



**King County**

Department of  
Community and Human Services

Community Development Block Grant  
Program

# King County Consortium Community Development Block Grant Guidelines

The following consortium requirements augment federal Community Development Block Grant (CDBG) Program regulations at 24 Code of Federal Regulations (CFR) Part 570 and requirements set forth in the three-year CDBG Interlocal Cooperation Agreements.

## Application Guidelines

### 1. Applications for CDBG Community Facility Projects Involving Improvements to Leased Facilities

Applications submitted by nonprofit organizations requesting CDBG funding to improve real property leased from a public agency or private landlord, including churches, must include all of the following:

- The application must be accompanied by a copy of the executed lease (with a term no less than that specified for the change of use restriction set forth in these guidelines).
- The application must be signed by the property owner, or his/her agent, wherein the owner certifies that they will allow the project proposed in the application to be implemented, that they will execute a promissory note, deed of trust and covenant in favor of King County for the applicable period, that they will not charge rents to the applicant in excess of their operating costs, and that they will name King County as an additional insured (loss payee) during the term of the promissory note.

### 2. Minimum CDBG Proposal Request

Proposed human service projects and similar client-oriented projects such as minor home repair proposing funding of less than \$30,000 shall be discouraged but not disallowed; but in no circumstance shall an award be less than \$10,000. Proposed capital projects proposing funding of less than \$50,000 shall be discouraged but not disallowed. In particular:

- Jurisdictions are encouraged to jointly fund certain sub-regional projects to reach \$50,000 or more.
- A lower level of funding must be allowed for Architectural and Engineering (AE) projects that represent the first phase of a larger capital project.

### 3. Authorization to Apply for Consortium Funds

Applications for CDBG funds submitted by a local government or nonprofit organization must be signed by an authorized representative and accompanied by documentation that confirms that the application is authorized by the local government or nonprofit organization. A copy of the council or board minutes of the meeting at which a motion was passed, or other evidence of authorization, must be submitted as part of the application.

#### 4. Contingency Project(s) Requirement

Each CDBG Consortium Sub-region or Joint Agreement City shall choose a contingency project(s) in preparation for a potential increase/decrease in the CDBG funds available, as follows:

- A. One project shall be identified as the project that will receive additional funds, if the final allocation of CDBG funds from U.S. Department of Housing and Urban Development (HUD) is higher than anticipated, or for any other reason that causes more funds to be available than anticipated.
- B. One project shall be identified as the project that will receive a decrease in funds, if the final allocation of CDBG funds from HUD is lower than anticipated, or for any other reason that causes less funds to be available than anticipated.

The project(s) in A and B above can be the same project or two different projects.

#### 5. Priority for One-Time Capital Project(s)

There is a priority to use CDBG capital funds primarily for one-time capital projects. This priority will not exclude projects that are ongoing in nature that desire to compete in the annual CDBG capital-funding round, but will serve as a limitation on such projects subject to annual review.

#### 6. Multi-Jurisdictional Projects

- A minimum of 30 percent of the total population served by the project must be CDBG Consortium residents for a project application that is multi-jurisdictional, including both CDBG Consortium and non-consortium jurisdictions.
- A CDBG Consortium funding award will be proportionate to the percent of consortium residents to be served for a multi-jurisdictional project application that serves CDBG Consortium and non-consortium residents.

#### 7. Geographic Distribution Goal

The CDBG Consortium will review and monitor geographic distribution in the annual funding recommendation process through a spreadsheet analysis tool that demonstrates the percentage of funds distributed to projects by location as compared to the percentage of the consortium's low to moderate-income population by jurisdiction. Each year the term of review for geographic fairness will be the prior three-year period.

Nonprofit project locations are to be recorded according to the geographic distribution of the clientele they serve rather than the physical location of the project.

## 8. Case by Case Evaluation of Phased Projects

Phased projects are those that must apply and be awarded funding in phases. Phased projects typically start with an application for funding of environmental and design costs in Phase I, with subsequent phases to cover construction costs, if the project is feasible. Phased projects will be evaluated for award from the consortium on a case-by-case basis. Funding conditions will be determined at the time of award approval to address project eligibility and timeliness of fund expenditure.

### **CDBG Project Guidelines**

#### 1. CDBG Public Infrastructure Projects

CDBG-funded public infrastructure projects must be consistent with the adopted comprehensive plan and/or capital improvement program of the jurisdiction in which the project is located.

CDBG-funded public infrastructure projects involving reconstruction of existing public facilities in order to remove barriers to persons with disabilities must be consistent with the adopted comprehensive plan and/or capital improvement program *and* the Americans with Disabilities Act (ADA)/504 Corrective Action Plan of the jurisdiction in which the project is located.

A. Community water system projects located outside of King County's urban growth area must address severe health and safety deficiencies. These are conditions which, at a minimum:

- Have caused Public Health-Seattle & King County to classify the system as at-risk for transmitting water-borne illness, due to concerns regarding the safety of the water source pursuant to Washington Administrative Code (WAC) 246-291-130 and King County Board of Health Code, Title 12, or
- Have been identified by the Washington State Department of Health as the cause of a public water system routinely or potentially failing to comply with the primary drinking water standards or action levels established or referenced in WAC 246-290.

B. Community sewer and/or septic system projects located outside of King County's urban growth area must address severe health and safety deficiencies. These are conditions which, at a minimum:

- Caused Public Health-Seattle & King County to classify on-site wastewater treatment systems as at-risk for failure pursuant to King County Board of Health Code, Title 13, or
- Were identified by the Washington State Department of Ecology for routinely or potentially failing to protect water quality in compliance with the standards for public wastewater collection and treatment systems as referenced in WAC 173.

## 2. Restriction on Change of Use for CDBG-Assisted Facility Projects; Security Interest Required

The purpose of this guideline is to protect the public investment and to ensure that CDBG-assisted facilities are used for their intended public purpose for an appropriate length of time. For the purposes of restriction on change of use, emergency shelters and transitional housing are considered to be housing projects, not community facility projects, and therefore this policy does not apply to them (see housing policies). The requirement for a promissory note and security interest set forth below does not apply to real property owned by King County and the cities participating in the CDBG Consortium.

Community Development Block Grant funding in excess of \$25,000 which is used in whole or in part for acquisition, improvement and/or rehabilitation of community facilities, pursuant to CDBG Program Regulations at 24 CFR Part 570.201(c), both for hard and soft costs, shall be structured as a zero interest forgivable loan. The term of the loan will be based on the amount of CDBG funding awarded as follows:

- \$25,000 to \$99,999 is five years from project completion
- \$100,000 to \$199,999 is 10 years from project completion
- \$200,000 or more is 15 years from project completion.

The loan shall be forgiven in its entirety at the end of the term, provided the assisted facility is used appropriately throughout the term. Project completion is defined as two years from the program year start date in which the funds are awarded.

### A. Security Interest Required

When CDBG funds are loaned for community facility projects, King County will require the property owner to grant King County a security interest in the property for the term of the loan as follows:

- i. When CDBG funds are provided to a nonprofit organization for acquisition, improvement and/or rehabilitation of real property owned by the nonprofit, the nonprofit will be required to execute a promissory note, deed of trust, and community facility covenant in favor of King County.
- ii. When CDBG funds are provided to a local government (other than a local government participating in the CDBG Consortium) or housing authority for acquisition, improvement and/or rehabilitation of real property owned by the local government, the local government will be required to execute a community facility covenant for the benefit of King County as well as a promissory note in favor of King County.
- iii. When CDBG funds are provided to a nonprofit organization for acquisition of a long-term lease, improvements to leased real property and/or rehabilitation of leased real property that is owned by another entity (other than a local government or housing authority), both the nonprofit and the property owner will be required to execute a

covenant and agreement regarding leased property for the benefit of King County, and the property owner will also be required to execute a deed of trust for the benefit of King County.

- iv. When CDBG funds are provided to a nonprofit organization for acquisition of a long-term lease, improvements to real property owned by a local government or housing authority and/or rehabilitation of real property owned by a local government (other than a local government participating in the CDBG Consortium) or housing authority, both the nonprofit and local government or housing authority will be required to execute a covenant and agreement regarding leased property for the benefit of King County (local governments are defined as municipal corporations and special purpose districts).
- v. When CDBG funds are provided to a nonprofit organization, housing authority or local government for acquisition of a leasehold estate in improvements to, or rehabilitation of, real property that is not owned by the recipient of CDBG funds and that is owned by a local government (other than a local government participating in the CDBG Consortium), by a housing authority, or by a tax credit partnership or limited liability company in which a nonprofit organization, local government or housing authority is a general partner or managing member (a tax credit project), King County will consider alternate methods of securing the loan other than a deed of trust. Such alternate methods may include, but are not limited to, securing the loan through a leasehold deed of trust (in the case of a long-term lease), through other assets available to the recipient, or through other agreements with the recipient or real property owner that the County deems reasonable to secure repayment.

## B. Restriction on Change of Use

The County's contract, promissory note and other documents used to grant King County a security interest in CDBG funded community facilities will require the property owner to restrict the use of the property to those activities set forth in the County's contract for the duration of the loan term. These documents will require that agencies that default on these requirements, and change the use of the facility without authorization from the Housing and Community Development Program prior to the end of the loan term, reimburse the King County CDBG Consortium as follows:

- i. In the event a community facility that was rehabilitated (i.e., fixed) with CDBG funding is sold or the use changed before the end of the loan term, the property owner will be required to reimburse the King County CDBG Consortium for the amount of CDBG funding.
- ii. In the event a community facility that was acquired and/or improved (e.g., addition of space) with CDBG funding is sold or its use changed before the end of the loan term, the property owner will be required to reimburse the King County CDBG Consortium for the current fair market value of the property at that time less the proportionate share of that value attributable to expenditures of non-CDBG funds for acquisition and improvement to the property.
  - a) Rehabilitation of real property is defined as replacing existing materials,

fixtures or building systems, reconfiguring existing space and/or removing architectural barriers to persons with disabilities. Rehabilitation includes but is not limited to:

- Replacing doors, windows, roofs, and heating systems
- Installing handrails, ramps, and plumbing fixtures.

b) Improvement of real property is defined as alterations to land or buildings that add new space and/or building systems that did not previously exist. Improvements include but are not limited to:

- Construction of new buildings or additions to existing buildings
- Construction of a new parking lot, playground or landscape feature that did not previously exist and installation of a new elevator or heating system that did not previously exist.

### C. Community Facility Projects Awarded \$25,000 or Less in CDBG Funds

Agencies that are awarded CDBG funding of \$25,000 or less for acquisition, improvement and/or rehabilitation of community facilities will not be required to execute a promissory note, deed of trust or covenant. The County's contract will, however, require the agency to restrict the use of the property to those eligible activities set forth in the contract for a minimum of two years from the date of the final disbursement of funds from the award.

### 3. CDBG Architectural Barrier Removal Projects

CDBG-funded projects involving removal of architectural barriers for persons with disabilities must be consistent with the ADA/504 Corrective Action Plan of the property owner or, in the case of a leased facility, each tenant agency whose clientele is intended to benefit from the project.

### 4. Affordable Rents for CDBG Community Facility Projects

Community facilities receive CDBG funds to help them provide space at low cost to agencies, organizations or service providers offering services to predominantly low and moderate income persons during the term of the change of use restriction set forth in these guidelines.

During the term of the change of use restriction, a CDBG-funded community facility may be rented to another organization that serves low- and moderate-income persons, provided the rent charged is below market rate for such space, and is based solely on actual operating costs (e.g., the cost of utilities, consumable goods, janitorial services). During the term of the change of use restriction, a CDBG-funded facility may be used at times for ineligible activities, such as rentals for private parties or for activities having charges or fees, provided

these guidelines are followed:

- Such uses may not be scheduled so as to displace or conflict with eligible uses.
- Such uses must be given a lower priority than eligible uses when scheduling use of the facility.
- Such uses may not comprise more than 30 percent of the facility's regular operating hours during any single quarter of the calendar year.
- Fair market rents must be charged for use of the space.

#### 5. CDBG Capital Project Completion Deadlines

CDBG-funded capital projects must be completed within 17 months of the beginning of the program year in which the funds are made available with a demonstrated effort to have all funds expended within one year. Deadlines for projects funded with dollars recaptured from cancelled projects will be negotiated separately, but in no case will they be longer than 17 months.

- Extension requests will only be considered if the project is underway and will be completed within three months after the extension or at a time designated by the Joint Recommendations Committee (JRC). Evidence that the project is underway would include at the very least a signed construction contract, or, if it is an acquisition project, a signed purchase and sale agreement; if an AE project, a signed AE contract.
- Extensions must be authorized by the JRC, and are not guaranteed.

#### 6. Limitation on CDBG Human Service Project Extensions

Ongoing public service projects that are funded again in the following year will not be allowed to extend their current year's funds into the next year.

#### 7. Limitation on CDBG Planning and Administration Project Extensions

Continuing CDBG-funded administration projects will not be permitted to extend funds into the next program year, unless there are extenuating circumstances related to a contracted administration activity. Depending upon the circumstances, if a planning contract is underway but completion is delayed, extensions may be made on a case-by-case basis by the JRC as part of the review of Housing, Homelessness and Community Development Division (HHCDD) staff recommendations for project extensions of expiring project activities.

#### 8. Environmental Review Cost

Project budgets will allow for an administrative cost of environmental review in all capital allocations and will provide an estimated amount determined to be sufficient to cover such cost in the line item budget of the proposed project funding award.



## **CDBG Interim Loan and Section 108 Loan Guarantee Guidelines**

### **1. Criteria for CDBG Community Development Interim Loans**

There are federal criteria for Community Development Interim Loans (CDIL) that must be met. These include but are not limited to the requirement for a letter of credit, from a commercial lender with a rating of A or better, as security for the loan funds. The federal requirements will not be reiterated here.

In addition to the federal criteria, the King County CDBG Consortium will use the following criteria when considering potential CDILs:

- Projects should be located in King County CDBG Consortium areas and benefit consortium residents. Projects in non-consortium cities (Seattle, Auburn, Bellevue, Kent and others) will not be considered unless they can demonstrate benefit, commensurate with the loan amount, to King County CDBG Consortium residents.
- King County encourages proposals that would complement specific action plans prepared by the County or CDBG Consortium cities to address local community or neighborhood-specific housing, human services, community and/or economic development needs consistent with this consolidated plan. Economic development proposals by private for-profit businesses will be evaluated and prioritized according to the guidelines outlined in Section 3 below.

### **2. Criteria for Section 108 Loan Guarantee Program**

There are federal criteria that must be met for Section 108 Guaranteed Loans, including requirements for adequate security. Those criteria will not be reiterated here.

In order to safeguard King County's future CDBG entitlement funds, the consortium has adopted the following additional policies to guide King County's use of the Section 108 Loan Guarantee Program:

- No more than \$10 million in total will be guaranteed through this program, unless otherwise approved by the consortium.
- At least 70 percent of the aggregate guaranteed loan amount must be for revenue-generating projects; i.e., the source of repayment will be the project revenues and/or a jurisdiction's local funds, but not future CDBG entitlement funds. Conversely, no more than 30 percent of the aggregate guaranteed loan amount may be for projects that rely on the jurisdictions' future CDBG grants for repayment.
- In order to limit any liability to the consortium members, guaranteeing a loan where project revenues are the source of repayment will require the project to meet Section 108 underwriting standards. These are available from the King County Office of Business Relations and Economic Development.

- The consortium will follow the criteria in this Section when making Section 108 Loan Guarantees to private, for-profit businesses.
- Unless otherwise adopted by the JRC, the lengths of term of guaranteed loans for revenue-generating projects are as follows: working capital - five years, equipment - seven years, public works/housing repair - 10 years, real estate - 20 years.
- Balloon payments by a borrower are strictly prohibited.
- All projects must be in accordance with objectives set forth in the King County Consortium Consolidated Housing and Community Development Plan.

Unless otherwise recommended for adoption by the JRC, projects proposed by consortium jurisdictions that are planning to use their future CDBG funds as the repayment source should follow these guidelines:

- Guaranteed loans to consortium members that will use their individual annual CDBG allocations as the repayment will have a term no longer than six years. The jurisdiction(s) may borrow no more than six times 60 percent of its own average annual allocation. Repayment of loans (including interest) will be deducted annually from the jurisdictions' allocation through the term of the loan. Any reductions in consortium's federal entitlement will lengthen the permitted period of repayment. The allocations referred to above are based on each jurisdiction's share of the consortium's low and moderate-income population. Projects could be sponsored through one or more of these pass-through cities' funds if the jurisdiction(s) agree.
- Mutually agreed upon, multi-jurisdictional projects will be repaid only through each jurisdiction's resources (CDBG or other) through the term of the loan and according to each jurisdiction's proportional benefit (or other mutually agreed upon plan submitted jointly by the jurisdictions involved).
- Only those consortium members undertaking a loan through the Section 108 Loan Guarantee Program will be responsible for its repayment, through either their annual CDBG allocations or other non-CDBG revenue sources.

Section 108 application can be made at any time. An inter-jurisdictional committee of consortium cities staff and county staff will evaluate all potential Section 108 Loan Guarantee projects for adherence to HUD and consortium criteria. Recommendations will be forwarded to the JRC (in reasonable time for suburban city coordinators to brief their JRC members) for JRC review, approval and recommendation to the King County Executive. The proposed project will be advertised in the newspaper, the public will be invited to comment, and a public hearing will be held. The King County Executive will submit an application to HUD. The King County Council will hold a second public meeting before making the final decision.

### 3. Guidelines for CDIL and Section 108 Loan Guarantees to Private For-Profit Businesses

Please note that these consortium guidelines are in addition to the federal requirements, and do not replace them. In some cases, the guidelines may need to be weighed against one

another. These guidelines do *not* apply to nonprofits or governmental entities making use of CDILs or Section 108 Loan Guarantees for housing or community development projects.

#### Maximize Public Benefits

- Create or retain jobs that will realistically be taken by low- and moderate-income people, but that pay livable wages. Jobs should pay at or above the minimum established by the King County Jobs Initiative, and provide benefits or opportunities for training and advancement. The consortium will not use CDILs or Section 108 Guaranteed Loans solely to address slum or blight conditions; there must be a link to jobs.
- Require the business to use appropriate providers as the first source to recruit, hire and train low-income individuals, including those affected by welfare reform, forentry-level jobs.
- Charge businesses interest and use the interest income to fund additional housing and community development projects.
- Provide reasonable certainty that the above public benefits are not benefits that would have occurred without the assistance of these funds.

The consortium will seek additional public benefits if possible, such as increasing the public tax base, providing apprenticeship opportunities, and youth employment opportunities.

#### Minimize Public Costs

- Incur no costs to the consortium. Use loans or loan guarantees with interest, not grants or zero-interest loans, and loan no more on average than \$35,000 for each job created.
- Conduct due diligence to assure consortium of the financial feasibility of the project, that the public dollars are safe, and that the public benefits can reasonably be expected to occur.
- Minimize risk and protect the public dollars by securing: (1) a CDIL with an irrevocable letter of credit from a commercial lender with a rating of A or better, and (2) a Section 108 Guaranteed Loan with adequate and appropriate security instruments.

#### Minimize the Assistance to the Business

- Provide the minimum amount of loan funds at the maximum interest attainable to achieve the public benefits.
- Provide the minimum amount of loan funds at the maximum interest attainable without causing the project to become financially infeasible.
- Provide the minimum amount of loan funds at the maximum interest attainable without putting the public's investment at risk.

In the unlikely case of comparable but competing proposals, the following will be considered tiebreakers:

- Proposals that would create or retain the most jobs on a job/cost ratio basis will be preferred.
- Proposals that would create or retain jobs in a business that exports goods or services outside our region (thus bringing new money into our region) have the greatest economic benefit, and will be preferred.
- Proposals that maximize the return on the CDBG loan will be preferred. Generally, King County tries to set an interest rate that would earn interest income for the consortium while providing a net savings of two points from the borrower's customary cost of funds.

Other CDBG-eligible capital projects that benefit low- and moderate-income people (such as the acquisition of housing or community facilities) will be considered for funding if the project can meet the federal criteria and the applicant can provide the required security. The above guidelines will not apply to nonprofit housing or community facility projects, and a lower interest rate may be negotiated if the public benefits are significant and offset the public cost of a lower rate of return.

A project receiving a CDIL for acquisition and/or improvement of real property will be subject to the federally required restriction on change of use for five years from completion of the project. Since this restriction is longer than the term of the letter of credit and CDIL (which can be no more than 30 months), additional security is needed to enforce the restriction. The restriction on change of use will be enforced through a promissory note secured by a deed of trust on the property. The note will be for an amount equal to the interest savings that the borrower has achieved by using the consortium's CDIL instead of borrowing from a conventional lender. The note will be forgiven after five years of appropriate use, and the deed of trust will be reconveyed.

- Subject to the availability of funds, project proponents may apply for a CDIL or Section 108 Guaranteed Loan at any time on a first come, first served basis. King County will place a public notice in newspapers for each proposed loan and the public will be invited to comment.
- To help solicit projects responsive to local needs, King County Economic Development Program staff will work with economic development and housing professionals in consortium cities to market CDILs to developers and businesses.

#### 4. Program Income

Program income generated from the interest on Community Development Interim Loans and Section 108 Guaranteed Loans will be used for the direct costs needed for implementation of the two loan programs above, and for other consortium-wide or regional capital projects or programs.