



## CDFA Circular 2021-01

**Related to:** All CDBG-CV funded projects

**Subject:** Emergency Subsistence Payments

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**Issuance date:** January 1, 2021

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### **Summary**

This CDFA Circular provides clarification on the Public Services Emergency Payment requirements for all Community Development Block Grant Coronavirus Applications.

### **Background**

The CARES Act waives the CDBG regulation that caps the amount the amount of a jurisdiction's grant (and any program income) that is obligated in a program year for "public services" to 15%.

Public services include those for people experiencing homelessness or elderly people, and services related to employment, crime prevention, childcare, health, drug abuse, education, fair housing counseling, and energy conservation. CDBG funds may be used to pay for labor, supplies, and material as well as to operate and/or maintain the portion of a facility in which the public service is located. This includes the lease of a facility, equipment, and other property needed for the public service.

HUD sub-regulatory guidance makes very clear a number of times that although a state must follow the text of the Housing and Community Development Act, a state may use the CDBG Entitlement regulations as a "safe harbor." Importantly, the CDBG Entitlement program regulations allow jurisdictions to choose to spend CDBG for payments like rental assistance to households for up to three months.

This provision is found in the "Ineligible Activities" section of the Entitlement regulations at 24 CFR 570.207(b)(4):

*"Income payments. The general rule is that CDBG funds may not be used for income payments. For purposes of the CDBG program, "income payments" means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family."*

## **Decision**

CDDFA has chosen to utilize the Entitlement safe harbor regulations in 24 CFR 570.207(b)(4) to dictate the allowance of emergency subsistence payments in our CDBG-CV Public Services program.

CDBG emergency subsistence payments include emergency utility\*, rent/mortgage or other essential payments; and have these federal restrictions:

- Direct payments to a person are **not** CDBG eligible. Instead payments are paid directly to the third party on behalf of the qualifying person.
- Payments are for no more than three consecutive months within a 12-month period.
- Payments are intended to prevent the cutoff of service, eviction or other essential short-term needs (i.e. rent is due or in arrears) and not future costs (i.e. pay off mortgage).
- Payments cannot be a duplication of benefit.
- Payments with CDBG COVID-19 funds must address impacts resulting from the COVID-19 pandemic.

**Effective Date**           Immediately

**Waiver authority?**       No