



LMI Job Creation/Retention Overview

An LMI Job Creation/Retention (LMJ) activity is one that creates or retains permanent jobs, with 60% percent being held by persons from LMI families.

For job creation activities, the local government and the assisted business must document that permanent jobs have been created, and that at least 60 percent of the jobs, computed on a full-time equivalent (FTE) basis, have been filled by LMI persons.

For job retention activities, the local government must document that the jobs would actually be lost without the CDBG assistance, and that either or both of the following conditions apply with respect to at least 51 percent of the jobs:

- The job is known to be held by an LMI person, or
- It can be reasonably expected that the job will turn over within the following two years and be filled by an LMI person upon turnover.

CALCULATING FTE JOBS

The State of New Hampshire CDBG Rules allows jobs of 1820 hours or more per year to be classified as full time positions. All such positions that were created through CDBG assisted initiatives should be broken out from the part time positions and counted fully. For instance, if a CDBG-assisted venture created 10 permanent jobs that involved 40-hour work weeks, and five more that involved 35-hour work weeks, the total number of full-time positions would be 15. If the same venture also created permanent part-time positions, these can also be counted once they have been converted to FTE positions.

Any part-time positions requiring less than 37.5 hours per week must be converted to FTE positions using a factor of 37.5 hours for each full-time job.

JOB CREATION REQUIREMENTS

As part of the application process, each business requiring assistance must include a written commitment to hire or retain LMI persons, called the Beneficiary Employment Commitment Agreement (BECA). The business must also provide a hiring plan that details the number of jobs to be created, the number of jobs held or to be filled by LMI persons, the type of job, average wage, any special skills or training required, the timetable for hiring, and whether or not fringe benefits will be provided for the positions. The plan must indicate who will be responsible for hiring, collecting required data, and for training to be provided. Generally, it is expected that initial hiring by the business will be completed within 18 months from the time of CDBG assistance.

The job commitment should be realistic in determining the total number of jobs, the number of jobs to be filled by LMI persons, and the timeframe for hiring. Note that:

CDFA uses the Application and other documents to qualify the proposed project under HUD regulations and will monitor the hiring to verify that job commitments have been fulfilled.

Failure to comply with the requirement to benefit at least 60 percent LMI persons could result in the State requiring repayment of part or all of CDBG funds spent on the project.

The municipality must meet with appropriate business representatives to discuss hiring commitments, LMI job requirements and documentation prior to CDBG funds being awarded.

The business should track its employees by positions, such that when a position is created and an employee is hired, the LMI status of the employee in that position can be determined. Regardless of the number of jobs committed by the business, 60 percent of the total jobs actually created when hiring is complete must have been taken by LMI persons.

The business should maintain applicant and employee income surveys, equal employment opportunity information, and payrolls or employee lists to document compliance with CDBG requirements. It is recommended that these records be maintained separately from a business's individual personnel records.

The municipality is required to monitor on-site the business's progress in fulfilling the hiring and LMI job requirements and report to CDFA on a six-month basis. Every time a new job is filled, the employer must maintain documentation regarding the new job, demonstrating that it was not simply a re-hire for a position that had already been counted. The documentation for all first-time hires in new positions should include evidence that the new employee either met or didn't meet the LMI standard.

For job creation projects, the important fact is the status of the first employee to fill a new position. For example, assume a business had 100 employees before deciding to participate in a CDBG-funded job creation initiative through which they then brought on 10 new full-time employees to give the business a total of 110 FTEs. Next, assume that seven of the 10 new positions were originally filled by low-income workers. However, one of the seven new LMI employees was subsequently replaced by another worker that happened NOT to be low income. In this case, it is still appropriate to say that seven of the 10 new positions were initially filled by low-income workers, even though only six of the positions were held by low-income workers once the one employee left and was replaced by another individual that did not qualify as LMI.

When all of the intended jobs have been created, CDFA will monitor the hiring and LMI job documentation at the business. Records should continue to be kept by the business until notified by MEDC that the CDBG requirements have been fulfilled. These records should be retained for at least five years after the State has closed out a particular year's funding award with HUD. Municipalities must retain these records until the CDFA notifies them it no longer necessary. The business must continue to collect income verifications from all applicants and employees hired until hiring is complete and the jobs are monitored or verified by the CDFA.

RULES FOR FIRST CONSIDERATION

The first consideration approach has been developed by HUD with the expectation that, in most instances where it is applied, the outcome will be that over 51% of persons hired will be low and moderate income. Accordingly, grantees electing to use this approach will be expected to follow some basic principles. For example, merely considering 51 low and moderate income persons for 100 created jobs is normally not sufficient because most jobs are not offered to or taken by the first person interviewed. The hiring practices of the business should be analyzed. If it appears that normal practice is that only one of three persons interviewed is hired, then a comparable number of low and moderate income persons should be given first consideration for the job. The distance from residence and availability of transportation to the employment site should also be considered in determining whether a particular low and moderate income person can seriously be considered an applicant for the job. The business must be required to seriously consider a sufficient number of low and moderate income job applicants to meet the intent of this requirement. The grantee should also ensure that there is adequate documentation available to show what jobs were created, the process used for "first consideration", the low and moderate income persons considered for any such jobs, and which of those persons were hired.

In conclusion they will need to provide the following information for jobs that will be made available to LMI persons but are not taken by them:

1. The title and description of the jobs made available.
2. The full-time equivalency status of the jobs
3. The prerequisites for the job; special skills or education required for the job, if any; and the business commitment to provide needed training for such jobs.
4. How first consideration was given to LMI persons for the job can be recorded as the name(s) of person(s) interviewed for the job and the date of the interview(s), the income status of the person(s) interviewed, and the reasonable distance of those interviewed (or access to transportation).

RULES FOR COUNTING JOBS

As a general rule, each assisted business will be considered individually for purposes of determining if at least 60 percent of the jobs created or retained will be for LMI persons.

When counting jobs, the following policies apply:

- Part-time jobs must be converted to FTE.
- Only permanent jobs may be counted; temporary and contractual jobs are not allowed.
- Transferred jobs may not be counted.
- Seasonal jobs may be counted only if the season is long enough for the job to be considered the employee's principal occupation.

- Jobs indirectly created by an assisted activity (i.e., “trickle-down” jobs) may not be counted.
- Jobs must ultimately and within the term of work be located at the project site receiving the improvements
- Jobs are only counted as newly created if they involve a new hire that joined the assisted business after the submission of the application.

JOB RETENTION REQUIREMENTS

For projects proposing the retention of jobs that would otherwise be lost without CDBG assistance, at least 51 percent of the jobs to be retained must be held by persons from LMI families. HUD requires that there be clear, objective evidence and documentation that jobs would be lost without the CDBG assistance; therefore, using job retention as a basis for meeting the LMI National Objective is difficult. Consequently, in the past, few projects have qualified as benefiting LMI through job retention.

The business should track its employees by position, such that the LMI status of the employee in that position can be determined.

CERTIFYING LOW-INCOME STATUS OF EMPLOYEES FOR LMI JOBS

Municipalities must obtain individual income certifications from each employee claimed as filling a new low- income job. New employees should provide a signed income verification form as to their actual family household income at the time the CDBG assistance is provided. This actual family household income figure will be used to project an annual income over a 12-month period.