lead-Based Paint Poisoning Prevention in Certain Residential Structures.
    - ii. In cases where evaluation or hazard reduction or both are undertaken, the State Recipient shall provide a notice to occupants in accordance with Section 35.125.
    - iii. State Recipient s must provide a lead hazard information pamphlet to all families receiving assistance living in pre-1978 housing and obtain a signed acknowledgment from occupants that they have received the pamphlet.
    - iv. Lead-based paint inspection, risk assessments, testing, hazard reduction and abatement and treatment are eligible expenses.
    - v. Inspection/risk assessment/testing reports must be kept by the State Recipient for a period of three years.
    - vi. The State Recipient must conduct paint testing or presume the presence of lead-based paint, in accordance with Section 35.930.
    - vii. CDBG administration funds may be used for rehabilitation State Recipient lead-based paint certification training. No matching funds are required for administrative funds used for CDBG State Recipient lead-based paint certification training.
  - c. Rental Rehabilitation of housing units occupied by 100 percent low- and moderate-income households.
    - i. A maximum of \$15,000 per unit may be provided for CDBG rental rehabilitation.
    - ii. CDBG rental rehabilitation loans will be financed at 3 percent amortized over a period of 10 years and will not be deferred.
    - iii. Only 75 percent of the rehabilitation cost may be financed by CDBG funds. The remaining 25 percent must be financed through private funds.

- iv. The servicing of 3 percent CDBG rental rehabilitation loans shall be handled by DSHA through an agreement with a private servicing agent. The costs to DSHA of providing servicing will be reimbursed from principal and interest payments made by the owner to the State Recipient. All principal and interest for rental rehabilitation loans shall be repaid on a regular monthly schedule after completion of the work.
  - v. All rental units financed with CDBG funds must be occupied by low- and moderate-income persons at affordable rents throughout the duration of the loan agreement. Affordable rents are defined as Fair Market Rents (FMR) published periodically by the Federal HUD Section 8 Existing requirements. See Attachment D to these Program Guidelines for the most recent figures dated 10/01/24.
  - vi. All CDBG rental rehabilitation must utilize the forms and procedures contained in Delaware CDBG Rental Rehabilitation Procedures.
- d. The rehabilitation of manufactured housing occupied by 100 percent low- and moderate-income households shall utilize the same rehabilitation procedures as other housing, except that the following additional requirements apply (see Attachment “F” to these Program Guidelines):
- i. There shall be a limit of \$30,000 per manufactured home rehabilitated on rental lots. There shall be a limit of \$30,000 per manufactured home rehabilitated where the owner owns both the manufactured home and the lot it is situated on;
  - ii. The CDBG State Recipient must certify that the property will have at least 10 years of habitable life after rehabilitation is completed;
  - iii. The CDBG State Recipient must obtain documentation that the manufactured home is in place and installed in accordance with local environmental, zoning and housing/building code requirements, prior to starting work on the property;
  - iv. For manufactured housing where the owner owns both the manufactured home and the lot it is situated on, the unit must have a permanent foundation in order to be eligible for rehabilitation funds. If no permanent foundation exists, then the total rehabilitation contract specifications for a unit must include the installation of the foundation. For manufactured housing situated on rental lots, the permanent foundation requirement does not apply; and
  - v. For manufactured housing where the owner owns both the manufactured home and the lot it is situated on, and where the manufactured housing unit is beyond economical repair, the CDBG State Recipient receiving HOME rehabilitation funds may only use HOME rehabilitation funds to replace the unit with a manufactured housing unit not more than 20 years old. There shall be a limit of \$30,000 per manufactured home replacement. All manufactured housing to be replaced must have been condemned by the applicant's code enforcement official, and the replacement unit must meet the standards of the Delaware State Housing Code or

the local housing code. A ten-year lien must be placed against all properties where manufactured housing is replaced with HOME funds. For manufactured housing situated on rental lots, the replacement option does not apply.

- e. Water and/or sewer hookup of 100 percent low- and moderate-income households shall utilize the same rehabilitation procedures as other housing rehabilitations, including the documentation of low- and moderate-income household according to the definition provided in Section IV.B, above.
- f. Energy Efficiency: This Section applies to activities renovating or rehabilitating housing units occupied by 100 percent low- and moderate-income households. To the maximum extent feasible and cost-effective, State Recipients' work write-ups and specifications for rehab work necessary to bring the dwelling unit up to housing code standards shall require ENERGY STAR qualified products and procedures. State Recipients shall utilize the Energy Star website directly at: <http://www.energystar.gov/homeadvisor> to determine the recommended energy-efficient specifications for rehabilitation and remodeling. The recommendations on these websites shall be followed for all required work and materials, including, but not limited to: windows, heating and air conditioning systems (in cases of documented medical necessity in regards to air conditioning), ventilation, insulation, air sealing, water heaters, light fixtures, lighting, and doors. The CDBG State Recipient shall also coordinate its housing rehabilitation waiting lists, to the extent feasible, with the Delaware Weatherization Assistance Program waiting list, and the waiting lists of all other agencies that offer emergency home repair programs.
- g. Emergency Home Repair of residential properties owned and occupied by 100 percent low- and moderate-income households. CDBG applicants may apply for a separate Emergency Home Repair category of housing rehabilitation funds to address an emergency condition threatening the health or safety of an owner-occupied household's occupants. Emergency Home Repair is separate from emergency rehabilitation under Section VI.C.2. of these program guidelines. Repairs that generally qualify as emergency home repair include heating, plumbing, electrical, roofing, and structural problems. Air conditioning systems will qualify in cases of documented medical necessity.
  - i. An emergency is defined as an unexpected occurrence or combination of events calling for immediate action. Unsafe electrical wiring, a non-working heater in winter, or structural conditions that are a major defect or are life-threatening and considered unsafe are examples of true emergencies.
  - ii. A minimum of \$500 and maximum of **\$10,000** may be provided per home in CDBG emergency home repair assistance.
  - iii. Homeowners must meet all eligibility requirements to participate in the program.
  - iv. A five-year lien must be placed against all properties receiving \$5,000 or more in CDBG emergency home repair funds.

- v. Grantee shall maintain an emergency repair database and other software to administer the program, maintain client files, and other documentation needed for submission to and monitoring from Grantor. See Attachment “E” to these program guidelines for Grantee’s reference prior to DSHA compliance monitoring visits.
- h. Housing code enforcement in areas of slum and blight (as defined in state regulations) or which benefit an area of at least 51 percent low- and moderate-income persons. (Also note Section V.F.2.d.)
- i. Applicants proposing housing code enforcement activities must certify that they will maintain during the period of the CDBG contract, in addition to their expenditures for carrying out any program assisted with CDBG funds, a level of expenditures for code enforcement activities at not less than their normal expenditures for such activities in the year prior to the execution of the CDBG Contract.
  - ii. Applicants requesting CDBG assistance for code enforcement must have adopted and be enforcing a housing code equivalent to the Delaware State Housing Code.
- i. Demolition of substandard structures in areas of slum and blight (as defined in state regulations) or which benefit 51 percent low- and moderate-income persons on an area or spot basis. Applicants for demolition funds may use up to 50 percent of such funds for community-wide demolition.
- i. All structures to be demolished must have been condemned by the applicant's code enforcement official. Applicants requesting CDBG assistance for demolition must have adopted and be enforcing a housing code equivalent to the Delaware State Housing Code.
  - ii. Demolitions to be accomplished with the voluntary consent of the owner and at the discretion of the community, must be in the form of a permanent 0 percent deferred loan, that is not forgivable, unless new housing constructed on the property becomes exclusively: 1) owned and occupied as the principal residence(s) of low/moderate-income household(s); or, 2) rented by low/moderate-income household(s) for a period of at least ten years.
  - iii. For non-voluntary demolitions, the governing body of the applicant must provide evidence that it has exhausted other available legal procedures to secure remedial action by the owner of the structure(s) involved, that demolition action is required, and that it has the legal authority to demolish the structure(s).
  - iv. The applicant requesting CDBG assistance for non-voluntary demolitions must agree to place a tax lien on the property so that monies expended for razing, demolition, and removal of eligible structures or part(s) thereof, may be collected in the same manner as other real estate taxes. All such monies recovered shall be deemed to be program income.



- v. Demolition liens, whether in the form of a 0 percent deferred loan, or a real estate tax lien, may be subordinated to a new mortgage on the property if the property is sold or transferred for the purpose of low/moderate-income housing. The lien will then continue in the original form until such time as the property is converted to a use other than for the purpose of low/moderate-income housing, at which time the lien will be required to be repaid; or, until such time as the property is actually used to house low/mod-income household(s) as described in Section VI.A.1.i.ii., above, at which time the lien will be forgiven.
- j. Construction or rehabilitation of emergency/transitional/permanent supportive housing serving of at least 51 percent low- and moderate-income limited clientele.
- i. Applicant must provide evidence that the construction or rehabilitation will benefit at least 51 percent low- and moderate-income persons. This evidence must demonstrate that at least 51 percent of daily normal users of the facility are principally low- and moderate-income persons.
  - ii. Applicant must certify that it will not charge any fees for accessing such assisted facilities so as to have the effect of precluding low- and moderate-income persons from obtaining said access.
  - iii. All CDBG applicants must certify that they will comply with the labor standards as set forth in 24 CFR 570.603; HUD regulations at 24 CFR 607 and 609; and the Delaware CDBG Labor Standards Handbook.
  - iv. No such activities will be funded unless additional funding has been secured for the provision of services which are complementary to the programmatic purpose of the activity.
  - v. The applicant must certify that it will obtain all necessary permits and will comply with all federal, state, and local standards and regulations that pertain to the type of activity requested such as building codes, insurance, and the State architectural accessibility standards prescribed by the State of Delaware Architectural Accessibility Board.
  - vi. If the facilities to be assisted are publicly owned, the facilities must be nonresidential buildings which are not used for the general conduct of government such as "city halls, county administration buildings, state capitol or office buildings, or other facilities in which the legislative or general administrative affairs of government are conducted." (Section 102 (a)(21) of the Act); and which meet the requirements of 24 CFR 570.200 (5)(b).
  - vii. If the facilities to be assisted are privately owned by a nonprofit organization, the organization must meet the requirements of 24 CFR 570.204 (c)(1) and be operated so as to be open for use by the general public during all normal hours of operation and otherwise meet the requirements of 24 CFR 570.200 (5)(b).

- viii. The applicant must comply with all restrictions and limitations regarding the use of CDBG funds by nonprofit organizations which are church related found at 24 CFR 570.200(j).
- k. Relocation assistance as required under the Uniform Relocation Act, Delaware Code, and 24 CFR 570.
- l. Substantial reconstruction of housing occupied by 100 percent low- and moderate-income households.

A unit of general local government may use CDBG funds to reconstruct residential structures (i.e. rebuild the structure on the same site) having a low- and moderate-income owner/occupant and consisting of one dwelling unit if either:

- i. The need for the reconstruction was not determinable until after rehabilitation on the structure had already commenced; or
- ii. The housing that is being reconstructed is part of a neighborhood rehabilitation effort in which the unit of general local government is carrying out or proposes to carry out housing rehabilitation activities, and the housing to be reconstructed would otherwise be a part of the housing rehabilitation in that neighborhood; and the unit of general government determines:
  - 1. That the housing to be reconstructed is unsuitable for rehabilitation based upon severe structural deficiencies and an estimated cost of rehabilitation of more than \$40,000;
  - 2. The estimated cost of reconstruction is at least 20 percent less than the estimated cost of purchasing comparable newly constructed housing (including land) located in that neighborhood or in a comparable neighborhood of the unit of general local government; and
  - 3. The estimated cost of the reconstruction is less than the fair market value of the reconstructed housing and land based on an appraisal obtained before reconstruction.
  - 4. The unit of general local government shall document the basis for each of the determinations noted above.
- m. Provision of housing-related services in conjunction with activities noted above. Such housing-related services could include: training in housekeeping, fair housing and homeownership counseling, and other housing-related services not provided by other social service agencies, but that support the programmatic purpose of the activities noted above.

- n. Set-aside: 60-90 percent of CDBG funds available for allocation to activities, excluding administrative costs. The final percentage of CDBG funds allocated for the Existing Housing set aside will be dependent upon the quality and type of applications received in FY2025.

B. Infrastructure benefiting at least 51 percent low- and moderate-income persons.

- 1. The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver. (See "Attachment G" to these Program Guidelines).

The following activities in support of this State priority for low- and moderate-income persons are eligible:

- a. Architectural/engineering studies for infrastructure directly related to housing development, including feasibility studies, site tests and soil borings;
- b. Preparation of grant applications to other grantor agencies;
- c. Acquisition of land for new housing development, in accordance with the requirements of the Uniform Relocation Act of Delaware Code;
- d. Clearance and site preparation for new housing development for low- and moderate-income persons;
- e. Installation or improvement of infrastructure benefiting service areas of at least 51 percent low- and moderate-income persons, including: water, sewer, streets, sidewalks;
- f. Planning studies, including comprehensive plans, and zoning ordinances, which clearly by their intent and design, encourage the provision of affordable housing for low- and moderate-income persons;
- g. Neighborhood facilities activities regarding the rehabilitation or installation of recreational facilities, parks and playgrounds owned and operated by non-profits that are open to the general public. The public facility activity must benefit all residents of an area where at least 51% of the residents are LMI, as evidenced by documentation and data concerning beneficiary family size and income. The operating costs, maintenance and repair of this activity are considered ineligible and;
- h. Homeless facilities activities are considered a public facility activity for the rehabilitation of temporary shelters for the homeless, including victims of domestic violence, dating violence, sexual assault, or stalking. The populations served by these facilities are populations that are presumed to be LMI persons or families. The operating costs,

maintenance and any future repairs of this activity are considered ineligible.

- i. For items a-h as applicable above:
- j. The applicant must provide evidence that it will provide a minimum cash or in-kind match for each activity, as described below. Cash matches may be provided through other sources of funding for the same activity;

Infrastructure Match Requirements

<u>Total Activity Cost</u>	<u>Cash Match</u>	<u>or In-Kind Match</u>
Up to \$100,000	10% of Activity	15% of Activity
\$100,000+ to \$199,999	15% of Activity	20% of Activity
\$200,000+	20% of Activity	25% of Activity

- i. Applicant must provide evidence that at least 51 percent of the persons benefited by the activity are in fact low- and moderate-income persons;
  - ii. Applicant must certify that there will be no special assessment against properties owned by low- and moderate-income persons to recover that portion of a capital expenditure funded with CDBG funds. The term special assessment is defined to mean a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public facility improvement, such as streets, curbs, and gutters. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefiting properties;
  - iii. Applicant must certify that they will comply with the labor standards as set forth in 24 CFR 570.603; HUD regulations at 24 CFR 607 and 609; and the Delaware CDBG Labor Standards Handbook; and
  - iv. Applicant must certify that they will obtain all necessary permits and will comply with all federal, state, and local standards and regulations that pertain to the type of activity requested.
- k. Set-aside: 10-40 percent of CDBG funds available for allocation to activities, excluding administrative costs. The final percentage of CDBG funds allocated for the Infrastructure for Housing Development and Maintenance set-aside will be dependent upon the quality and type of applications received in FY25.
- C. Emergency activities (water, sewer, housing rehabilitation and demolition), which have a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community and other financial resources are not available to meet such needs.
- 1. For emergency water and sewer activities:
    - a. Applicant must certify that there will be no special assessment against properties owned by low- and moderate-income persons to recover that portion of a capital expenditure funded with CDBG funds;

- b. The nature, degree of serious and immediate threat must be documented by letters from appropriate agencies such as the State Division of Public Health, DNREC, State/local fire officials, etc.;
  - c. The serious and immediate threat must be of recent origin or recently became urgent, that is, the condition developed or became critical within 18 months of a certification that must be made by the applicant in its application;
  - d. Applicant must certify and document that it is unable to finance the construction of these facilities without CDBG funds. Such documentation shall include: (a) if appropriate, letters from other grantor agencies such as the Department of Natural Resources and Environmental Control, Department of Transportation, Division of Public Health, etc., confirming that funds were not available; (b) appropriate financial statements showing the lack of local funds; and (c) a financial analysis of why the activity is not feasible through use of other methods of local funding such as the proceeds of general obligation bonds, special assessments, etc.;
  - e. All CDBG applicants must certify that they will comply with the labor standards as set forth in 24 CFR 570.603; HUD regulations at 24 CFR 607 and 609; and the Delaware CDBG Labor Standards Handbook; and
  - f. The applicant must certify that it will obtain all necessary permits and will comply with all federal, State and local standards and regulations that pertain to the type of activity requested.
2. For emergency rehabilitation and demolition:
- a. Required as a direct result of a natural disaster, such as a tornado, flood, hurricane, or similar catastrophe;
  - b. State has made a formal request to the Federal Emergency Management Agency for preliminary damage assessment and/or for which federal disaster assistance has been officially sought by the State;
  - c. At the discretion of the DSHA Director, rehabilitation assistance may be provided to persons not of low/moderate income when the need for such assistance is clearly documented;
  - d. Emergency rehabilitation and demolition activities will only be provided to cover losses not covered by insurance; and
  - e. Both emergency rehabilitation and demolition assistance will utilize the same liens and contracts as used for regular rehabilitation and demolition programs.
3. Set-aside: 0-7 percent of CDBG funds available for allocation to activities, excluding administrative costs. The final percentage of CDBG funds allocated for the emergency activities set aside will be dependent upon the quality and type of applications received in FY25.

## D. Administration

### 1. Administrative Funds

Administration funds will be available to draw on a quarterly basis. With each administration drawdown request, State Recipient will submit a Construction Progress Summary Report of current program activities. DSHA will approve quarterly drawdown admin requests based upon the progress, but DSHA reserves the right to recapture and/or suspend any administration drawdown requests.

Rehabilitation Program Delivery funds are to be used to fund the CDBG portion of Rehabilitation Specialists' salaries of State Recipient. Rehabilitation Program Delivery funds will be drawn in proportion based on the reimbursement requests of CDBG Program costs.

### 2. Matching Requirements

These local funds may be drawn from local operating appropriations, nonprofit organization funds, proceeds of general obligation revenue bonds or other funds expended for the same purpose as the CDBG funds are expended. Any costs incurred by the applicant for activities that directly benefit the CDBG activity and meet the requirements of 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

However, these funds must be spent in the same consecutive twelve-month period as the CDBG funds. For the purpose of this match requirement an applicant is considered to be: (a) a county's application for its unincorporated areas; (b) incorporated areas applying on their own; or (c) incorporated areas under a county's application.

### 3. Administrative Costs Limits

Administrative costs allowable to participating units of general local government under the CDBG Program shall be governed by the matching requirement in Paragraph 2. above, the contract budget and by the federal requirement that the State and its CDBG State Recipients are limited to an aggregate amount of administrative costs that represent twenty percent of the State's total grant from HUD in any given federal fiscal year. It should be noted that the total amount of CDBG funds available for administration in FY25 may be less than the amount currently allocated, depending upon the number and quality of applications received, and the amount of funding allocated by HUD. Applications shall provide the salaries of all program administration personnel to be funded through CDBG funds. DSHA may separate rehabilitation specialists' salaries from general administration costs and allocate funding for those salaries as rehabilitation program delivery costs.

### 4. Draw Process

State Recipient shall follow DSHA's draw process as required. Payment for program expenses will be submitted as reimbursement of CDBG eligible expenses. All reimbursement requests must be accompanied by invoice and proof of payment. All drawdown documentation must be acceptable to DSHA prior to reimbursement.

Draw submissions must be for the reimbursement of eligible costs associated with this Grant and at no time will Grantor release funding for costs not already incurred and paid for by the State Recipient.

#### 5. Separation of Program

Grantee will be required to separate the CDBG program from all other Grantee programs and will account and report separately all income and expenses in the financial and recordkeeping system, including the audited financial statements.

## VII. Application Submission

### A. Submission Date

Applications for the State's FY2025 CDBG Program must be received in the DSHA office **on thumb drive** at 18 The Green, Dover, Delaware 19901, no later than 4:00 p.m. on **April 2, 2025**. Applications for emergency activities and infrastructure for housing development will be considered at any time during the program year, subject to the following conditions: sufficient unallocated CDBG funds must be available to fund the activity(ies); assuming the availability of CDBG funds, a review panel will be convened to evaluate such proposals as well as those activities which were not originally recommended for full funding; and the need for CDBG funds must have arisen after the application deadline and be required for immediate use.

### B. Application Content and Format

1. The following application documents may be accessed at:

<https://www.destatehousing.com/build/community-benefit/>

- CDBG NOFA and Program/Application Guidelines
- CDBG Application and submission instructions

2. The CDBG application submission process is now a paperless process. Applicants are required to submit their applications via thumb drive at 18 The Green, Dover, DE 19901. Hardcopy applications will not be considered for funding.

3. Applications for CDBG funds must be made on such forms and in accordance with such instructions as are prescribed by DSHA and include all forms and questionnaires as may be applicable to the specific proposed activity.

### C. Documentation and Certifications

Application for CDBG funds must include all such documentation and certifications as may be prescribed in these Program Guidelines and in the application, instructions prescribed by DSHA.

#### D. Program Performance Period

All applications for 2025 funds shall be to finance CDBG eligible activities that shall be initiated after July 1, 2025, and completed no later than June 30, 2027.

State Recipients shall be limited to only four (4) open grants at a time under DSHA's CDBG program (e.g. FY22, FY23, FY24, and FY25). No additional applications will be considered for funding from applicants with four (4) open CDBG grants. DSHA may, at its sole discretion, waive this limit.

## VIII. Application Review

#### A. DSHA Staff

1. DSHA staff will review all applications for completeness and to determine whether the applications meet the minimum threshold requirements for all applications.
2. If the assessment by DSHA staff indicates that an application fails to meet any of the applicable threshold requirements, and the applicant has not provided the requested information to make the application complete, DSHA staff will prepare a report on each such application and submit it to the Director of DSHA. If the Director of DSHA agrees with the assessment by DSHA staff, the application will be considered unresponsive. Such applications will not be forwarded to the review panel(s) referred to below but will be returned to the applicant with a reason for the rejection. Any application that has been assessed as unresponsive shall be precluded from any further consideration in the FY25 CDBG Program.
3. It is essential that the amount of CDBG funds requested in each application be reflected in a budget which is both reasonable and realistic, and which conforms with all the requirements for such budgets contained in these Program Guidelines and the instructions for CDBG applications. Because of this, DSHA staff may, after determining that an application has met all the applicable threshold requirements, enter into direct negotiations with an applicant to reach agreement on any budgetary modifications that should be made before the application is presented to the review panel(s) that will evaluate the proposal(s).
4. The DSHA staff shall provide the review panel(s) with a separate staff report on each application that will at a minimum include the following:
  - a. Certification that the application/applicant has met all applicable threshold requirements, including evaluation of low- and moderate-income benefit;
  - b. Certification that the proposed budget represents a realistic/reasonable budget which conforms to all applicable instructions and policies;
  - c. The conformance of the proposed activities to the goals and objectives of the Delaware Consolidated Plan; and
  - d. An evaluation of the applicant's capacity, and past performance under the CDBG Program.



B. Review Panel(s)

1. The review panel(s), composed of persons with the appropriate background and experience, shall evaluate each proposed activity, based upon the following criteria. A maximum total of 100 points may be received by an application.

a. Low- and Moderate-Income Benefit (Provided by DSHA staff): Applications showing a greater benefit to low- and moderate-income persons for similar activities will be rated higher than those showing a lesser benefit to low- and moderate-income persons. Up to 25 points as follows:

- (1) 90-100% L/M = 25
- (2) 80-89% L/M = 20
- (3) 70-79% L/M = 15
- (4) 60-69% L/M = 10
- (5) 51-59% L/M = 5
- (6) 0 -50% L/M = 0

b. Management Capacity (provided by DSHA staff): Each applicant's management capacity for each of the activities proposed will be evaluated on the basis of the most recent monitoring report(s), current or proposed staff qualifications, progress achieved in completing its current CDBG Program (if applicable), and most recent audit report(s) (if applicable). Up to 5 points as follows:

- (1) outstanding = 5
- (2) above standard = 3
- (3) standard = 1
- (4) below standard = 0 (no allocation)

c. Cost/benefit of Activity: Each proposed activity will be evaluated on the basis of the following factors. Up to 70 points as follows:

(1) severity of need, including the number, percent, and geographic concentration of low/moderate-income families; number, percent and geographic concentration of substandard housing; number, percent and geographic concentration of housing needing public facilities; health and/or safety conditions; emergency status:

<u>Points</u>	<u>Need</u>
1	not documented
8	moderate
15	severe

(2) holistic impact of activity, meaning, the degree (percentage, from Section IX. B. and C. of application) to which the identified need(s) for the activity(ies) is/are proposed to be addressed:

<u>Points</u>	<u>Impact</u>
1	low
8	moderate
15	high

(3) cost reasonableness, meaning, the reasonableness of the proposed program activity costs taking into account construction estimates and the availability of other resources:

<u>Points</u>	<u>Cost/Reasonableness</u>
1	low
8	moderate
15	high

(4) leveraging of other resources, meaning extent to which other firm, committed funding sources are identified:

<u>Points</u>	<u>Other Resources</u>
1	minimal or no match
8	moderate match
15	significant match

(5) suitability/feasibility of work plan, meaning the extent to which the applicants proposed scope of work will realistically be accomplished within the next fiscal year:

<u>Points</u>	<u>Plan Feasibility</u>
1	poor
3	fair
5	good

d. Targeting Areas of Minority Concentration: Applications showing a greater benefit to areas of minority concentration (see Section V.F.2.g.) for similar activities will be rated higher than those showing a lesser benefit to areas of minority concentration. Up to 5 points as follows:

<u>Points</u>	<u>Minority Targeting</u>
1	poor
3	fair
5	good

1. Review Panel Recommendations

DSHA staff will prepare a summary evaluation of all applications received, which will include the scores for each proposed activity as described in V.B. above, and a descriptive summary of the review panel's comments and recommended priorities for funding.

Please note that applicants will no longer present supplemental information to the Review Panel.

### C. Director of DSHA

The Director of DSHA will make the final decisions on allocating CDBG funds, based upon the review panel(s) recommendations and any additional relevant information obtained subsequent to those recommendations. Such additional information will only be considered if it reflects a substantive change in the application review criteria noted in Section VIII.B.1. above.

### D. Allocations

Allocations to specific activities will be based on approved contract budgets. The maximum allocation for any single applicant shall not exceed \$1,200,000 in any program year. Applicants should be aware that a total of approximately \$2,500,000 is expected to be available for program activities. An allocation exceeding \$600,000 would need to be extremely competitive.

## IX. Additional Funding

### A. Program Income Returned to Unit of Local Government

1. The use of program income is subject to all the applicable requirements of federal law, HUD regulations and program memoranda, and the general requirement of these Program Guidelines, which are consistent with said law, regulations, and program memoranda. Additionally, the specific requirements for Program Income as are contained in the State's Financial Handbook shall also apply.
2. Program income retained by the unit of local government will:
  - a. be added to the current Scattered Site Rehabilitation activity in the next State Recipient draw;
  - b. not be used to pay administration or program delivery costs;
  - c. be reported to the Delaware State Housing Authority to be receipted and drawn down in the next State Recipient draw; and
  - d. be expended before additional funds are drawn down from DSHA for the same activity.
3. Program income not authorized for retention and expenditure by the unit of local government will be returned to the State.

## B. Program Income Returned to the State of Delaware

Section 104(i) of the Housing and Community Development Act of 1974, as amended by the Housing and Community Development Act of 1992, authorizes States to distribute program income when such income has been returned to the State. Program income returned to the State shall be disbursed to communities under open CDBG Contracts prior to making additional draws from the U.S. Treasury. The funds thus freed up shall be allocated in accordance with Section IX.D. below.

NOTE: Program income generated by CDBG rental rehabilitation loan repayments is considered program income of the unit of local government, even though such repayments are made directly back to DSHA through its loan servicing agreement. All such program income will be distributed to the appropriate unit of local government in accordance with the provisions of Section IX.A. above.

## C. Reallocated/Supplementary Funds

Reallocated funds are those HUD has recaptured from a Small Cities State Recipient and "reallocated" to Delaware. If Delaware should receive any "reallocated funds" from HUD for distribution as part of the FY25 CDBG Program, these funds shall be allocated in the same manner and under the same conditions as described in Section IX.D. below. Supplementary funds are those funds that HUD may award to the State after July 1, 2025, and shall also be allocated in the same manner and under the same conditions as described in Section IX.D. below.

## D. Recaptured/Remaining Funds

1. Recaptured funds are those CDBG funds which remain unobligated after a CDBG contract has either been closed out or terminated; or after it has been determined that the total amount of CDBG funds originally allocated in a given contract are not required to complete the proposed activity for which they are allocated.

Remaining funds are funds for which a method of distribution was contained in a prior year's Program Guidelines, but which have not been, and are no longer intended to be, distributed. Remaining funds may also be an amount left over after the state has awarded all of its contracts, but the left-over amount is too small to fund an application.

2. Recaptured/remaining funds received from its grantees, shall be included as part of the FY25 allocations in accordance with all applicable requirements of these Program Guidelines.
3. Recaptured/remaining funds received from its grantees after June 30, 2025, shall be set aside for the following purposes:
  - a. To provide additional funding for any activity already under contract so long as the total amount of funds allocated does not exceed the \$1,200,000 maximum allocation for any single applicant; in those cases where an unforeseen situation may have arisen after the original contract budget had been approved (the burden of proof will rest with the applicant); or when the activity has not been funded in the total amount originally requested;

- b. At the discretion of the Director of DSHA, eligible applications not originally recommended for funding because of limited resources may be reconsidered for funding after approved activities noted in (a) above have been funded; and
- c. The priorities for distributing funds under this part shall be in accordance with the state's method of distribution found in Section VIII and IX.

## **X. Waivers of Policy**

The Director of DSHA may waive any requirement of these Policies not required by federal/state law or federal regulation, whenever it is determined that undue hardship will result from applying the requirement or where application of the requirement would adversely affect the purposes of the Delaware CDBG Program. Waivers shall be made in writing, citing the policy provision to be waived, the authority for the waiver, and be supported by documentation of the pertinent facts. Where only a portion of the policy provision is to be waived, the waiver must expressly limit itself to that portion.

## Attachment A – Revised Income Limits

(EFFECTIVE 5/1/24)

# of Person per house	<u>Kent County</u>				<u>Sussex County</u>			
	30% of Median	50% of Median	60% of Median	80% of Median	30% of Median	50% of Median	60% of Median	80% of Median
1	\$18,900	\$31,450	\$37,740	\$50,300	\$20,550	\$34,200	\$41,040	\$54,750
2	\$21,600	\$35,950	\$43,140	\$57,500	\$23,450	\$39,100	\$46,920	\$62,550
3	\$24,300	\$40,450	\$48,540	\$64,700	\$26,400	\$44,000	\$52,800	\$70,350
4	\$26,950	\$44,900	\$53,880	\$71,850	\$29,300	\$48,850	\$58,620	\$78,150
5	\$29,150	\$48,500	\$58,200	\$77,600	\$31,650	\$52,800	\$63,360	\$84,450
6	\$31,300	\$52,100	\$62,520	\$83,350	\$34,000	\$56,700	\$68,040	\$90,700
7	\$33,450	\$55,700	\$66,840	\$89,100	\$36,350	\$60,600	\$72,720	\$96,950
8	\$35,600	\$59,300	\$71,160	\$94,850	\$38,700	\$64,500	\$77,400	\$103,200

Higher income limits apply to families with more than eight persons, although they are not included in the printed State lists because of space limitations. The lower income limits for families larger than eight persons are determined by adding 6.25 percent of the four-person income limit base to the eight-person limit for each person in excess of eight. For very low-income limits, 8 percent of the four-person base is added to the eight-person limit for each person in excess of eight (e.g., the nine-person very low limit equals 1.4 (1.32 + .08) times the four-person limit.) The limits developed by the use of these factors are to be rounded to the nearest \$50.

## Attachment B – Low/Moderate-Income Benefit Figures

### LIST OF LOW/MODERATE-INCOME BENEFIT FIGURES IN KENT AND SUSSEX MUNICIPALITIES (ACS 5-Year 2016-2020 Low- and Moderate-Income Summary Data)

<u>Place Number</u>	<u>City / Town</u>	<u>% Persons Low/Mod</u>	<u>Place Number</u>	<u>City / Town</u>	<u>% Persons Low/Mod</u>
07250	Bowers	38.7%	60290	Rehoboth B.	27.0%
10760	Camden	24.6%	64320	Seaford	56.5%
14660	Cheswold	47.2%	64840	Selbyville	37.5%
15440	Clayton	24.0%	67050	Slaughter B.	26.7%
21387	DAFB Housing	48.6%	67700	S. Bethany	12.5%
25840	Farmington	45.9%			
26620	Felton	34.9%			
28440	Frederica	59.5%			
33120	Harrington	45.9%			
33250	Hartly	9.1%			
36760	Houston	41.1%			
39100	Kenton	68.8%			
41700	Leipsic	71.4%			
42870	Little Creek	56.9%			
44430	Magnolia	31.6%			
47420	Milford	60.9%			
67310	Smyrna	37.2%			
74330	Viola	11.4%			
80830	Woodside	43.9%			
81350	Wyoming	40.4%			
05690	Bethany Beach	20.0%			
05820	Bethel	37.0%			
06730	Blades	56.9%			
08680	Bridgeville	62.7%			
18950	Dagsboro	43.4%			
20380	Delmar	69.4%			
20900	Dewey Beach	25.0%			
24020	Ellendale	63.3%			
26880	Fenwick Island	22.5%			
28310	Frankford	54.2%			
29090	Georgetown	71.1%			
31560	Greenwood	46.2%			
33900	Henlopen Acres	18.9%			
41310	Laurel	72.0%			
41830	Lewes	28.5%			
47420	Milford	60.9%			
47940	Millsboro	44.1%			
48200	Millville	34.0%			
48330	Milton	46.1%			
53920	Ocean View	28.7%			

## Attachment C – Certifications by Applicants

The applicant hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements with respect to the acceptance and use of federal funds for this federally-assisted program. Also, the applicant gives assurance and certifies with respect to the program that:

- (a) It possesses legal authority to make an application and to execute a community development program.
- (b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the applicant to submit this application, all understanding and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the submission of the application and to provide such additional information as may be required.
- (c) That prior to submission of its application to DSHA, the applicant has met the following citizen participation requirements:
  - 1) Each applicant shall have provided all citizens, especially those living within the area(s) affected by the proposed application, with adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of its community housing and development plans and all CDBG applications related thereto. At the time of preparation of any application for funds under this program, the applicant shall provide adequate information to citizens including reasonable access to records on the past use of CDBG funds; and hold at least one public meeting (pursuant to advertisement in a publication of general local circulation) so that citizens will have the opportunity to comment on the community's past performance under the CDBG Program. A copy of the legal advertisement announcing the date, place and time of the meeting, and a transcript or summary of the comments received at the meeting must be included with the application. (Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its community development program.);
  - 2) Each applicant certifies that it has obtained the review and comment of its Community Development Advisory Committee as required by the Delaware CDBG Citizen Participation Plan dated July 17, 2017, and Section 508 of the Housing and Community Development Act of 1987; and
  - 3) Each applicant certifies that it has included in its notice of public meeting the following language:

"...In accordance with the Section 106 Review Process established by the National Historic Preservation Act of 1966, as amended, comments are especially encouraged from interested agencies and individuals with respect to undertakings that may affect historic properties of significance to such agencies and individuals..."



- (d) It has developed its application so as to give maximum feasible priority to activities which benefit low- and moderate-income families or aid in the prevention or elimination of slums and blight; and activities which the applicant certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available to meet such needs.
- (e) Its chief executive officer or other officer of the applicant approved by DSHA:
  - (1) Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and other authorities as specified in 24 CFR 58.1 (a)(3) and carry out this responsibility in accordance with the "Overview of Environmental Review Procedures" issued for the Delaware CDBG Program and dated July 1989; and meet the requirements of 24 CFR Part 58 and 24 CFR 570.604; and
  - (2) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official.
- (f) The program will be conducted and administered in compliance with:
  - (1) Title VI of the Civil Rights Act of 1964 (Pub. L 88-352) and implementing regulations issued in 24 CFR Part 1;
  - (2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, and implementing regulations;
  - (3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto (24 CFR Section 570.601);
  - (4) Section 3 of the Housing and Urban Development Act of 1968, as amended and implementing regulations of 24 CFR Part 135;
  - (5) Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations issued at 41 CFR Chapter 60; and the State review requirements of the Architectural Accessibility Act (Chapter 73, Title 29, Delaware Code) and the applicable rules and regulations promulgated by the State Architectural Accessibility Board;
  - (6) Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 CFR Part 107;
  - (7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended and implementing regulations at 24 CFR Part 8;
  - (8) The Age Discrimination Act of 1975 (Pub. L. 94-135) and implementing regulations when published;

- (9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the implementing regulations at 24 CFR Part 42 and all applicable regulations of the Delaware Uniform Relocation Act (Chapter 93, Title 29, Delaware Code);
  - (10) The labor standards requirements as set forth in 24 CFR, Parts 3 and 5, and HUD regulations issued to implement such requirements;
  - (11) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control, and abatement of water pollution;
  - (12) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);
  - (13) The regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, A-87, A-110, A-122, and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program and the Delaware CDBG Financial Management Handbook;
  - (14) Section 106 of the National Historic Preservation Act of 1966, as amended via the Advisory Council on Historic Preservation's Regulations, Protection of Historic and Cultural Properties (36 CFR 80);
  - (15) The provisions of the Hatch Act, which limits the political activity of employees; and
  - (16) The lead-based paint requirements of 24 CFR Part 35, Subpart B issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et. seq.).
- (g) It will comply with the CDBG Regulation CFR 570.611, which prohibits conflicts of interest and with the HUD Standards of Conduct issued on November 1, 1985.
  - (h) No member, officer, or employee of the applicant, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof for work to be performed in connection with the program assisted under the CDBG Program, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification.
  - (i) It will give HUD, DSHA, the State Auditor and the Federal and State Comptroller Generals or any authorized representatives access to all records, books, papers, or documents related to the CDBG Program.

- (j) It certifies to affirmatively further fair housing in accordance with Section 104(b)(2) of the Act as amended and agrees to participate in fair housing planning by cooperating in any analysis to identify impediments to fair housing choice within the jurisdiction, taking appropriate actions to overcome the effects of any impediments identified through that analysis, and to maintain records reflecting the analysis and actions in this regard.
- (k) Because HUD has not issued final regulations implementing the 1983 and 1984 amendments to the Housing and Community Development Act of 1974, as amended, the following "special condition" is incorporated into these Program Guidelines as a certification by the applicant and will also be utilized in all CDBG contracts.

Notwithstanding any other provisions of these Program Guidelines, requirements of the Amendments to Title I of the Housing and Community Development Act of 1974, and HUD's final regulations related thereto, which supersede or are not provided in the FY2025 Program Guidelines shall govern the use of the assistance provided by the State to local government units in FY2025-FY2026.

- (l) It will not attempt to recover any capital costs of public improvements assisted in whole or part with the Title I funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
  - 1) assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than Title I funds; or
  - 2) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income, who are not persons of very low income.
- (m) It certifies to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations in accordance with Section 519 of Public Law 101-44, (the 1990 HUD Appropriations Act).
- (n) It certifies that no CDBG funds will be used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport, or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107-118) shall be considered a public

use for purposes of eminent domain.

- (o) It will not sell, trade, or otherwise transfer all or any such portion of CDBG funds to another entity in exchange for any other funds, credits, or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.
- (p) E.O. 12372 – Special Contract Condition – Notwithstanding any other provision of this agreement, no funds provided under this agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD’s implementing regulations at 24 CFR Part 52. The Recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds provided under this agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.
- (q) CDBG funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the Act unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 – “Guidelines and Objectives for Evaluating Project Costs and Financial Requirements.” (Source – P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title II, Community Development Fund).

## Attachment D – Required Monitoring and Compliance Documents

<input type="checkbox"/>	Homeowner Application for CDBG Funds
<input type="checkbox"/>	Documentation of Property Ownership (e.g. county tax record, deed)
<input type="checkbox"/>	Household Demographics
<input type="checkbox"/>	Income Verification (e.g. employer pay stubs, Social Security)
<input type="checkbox"/>	Draw/disbursement Documentation (e.g. invoices, checks)
<input type="checkbox"/>	Funding Sources and Amount of Funds Received for Projects
<input type="checkbox"/>	Complete Project Bid Package
<input type="checkbox"/>	Relevant Change Orders
<input type="checkbox"/>	Initial, Progress, and Final Inspection Reports
<input type="checkbox"/>	Certification of Rehabilitation to Code
<input type="checkbox"/>	Certification of Lead-based Paint Notices and Clearances as Applicable
<input type="checkbox"/>	Documentation of Tier 1 Environmental Review
<input type="checkbox"/>	Before and After Photos

## Attachment E – Factory-Built Housing Definitions

### FACTORY-BUILT HOUSING DEFINITIONS

There is often misunderstanding about various types of factory-built housing. The three included in these Program Guidelines are:

**Manufactured Home:** A factory-built housing unit designed and constructed to meet the U.S. Department of Housing and Urban Development (HUD) Code. A manufactured home is built on a chassis that supports the structural integrity of the home and to allow transport to the site. Factory built units built to meet the HUD Code and constructed after the code took effect on June 15, 1976 are classified as “manufactured homes”.

**Mobile Home:** A factory-built unit constructed on a chassis and completed before June 15, 1976. Prior to the HUD code, mobile homes were not subject to uniform construction or safety standards.

**Modular Home:** While often built in the same factories, modular homes are built to the same state or local building codes as site-built homes and are always placed on permanent foundations. Homes are assembled in pieces at a factory and towed to the building site where they are assembled to construct the unit. This may be as simple as two rectangular pieces, similar to a multi-section manufactured home, or very complex.

Other types of factory-built housing not addressed here include:

**Trailer:** Trailers are technically recreational vehicles that do not conform to either local building codes or the HUD codes. While still used by many to refer to mobile or manufactured homes, these are not technically trailers.

## Attachment F – Build America, Buy America Act

### **Build America, Buy America Act (“BABA” or “the Act”) the contract holder agrees to the terms under BABA:**

No material produced in whole or in part under this AGREEMENT will be subject to copyright in the United States or in any other country. If this agreement is for services related to a project that is subject to the Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act (“IIJA”), Pub. L. 117-58. Absent an approved waiver, all iron, steel, manufactured products, and construction materials used in this project must be produced in the United States, as further outlined by the Office of Management and Budget’s Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure, April 18, 2022. Such information shall be made available to DSHA not less than ten (10) working days after a written request from DSHA to the State Recipient.

## Attachment G – Links to Cited Policy

### **AGE DISCRIMINATION ACT (1975):**

<https://www.dol.gov/agencies/oasam/regulatory/statutes/age-discrimination-act>

### **CIVIL RIGHTS ACT (1964):**

<https://www.archives.gov/milestone-documents/civil-rights-act>

**CIVIL RIGHTS ACT (1968):** <https://www.govinfo.gov/content/pkg/COMPS-343/pdf/COMPS-343.pdf>

### **DELAWARE CITIZEN PARTICIPATION PLAN:**

[www.destatehousing.com/FormsAndInformation/Publications/citizen\\_action\\_plan.pdf](http://www.destatehousing.com/FormsAndInformation/Publications/citizen_action_plan.pdf)

### **DELAWARE STATE HOUSING CODE:**

<https://delcode.delaware.gov/title31/c041/sc01/index.html>

### **E-CODE OF FEDERAL REGULATIONS (CFR):**

<https://www.ecfr.gov>

### **EXECUTIVE ORDER 11063, AS AMENDED:**

<https://www.archives.gov/federal-register/codification/executive-order/11063.html>

### **EXECUTIVE ORDER 11246, AS AMENDED:**

<https://www.dol.gov/agencies/ofccp/executive-order-11246/as-amended>

### **EXECUTIVE ORDER 12372:**

[eCFR :: 24 CFR 570.612 -- Executive Order 12372.](https://www.ecfr.gov/24-cfr-570.612)

**FLOOD DISASTER PROTECTION ACT (1973):**

<https://uscode.house.gov/statutes/pl/93/234.pdf>

**HATCH ACT:**

<https://osc.gov/Documents/Outreach%20and%20Training/Posters/The%20Hatch%20Act%20and%20Most%20Federal%20Employees%20Poster.pdf>

**HOUSING AND COMMUNITY DEVELOPMENT ACT (1974):**

<https://www.hudexchange.info/resource/2184/housing-and-community-development-hcd-act-of-1974/>

**HOUSING AND COMMUNITY DEVELOPMENT ACT (1987):**

<https://www.congress.gov/bill/100th-congress/house-bill/1698?s=1&r=51>

**HOUSING AND COMMUNITY DEVELOPMENT ACT (1992):**

[https://www.hud.gov/sites/documents/SCP\\_HCDA102-550.PDF](https://www.hud.gov/sites/documents/SCP_HCDA102-550.PDF)

**HOUSING AND URBAN DEVELOPMENT ACT (1968):**

[https://www.hud.gov/program\\_offices/comm\\_planning/home/section3](https://www.hud.gov/program_offices/comm_planning/home/section3)

**NATIONAL ENVIRONMENTAL POLICY ACT (1969):**

<https://www.energy.gov/nepa/articles/national-environmental-policy-act-1969>

**NATIONAL HISTORIC PRESERVATION ACT (1966):**

<https://www.nps.gov/subjects/archeology/national-historic-preservation-act.htm>

**PUBLIC LAW 107-118**

[PLAW-107publ118.pdf](#)

**PUBLIC LAW 113-235**

[PUBL235.PS](#)