

Policy Analysis: Amendments to PA Act 179

Updating the PA State CDBG Program

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Executive Summary

The Pennsylvania Act 179 allocation formula, which determines the distribution of federal Community Development Block Grant (CDBG) funds to rural areas across Pennsylvania, has not changed since 1984. While the Act 179 allocation formula sought a means for an equitable distribution of federal funding across the non-HUD-entitlement areas of the state, it has resulted in unintended consequences.

The Act created an annual state entitlement process, which is administered by the PA Department of Community and Economic Development (DCED). As a result of this entitlement process, a staff of 10 CDBG grant managers is charged with reviewing, approving, and monitoring almost 500 activities annually, a logistically impossible task. This has resulted in a series of Department of Housing and Urban Development (HUD) deficiencies in 2012 and 2017 monitoring reports, which required corrective actions from DCED.

To determine need, Act 179 utilizes the Urban Development Action Grant (UDAG) Distressed Communities List in its formula. This is outdated because HUD stopped updating the data in 1988. The annual allocation of CDBG funding to states has, on average, gone down while the administrative compliance burden has persisted and intensified over time.

To reduce administrative burden and the threat of additional sanctions from HUD, and to increase the economic impact of the State CDBG Program, I recommend that Act 179 be amended to remove outdated UDAG data and create a completely competitive program. Additionally, I recommend expanding PA state grants with less reporting requirements than the federal CDBG program. Lastly, DCED should prioritize stakeholder engagement with community development practitioners to amass a coalition to advocate for necessary amendments to the statute. This coalition should develop a robust advocacy plan and identify key supporters in the PA General Assembly who will introduce legislation and champion changing the law.

Policy Issue

The Pennsylvania Act 179 allocation formula, which determines the distribution of federal Community Development Block Grant (CDBG) funds to rural areas across Pennsylvania, has not changed since 1984. While the Act 179 allocation formula sought a means for an equitable distribution of federal funding across the non-HUD-entitlement areas of the state, it has resulted in several unintended consequences.

The Act created an annual state entitlement process, which is administered by the PA Department of Community and Economic Development (DCED). This entitlement process necessitates the review of about 82 CDBG applications per year, with 190 different grantees within those applications. On average five projects, or activities, are outlined in each application, creating between about 400-500 activities annually. A staff of 10 CDBG grant managers is charged with reviewing, approving, and monitoring almost 500 activities for federal compliance. This resulted in a series of HUD deficiencies detailed in a 2012 internal monitoring report, which required

corrective action for DCED. HUD found that the heavy load of the State CDBG Program responsibilities also impacted staff time spent supporting and monitoring other federal allocations such as the federal HOME program.

To determine need, Act 179 utilizes the 1988 Urban Development Action Grant (UDAG) Distressed Communities List in its formula. This is outdated because HUD stopped updating the data in 1988. The statutory formula requires using the list of UDAG distressed communities that was last issued in 1988. The economic and financial conditions of small cities, boroughs and townships have changed in the past 30 years, but the determinant of need has been frozen in time.

The annual allocation of CDBG funding to states has, on average, gone down while the administrative compliance burden has persisted and intensified over time. With less funding, including for staff and technical assistance, and a general trend of higher staff turnover rates at every level of government, slower progress on projects (and program expenditure rates) became a greater issue¹. Furthermore, persistent economic distress and unmet needs have increased beyond the number of municipalities identified in the original UDAG distressed communities list. As a result of these and possibly other factors, local subgrantees end up choosing paths of least resistance from a compliance perspective and choose more simplified projects that have limited economic impact.

To reduce administrative burden and the threat of additional sanctions from HUD, and to increase the economic impact of the State CDBG Program, I recommend amending Act 179 to remove outdated UDAG data, create a completely competitive program, and expand PA grant programs to better serve rural municipalities. In this paper I will demonstrate how this is the case through an analysis of updated metrics in the statutory formula and other states' CDBG programs.

Background

History & Context of the Community Development Block Grant Program

In 1974, President Gerald R. Ford signed a law creating one of HUD's hallmark programs – the Community Development Block Grant (CDBG) Program. Congress and HUD created CDBG to serve a broad mandate to give states and local governments discretion over how best to approach housing and community and economic development in their respective communities². CDBG is flexible in terms of the range of eligible activities. However, to meet National Objectives to serve low- and moderate-income constituencies, remove slum and blight, respond to urgent needs³,

¹ Fiscal Year Monitoring Review Letter, US Department of Housing and Urban Development to PA Department of Community and Economic Development, August 31, 2017

² Todd Richardson "CDBG Turns 40," HUD Office of Policy Development & Research Online Magazine, March 2015, https://www.huduser.gov/portal/pdredge/pdr_edge_frm_asst_sec_032414.html.

³ "Chapter 3 National Objectives," HUD Exchange, <https://files.hudexchange.info/resources/documents/Basically-CDBG-Chapter-3-Nat-Obj.pdf>

comply with cross cutting federal regulations, and expend funds in a cost reasonable and timely manner, CDBG has a heavy lift in terms of compliance to manage the grants.

CDBG at the Federal Level: HUD Direct Entitlement Communities

HUD determines its direct eligible CDBG grantees as follows:

- Principal cities of Metropolitan Statistical Areas (MSAs)
- Other metropolitan cities with populations of at least 50,000
- Qualified urban counties with populations of at least 200,000 (excluding entitled cities population)

Eligibility as a HUD entitlement community is based on population data provided by the U.S. Census Bureau and metropolitan area delineations published by the U.S. Office of Management and Budget. HUD determines the amount of each entitlement grantee's annual funding allocation by a statutory dual formula that uses several objective measures of community needs including the extent of poverty, population, housing overcrowding, age of housing and population growth lag in relationship to other metropolitan areas⁴.

CDBG at the State Level: State CDBG Programs

Congress amended the Housing and Community Development Act of 1974 (HCD Act) in 1981 to give each state the opportunity to administer CDBG funds for *non-HUD-entitlement areas* that are smaller in population and generally more rural. Non-HUD-entitlement areas include units of general local government (UGLGs) that do not receive CDBG funds directly from HUD. HUD distributes funds to each state based on a statutory formula that considers similar demographic criteria to those listed above.

States participating in the CDBG Program award grants only to non-HUD-entitlement UGLGs to develop and preserve decent, affordable housing; provide services to the most vulnerable; and create and retain jobs⁵. Each state develops annual funding priorities and criteria for selecting projects through the development of their Consolidated Plan⁶ and Annual Action Plan. A state's annual Action Plan outlines strategic and business planning to address unmet needs, prioritize funding, and establish criteria for selecting CDBG subgrantees and projects.

DCED serves as the State CDBG grantee from HUD and is responsible for:

- Setting funding requirements based on a Method of Distribution (MOD)

⁴ Greg Miller and Todd Richardson, "Community Development Block Grant: Targeting to Need?," U.S. Department of Housing and Urban Development Office of Policy Development and Research, November 2023, <https://www.huduser.gov/portal//portal/sites/default/files/pdf/An-Evaluation-of-the-CDBG-Formulas-Targeting-to-Community-Development-Need-2023.pdf>.

⁵ "State CDBG Program Eligibility Requirements," HUD.gov, March 2, 2024, https://www.hud.gov/program_offices/comm_planning/cdbg/state.

⁶ "Consolidated Plan Process, Grant Programs, and Related HUD Programs," HUD Exchange, <https://www.hudexchange.info/programs/consolidated-plan/consolidated-plan-process-grant-programs-and-related-hud-programs/>.

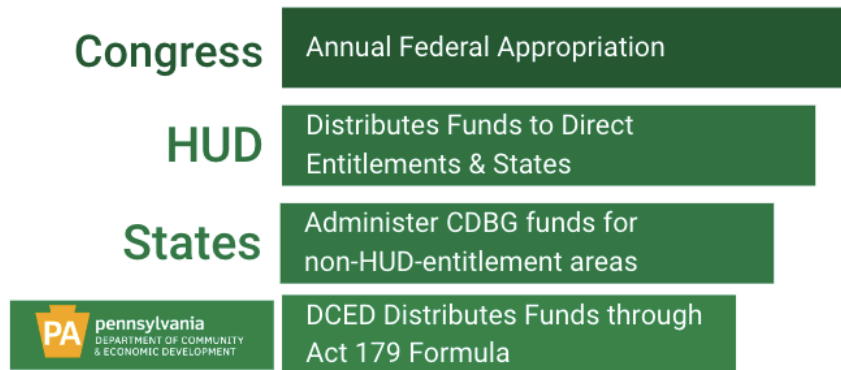
- Selecting UGLG recipients for allocated funds (subgrantees)
- Establishing financial management, recordkeeping, reporting, monitoring and closeout procedures
- Ensuring compliance by UGLGs⁷.

Getting CDBG to Small Communities: How States Distribute their CDBG funding from HUD

HUD gives states flexibility to determine the MOD for State CDBG Program funds. For the MOD, HUD requires that states:

- Identify total amount of resources available (including Program Income “PI” and recaptured funds)
- Identify funding categories and dollar amounts per category and grants size limits
- Specify all project or program selection criteria, thresholds and terms and conditions. If competitive, the state should relate degree, detail, or quality of information/evidence to how it will score applications
- Specify application requirements, deadlines, and internal application processing procedures
- Provide opportunities for UGLGs to clearly understand application requirements and project selection criteria; make comments on MOD and also receive technical assistance as needed so that they can prepare responsive applications

CDBG Program Funding Flowchart:



The Overarching CDBG Requirements: CDBG National Objectives

Every project, or activity, funded by CDBG must meet one of the following National Objectives:

1. Benefit low- and moderate-income persons, areas and/or clientele
2. Prevention or elimination of slums or blight in an area or on a specific parcel, and/or

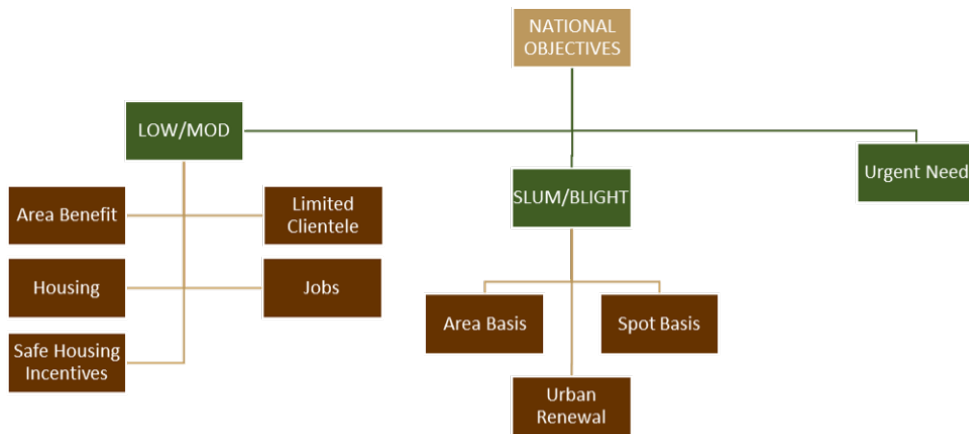
⁷ “Basically CDBG for States,” HUD Exchange, <https://www.hudexchange.info/onecpd/assets/File/Basically-CDBG-State-Slides.pdf>

- Address urgent needs in a community because existing conditions pose a serious and immediate threat to the health or welfare of the community for which other funding is not available. A need is considered urgent if it poses a serious and immediate threat to the health or welfare of the community and has arisen in the past 18 months⁸

What are eligible activities?

HUD gives all grantees flexibility to invest CDBG funds in a broad range of activities, such as:

- | | |
|---|--|
| <ul style="list-style-type: none"> ● Acquisition of Real Property ● Disposition ● Public Facilities and Improvements ● Clearance ● Public Services ● Interim Assistance ● Relocation ● Loss of Rental Income ● Privately-Owned Utilities | <ul style="list-style-type: none"> ● Rehabilitation ● Construction of Housing ● Code Enforcement ● Special Economic Development Activities ● Microenterprise Assistance ● Homeownership Assistance ● Planning and Capacity Building ● Program Administration Costs⁹ |
|---|--|



[Source HUD Exchange: <https://sites.hudexchange.info/cdbg-dr-consolidated-notice/general-overview-cdbg-dr-grant-process/>]

History & Context of PA Act 179

When the then Department of Community Affairs (DCA, the predecessor agency to DCED) began administration the CDBG State Program funds from HUD in 1984, a group of communities pursued both a court challenge to the DCA distribution of funds process and sought a legislative mandate to change the DCA allocation process or MOD. Constituents from many non-HUD-

⁸ "Basically CDBG for States," HUD Exchange, see note 7.

⁹ "Categories of Eligible Activities," HUS Exchange, https://www.hud.gov/sites/documents/DOC_17133.PDF.

entitlement communities sought some portion of the state funds available. This resulted in Act 179 of 1984¹⁰. Act 179 created an annual entitlement program within Pennsylvania where a statutory formula is used to allocate the CDBG state funds. This resulted in a formula that spread funds annually to over 200 non-HUD-entitlement subgrantees.

Criteria to Qualify Under PA Act 179

1. Local Government Classification

All counties and cities that did not receive CDBG funds directly from HUD through the HUD entitlement process, would be eligible to receive an annual allocation of state CDBG funding. This was determined because it was thought that all cities had LMI (Low to Moderate Income) populations and community renewal needs, regardless of the size of the city or other economic conditions. Counties with populations less than 200,000 were not eligible to receive entitlements directly from HUD, so Act 179 included all remaining counties in the formula. These non-urban counties would have responsibility for the smallest municipalities that did not receive an annual allocation.

2. The Urban Development Action Grant (UDAG) Distressed Communities designation was a good proxy to determine need.

The HUD Urban Development Action Grant Program (UDAG) helped revitalize severely distressed cities by using public funds to attract private investment in industrial, commercial, or neighborhood projects. HUD established six eligibility criteria to determine which metropolitan and urban counties were to be selected for the UDAG program. To be eligible, most US cities had to have ranked in the lower half of all cities for three of the six criteria. This has resulted in 333 of the Nation's large cities and urban counties being eligible for the program.

HUD UDAG data was developed using six factors to determine need:

1. Percentage of the community's housing stock built before 1940
2. Percentage increase in per capita income
3. Percentage of population at or below the poverty level
4. Rate of population growth
5. Rate of growth of retail and manufacturing employment
6. Recent average annual unemployment rate

The UDAG list of distressed communities in the Commonwealth of Pennsylvania was presumed to be a good indicator of need. The list was applied as a criterion along with a population threshold of 4,000 for boroughs, towns,

¹⁰ PA General Assembly, Community Development Block Grant Entitlement Program for Non-Urban Communities and Certain Other Municipalities. No. 179, October 11, 1984, <https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=1984&sessInd=0&act=179..>

and townships. Any borough, town, or township meeting these two conditions in a non-HUD-entitled area of the State would receive an annual allocation of State CDBG funding.

3. Maximum Feasible Deference

Maximum Feasible Deference is the legal and policy term of art from HUD that refers to how HUD will monitor and view state interpretation of implementing federal regulations.

Per the HUD Block Grant Assistance, “Basically CDBG for States¹¹” program guide:

“Under the state CDBG program, states are provided maximum feasible deference. This concept is stated in the regulations at 24 CFR 570.480(c); however, the term is not specifically included in the statute. It was created by HUD’s General Counsel. This term:

- Provides for minimal regulation beyond the statute;
- Means that states can adopt more restrictive requirements provided they do not contradict or are inconsistent with the HCDA statute.”

While PA could enact more restrictive requirements for their State CDBG Programs, per Maximum Feasible Deference, the implementation of Act 179 did the opposite. The Act further limited the control that DCED could impose over local government subgrantees. Thus, per the statute, DCED must give local governments the same flexibility in determining activities and use of the funds as if they were direct federal recipients of CDBG from HUD.

State Program grantees may apply for funding for activities in over 90 different project categories¹². This dynamic makes state monitoring and consistency in regulatory interpretation and implementation of policy and procedures demanding and challenging, not only for DCED staff, but UGLG practitioners administering the grants.

Act 179’s Distribution Formula

The annual funds which the Commonwealth receives pursuant to the Housing and Community Development Act for the State CDBG Program shall be allocated by DCED in accordance with the following formula:

- An amount of 2% of the funds shall be used by the department for administrative costs. *
- An additional amount of 13% of the funds may be used by the department for discretionary projects in boroughs, towns and townships which are not eligible entitlement entities, for urgent need projects, planning projects, economic development projects and other projects eligible under the Housing and Community Development Act; or in eligible entitlement

¹¹ “Basically CDBG for States, Chapter 1,” HUD Exchange, <https://www.hudexchange.info/sites/onecpd/assets/File/Basically-CDBG-State-Chapter-1-Overview.pdf>

¹² “CDBG Matrix Codes,” HUD Exchange, [CDBG-Matrix-Codes-By-Category \(hudexchange.info\)](https://www.hudexchange.info/sites/onecpd/assets/File/CDBG-Matrix-Codes-By-Category.pdf).

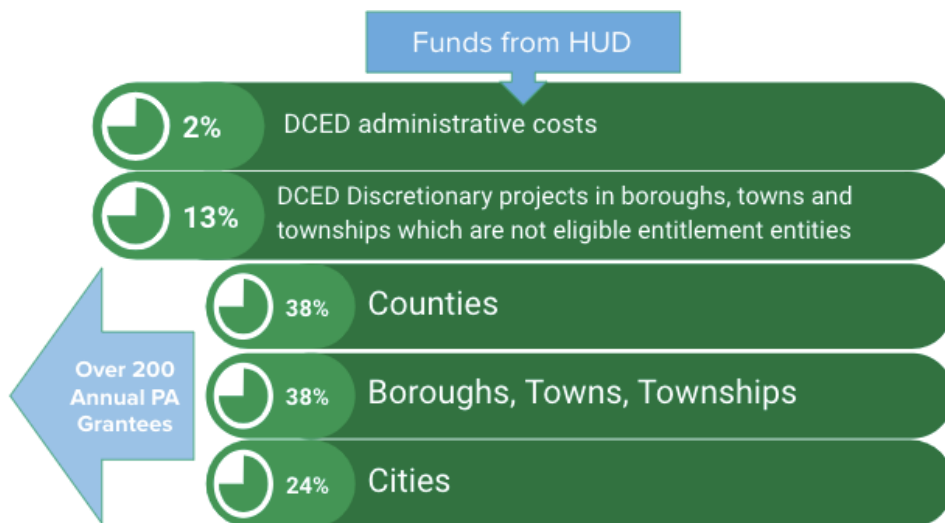
entities with a population less than 10,000, for urgent need projects or to complete planning projects, economic development projects and other projects eligible under the Housing and Community Development Act undertaken by the eligible entitlement entity with its entitlement.

- The balance of the funds which remain after subtracting the administrative costs of DCED and the amount reserved by DCED for discretionary projects shall be allocated as follows:
 - 38% to eligible counties.
 - 38% to eligible boroughs, incorporated towns and townships.
 - 24% to eligible cities.¹³

*Per HUD’s rules, states don’t carry out activities themselves—they must distribute about 97% of the funds as grants to UGLGs. The assistance must be in the form of grants to non-HUD-entitlement units of general local governments, not loans (except 3% for administration and technical assistance).

While the Act’s distribution formula endeavored to fairly distribute funds to distressed rural municipalities, the distribution formula does not consider the actual LMI population despite the National Objective requirement to serve the needs of the LMI population.

PA Act 179 Funding Flowchart:



¹³ PA General Assembly, Community Development Block Grant Entitlement Program for Non-Urban Communities and Certain Other Municipalities. No. 179, October 11, 1984, <https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=1984&sessInd=0&act=179>.

Table 1. 2021 PA CDBG Funds

HUD Allocation	\$42,051,147.00	100%
PA Admin	\$ 1,261,534.41	3%
Entitlement	\$35,743,474.95	85%
Discretionary	\$5,046,137.64	13%
<i>Entitlement Distribution</i>		
Counties	\$13,582,520.48	38%
Boroughs, Towns, Townships	\$13,582,520.48	38%
Cities	\$8,578,433.99	24%

Table 2. 2022 PA CDBG Funds

HUD Allocation	\$41,106,226.00	100%
PA Admin	\$1,233,186.78	3%
Entitlement	\$34,940,292.10	85%
Discretionary	\$4,932,747.12	13%
<i>Entitlement Distribution</i>		
Counties	\$13,277,311.00	38%
Boroughs, Towns, Townships	\$13,277,311.00	38%
Cities	\$8,385,670.10	24%

Key Takeaway:

Little changes year over year in the allocation amount, however each funding year 190 grantees apply for 400-500* activities which need to be reviewed for eligibility under the federal guidelines, provided technical assistance, and monitored.

A Snapshot: Looking at Cities:

Because the Act’s formula does not include actual LMI metrics, municipalities that have a greater LMI need, per census data, do not necessarily receive a greater amount of funds. In 2023, 27 cities, regardless of population, received a base CDBG allocation of \$300,000 each. (This base is then adjusted and additional funds from the annual HUD funding to the State are divided proportionally to all the Cities based on their population).

For example, the City of Shamokin, an Act 47 designated distressed municipality, has a 52.14% LMI population of 6,942 for \$82.89 per capita LMI.

City of Parker, meanwhile, has a 36.5% LMI population of 695 for \$1182.59 per capita LMI.

Analysis: Changes to the PA CDBG State Program

Updating the Act 179 Statutory Formula

The UDAG distressed list has not been updated since 1988. Each year DCED uses a list of distressed localities that may no longer be distressed, alternatively the outdated list may leave

other localities out that have fallen into distressed status and could utilize funding, the latter being the main concern of practitioners and grant managers within DCED. However, an UGLG from the 1988 distressed list may enter or leave the state’s CDBG Program in one of two ways. If their population drops below the 4,000 threshold, they are no longer eligible, or, they may opt out of the program. Currently five UGLGs have chosen to opt-out of the program, citing local capacity to administer the program or the administrative burden outweighs the outcomes in their jurisdiction¹⁴.

To address this issue, members of the Community Housing & Development (CD&H) Advisory Committee, which includes DCED staff and CDBG State Program grantee practitioners, have outlined metrics to reassess need and to determine current distressed status. To qualify UGLGs into the program with updated distressed criteria as determined by the committee, three different scenarios were tested to explore the change in number of state entitlement grantees based on applying different weights to a set of updated indicators of need.

Current Metrics: UDAG Data

Inputs:

The HUD UDAG Data
Percentage of the community’s housing stock built before 1940
Percentage increase in per capita income
Percentage of population at or below the poverty level
Rate of population growth
Rate of growth of retail and manufacturing employment
Recent average annual unemployment rate

Outputs:

UGLG Type 2021	Number	UGLG Type 2022	Number
counties	50	counties	50
BTTs	119	BTTs	113
Cities	27	Cities	27
Total subgrantees	196	Total subgrantees	190

¹⁴ Donna Enrico, CDBG Program Director, interview by the author, Philadelphia, PA, March 2, 2024.

Proposed Metrics: Three Test Scenarios

DCED utilized 2020 Census Data to test three different scenarios of need criteria. The indicators of need were population change, percentage of LMI population, median household income, and percentage of renter occupied units. Different weights were applied to indicators in each of the scenarios. The population threshold of 4,000 remained to ensure a baseline size of UGLGs eligible. The results of the analysis generated a minimally reduced list of eligible grantees.

Inputs:

Metric	Metric Value for Distress	S1: Weight for Pop. 4000 or Greater	S2: Weight for Pop. 4000 or Greater	S3: Weight for Pop. 4000 or Greater
% of Population Change	0.024	2.5	0.5	5
LMI %	0.51	75	90	65
% Population 65+, 2017-2021	0.1821	5	2	10
Median Household Income, 2017-2021	67587	2.5	0.5	5
% Renter Occupied Units	0.3083	15	7	15

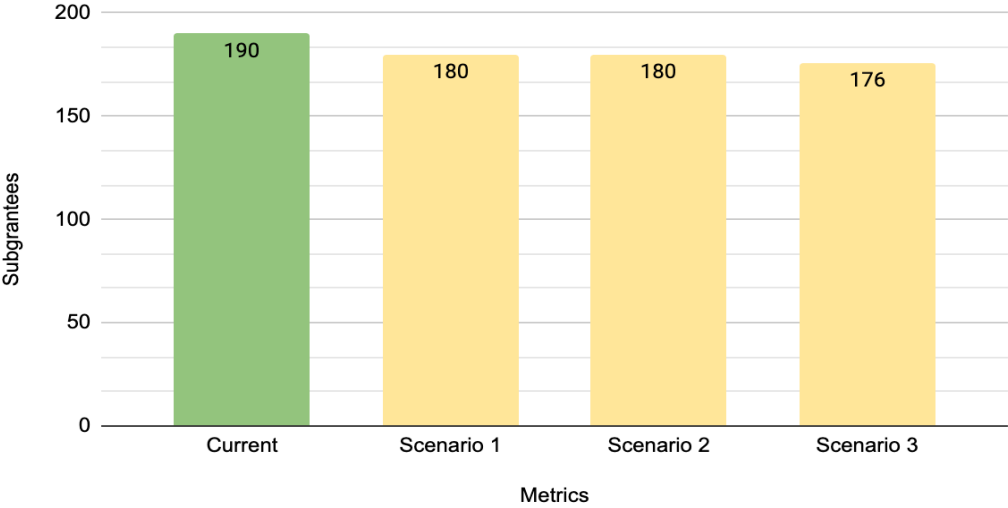
Outputs:

Scenario 1	Number	Scenario 2	Number	Scenario 3	Number
Counties	50	Counties	50	Counties	50
BTTs & Cities	130	BTTs & Cities	130	BTTs & Cities	126
Total subgrantees	180	Total subgrantees	180	Total subgrantees	176

The application of new metrics to determine need will do little to reduce the number of contracts, subgrantees, and activities that DCED would be monitoring. State CDBG Program funding would be distributed more fairly according to need; however, the impact of the grants would remain the same. Furthermore, the top 20 most distressed municipalities under each scenario were the same UGLGs (see Appendix C).

The administrative burden associated with managing federal dollars would continue to plague small UGLGs. And the annual statutory allocation would continue the ‘use it or lose it’ mentality, pressuring state grantees to choose the path of least resistance, rather than the more impactful use of dollars.

Subgrantees vs. Metrics



Key Takeaway:
The cities, boroughs, towns, and townships with the greatest need remained the same in all three scenarios. The test scenarios only lead to a reduction of 10 to 14 eligible subgrantees.

Limiting the Number of Program Activities

As an administrator of the State CDBG program, I understand the need to reduce the number of activities in each annual contract. As mentioned above, as of 2023 there are 190 eligible UGLGs in PA that can apply for funding for eligible projects. Each of those UGLGs may apply for as many activities as they choose. The proposal of updating the indicators of need from the outdated UDAG data to more current metrics did little to reduce the number of grantees statutorily eligible to apply for funds.

Issues related to the number of activities and open contracts came to a head in 2012. In a monitoring letter to DCED, HUD stated that the commonwealth failed to provide adequate program monitoring and grantee oversight of the CDBG program, and that the commonwealth also failed to meet its goals and failed to monitor all federal requirements. HUD went on to say that the cause was the commonwealth’s method of distribution that requires multiple annual contracts and that there is insufficient staffing to oversee the large number of contracts. The same finding was reported again in 2017, with the added language of “there is a systemic issue of inadequate staffing and oversight to ensure compliance with federal requirements”.

Key Takeaway:

The number of CDBG Activities that DCED contracts in a given fiscal year has remained stagnant over the last ten years. On average, there are 425 activities per year, even after findings from HUD in 2012.

To address the issue of too many activities in each contract year, it would be advantageous for DCED to limit activities to either a set of priority activities, or a number of activities per application, or, reduce their number of contracts. To assess feasibility of utilizing these limitations, I analyzed the language of Act 179.

Contracts must be offered by the Department each year. Section 1 of the Act repeatedly uses the phrases “annual entitlement” or “annual funding” for cities, boroughs, towns, and

Table 3. Number of CDBG Activities in Each Contract Year

Contract Year	Number of CDBG Activities
2012	573
2013	541
2014	478
2015	115*
2016	537
2017	683
2018	424
2019	423
2020	390
2021	378
2022	145**
Average	426

*In 2015 DCED changed how it was recording the FY of a CDBG contract (CDBG follows the federal FY and the rest of DCED follows the PA FY).

**Additional contracts were finalized in FY23.

townships. The use of “and” indicates that each entity (city, borough, town, township) may receive an annual, or yearly, entitlement. If “or” had been used, then discretion could be applied to determine which entity receives an entitlement each year. Additionally, section 5 of the Act uses language stating that “each eligible entity shall receive a minimum annual grant...”.

This supports the interpretation that entitlements must be awarded by DCED each year to each entitled entity. However, section 8(d) does set forth an option that the entitled entity may exercise that allows the entity to temporarily waive an annual entitlement to aggregate a larger amount of an annual allocation so that it can be used towards an eligible project that may exceed the yearly entitlement.¹⁵

HUD compliance monitoring is like the price of a movie ticket – it is the same cost whether the movie is a three-hour drama or only a 70-minute comedy. Staff time required to complete HUD and cross cutting federal compliance and record keeping are the same whether it is a \$5,000 project or a \$5MM project.

Furthermore, DCED can only limit the number and type of activities in so far as the Act will allow. Section 8(a) of the Act states that funds allocated to eligible entitlement entities shall be used for eligible activities in accordance with the Housing and Community Development Act (HCD)¹⁶. Under HCD, eligible activities include:

- Acquisition of real property
- Relocation and demolition
- Rehabilitation of residential and non-residential structures
- Construction of public facilities and improvements, such as water and sewer facilities, streets, neighborhood centers, and the conversion of school buildings for eligible purposes
- Public services, within certain limits
- Activities relating to energy conservation and renewable energy resources
- Provision of assistance to profit-motivated businesses to carry out economic development and job creation/retention activities

Key Takeaway:

As written, the Act 179 statutory formula allows grantees to apply for funding for an unlimited number of activities, per HUD’s matrix of eligible activities and DCED is not able to limit the activities.

¹⁵ DCED General Counsel, “Act 179,” internal email to program staff, 2019.

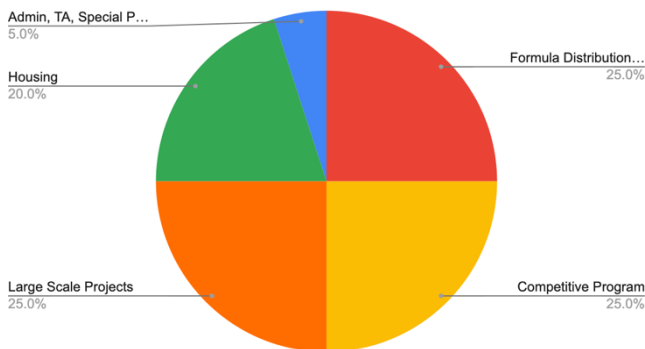
¹⁶ PA General Assembly, Act 179

State CDBG Program Designs

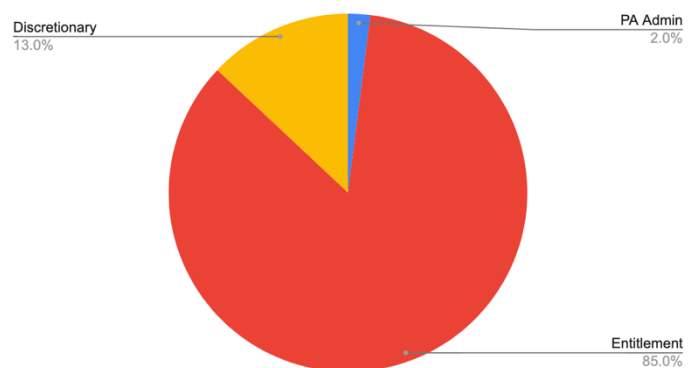
A 2019 study of Act 179 by the Pennsylvania Economy League included qualitative analysis of the CDBG programs in other states. Interviews of CDBG managers in Colorado, Maine, Maryland, Nebraska, Ohio, and Utah were conducted to identify recommendations for an enhanced and proven approach for implementing and managing state CDBG programs. Insights were sought for alternative methods of distribution, more effective management support to UGLG subgrantees, and criteria that have a strong likelihood of similar success if applied in Pennsylvania.¹⁷ All states interviewed used competitive programs. Some also use formula distributions for a portion of their allocations.

Most states expressed the need, politically, to be as flexible as possible in how funds can be used with “Maximum Feasible Deference.” They also articulated that any additional state restrictions over and above CDBG requirements simply added more complexity and administrative burden. They also indicated that a large part of their success was based on their ability to counterbalance this flexibility through competitive allocations with maximum agency control over how the programs were prioritized and run.¹⁸

Ohio Annual Distribution of CDBG Funds



PA Annual Distribution of CDBG Funds



No other states with strong CDBG expenditure activities were identified as having a legislative act that created the level of UGLG distribution or restriction on management as found in Pennsylvania. Ohio has the most in common with PA in terms of staffing, allocation, market needs, and scale of programs. However, Ohio has the benefit of more administrative control and flexibility in how projects are awarded and supported.

¹⁷ Commonwealth of Pennsylvania, Department of Community and Economic Development, *Study of PA Act 179 of 1984: The Community Development Block Grant (CDBG) Entitlement Program for Non- Urban and Certain Other Municipalities in Pennsylvania*, Pennsylvania Economy League, Capital Access. (Unpublished, internal document), May 2019.

¹⁸ Department of Community and Economic Development, *Study of PA Act 179 of 1984: The Community Development Block Grant (CDBG) Entitlement Program for Non- Urban and Certain Other Municipalities in Pennsylvania*.

While Ohio’s allocation from HUD is similar to Pennsylvania, Pennsylvania averages about 4 times as many active projects, or activities, in a given contract year.

Administrative Staffing Levels Based on Interviews with Other States

State Interviewed	2015 State CDBG	Average # of Active Projects	Housing Staff	Public Facilities Staff	Economic Development Staff	Total FT Staff and Admin Support
Colorado	\$8,200,000	50	6	1	1*	9 to 11
Maryland	\$7,100,000	30	7	Unk	Unk	7
Maine	\$10,900,000	30	5**	0	0	5
Ohio	\$41,800,000	131	14	0	0	14
Nebraska	\$10,300,000	50	7	0	0	7
Utah	\$4,400,000	27	3	0	0	3

Pennsylvania	\$36,200,000	426	0	0	10	13
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For example, the allocation method used in Ohio is divided into four parts plus administration and related costs (see Ohio Annual Distribution of CDBG Funds Pie Chart):

- 25% Formula Distribution to direct grantees
- 25% Competitive Programs with direct grantees
- 25% Large Scale Projects
- 20% Housing
- Balance of 5% for Admin, TA, Special Projects

All States interviewed agreed that spreading more funds around to more projects in need was problematic and not recommended. States were finding success and pursuing methods that allowed for larger investments to support larger projects with the most impact because this created the best “win, win, win” scenarios for working with limited resources, with heavy administrative and regulatory burdens and local capacity issues.¹⁹

Recommendations for Change

Update Act 179 Statutory Formula

By its design, the Federal Community Development Block Grant program is broad and flexible. The aim of the program is to improve the quality of life of low-and moderate-income people and the communities where they live. However, CDBG has become ineffective in addressing long-term problems throughout rural Pennsylvania. Act 179 has codified a high administrative burden for DCED through a statutory allocation that creates a high number of eligible UGLG

¹⁹ Department of Community and Economic Development, *Study of PA Act 179 of 1984: The Community Development Block Grant (CDBG) Entitlement Program for Non- Urban and Certain Other Municipalities in Pennsylvania.*

grantees, activities, and contracts. As it stands now, the administration of the CDBG program is unsustainable. Therefore, it is important that consideration be given to amending Act 179. Because small changes to the statute yielded minimal results through the analysis of three test scenarios, DCED should consider a drastically different approach. A natural solution would be a competitive process for eligible UGLG entitlements as seen in other states. What follows is my recommendation for the new program.

Distribution of Funds

Under my proposal, the CDBG program would be a competitive program, open to those municipalities in Pennsylvania, which do not receive CDBG funds directly from HUD. Replacing the UDAG data with updated metrics of need did little to reduce the number or eligible grantees, and Act 179 does not allow for reducing contracts, eligible grantees, or activities, therefore DCED should move to a purely competitive program. Because any change to the formula requires legislative action, and DCED should use the opportunity to move to the highest and best program distribution and application process.

PA CDBG Competitive Program

Allocation of Funds by Municipality Type 80%

UGLG	Percentage
Cities	20
Counties	20
Townships	20
Boroughs	20
Total	80

Allocation for Planning and Administration

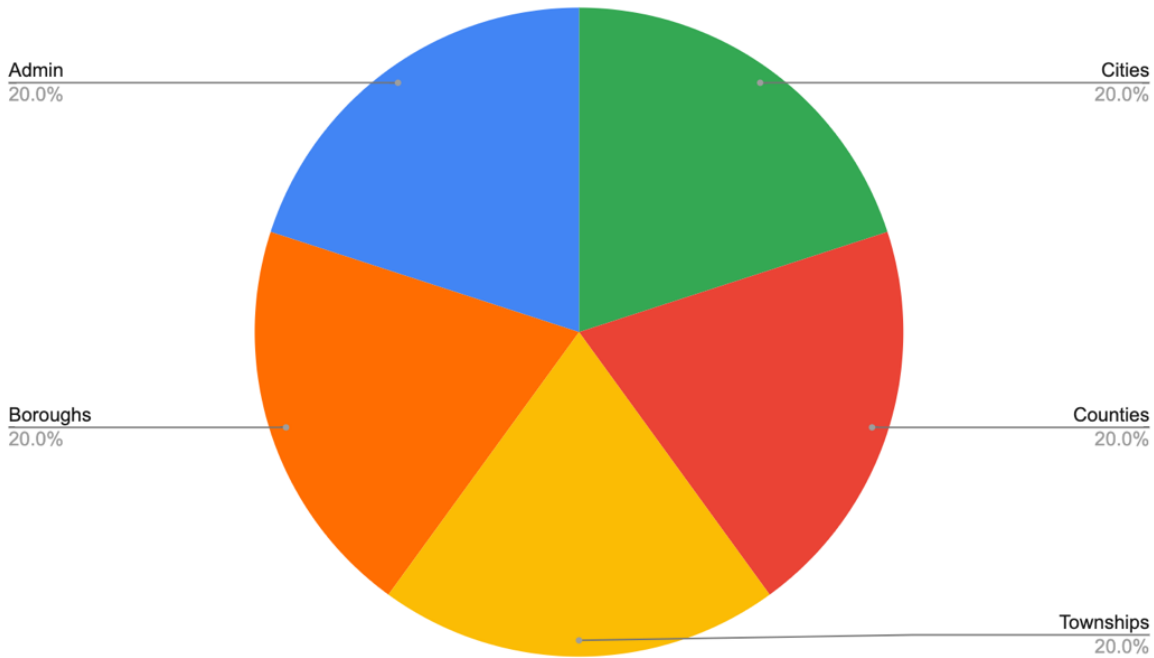
Planning & Admin	Percentage
Grantee Admin	15
Planning	2
State Administration	2
Technical Assistance	1
Total	20

A Snapshot of 2022 HUD funding through the PA CDBG Competitive Program

UGLG Allocations	Percentage	Funds
FY22 HUD Allocation to PA	100	\$41,120,349.00
Cities	20	\$8,224,069.80
Counties	20	\$8,224,069.80
Townships	20	\$8,224,069.80
Boroughs	20	\$8,224,069.80
Total	80	\$32,896,279.20

Planning & Admin	Percentage	Funds
Grantee Admin	15	\$6,168,052.35
Planning	2	\$822,406.98
State Administration	2	\$822,406.98
Technical Assistance	1	\$411,203.49
Total	20	\$8,224,069.80
UGLG Allocations + Planning & Admin		\$41,120,349.00

PA CDBG Competitive Program Distribution of Funds



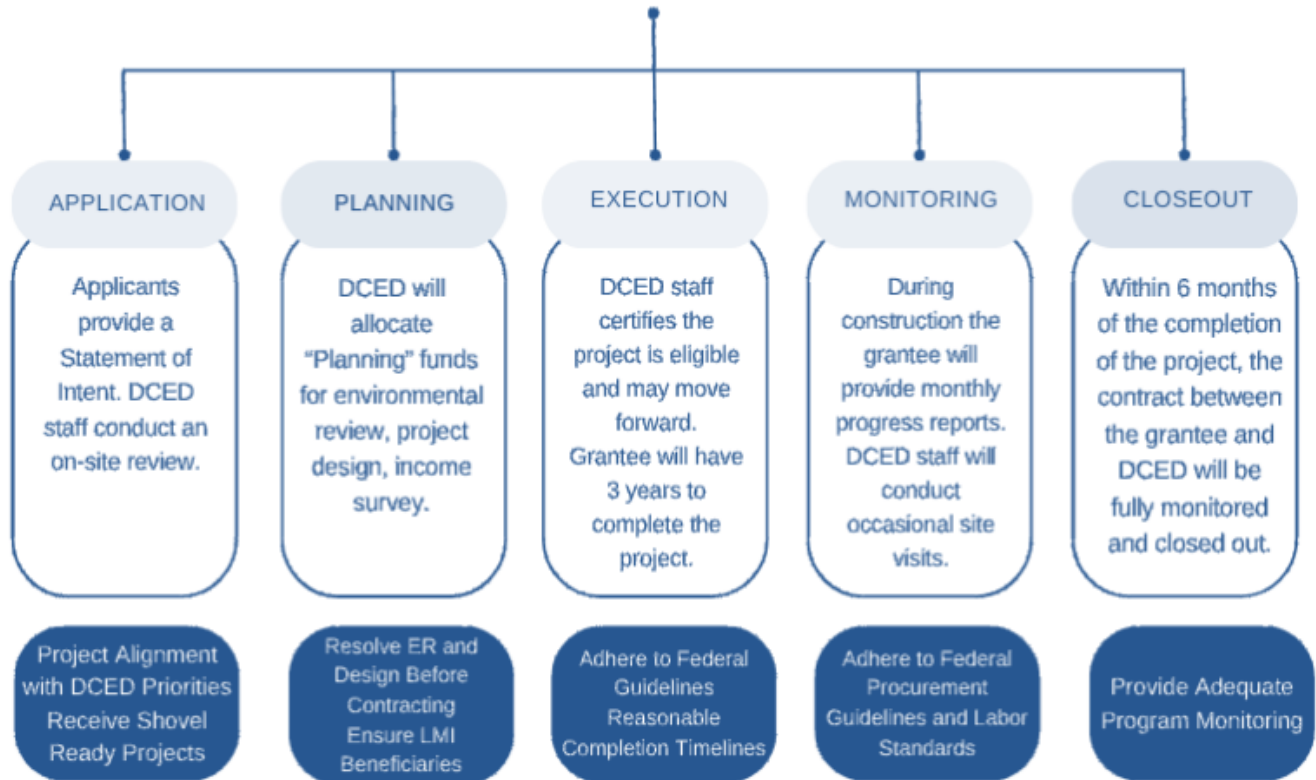
PA Competitive CDBG Program Process

Coupled with the new allocation I recommend a new process for the lifecycle of the grant, from application to close out. Per HUD's monitoring findings in 2012 and 2017, the commonwealth continues to fail at meeting federal program requirements. Additionally, the commonwealth's method of distribution that requires multiple annual contracts and that there is insufficient staffing to oversee the large number of contracts. In my analysis of the language of Act 179, there is no flexibility in reducing activities, contracts, or eligible grantees.

Therefore, along with my proposal of a competitive program, I have outlined a program process to meet the objectives of cross-cutting federal requirements, DCED priorities, and maintain timeliness and monitoring standards per HUD's requirements. Most notably, grantees will only be able to administer one open contract at a time. I believe this process addresses and takes corrective action at the pain points outlined by HUD and felt by CDBG Grant Managers and DCED management. See Appendix B for the detailed program process.

PA CDBG Program Process

Grantees may administer 1 contract at a time
Third-party administrators may administer up to 3 contracts at one time



Commit Other Funding Sources for Rural UGLGs

Expand Grant Programs Tied to the PA Economic Development Strategic Plan

Governor Shapiro's Ten-Year Strategic Plan for Economic Development in Pennsylvania²⁰ offers an exciting opportunity to not only leverage CDBG funding, but to create new, state-level funding to support the economic development activities that rural UGLGs need. While economic development activities are eligible under CDBG, because of the difficulty in administering federal funds for such

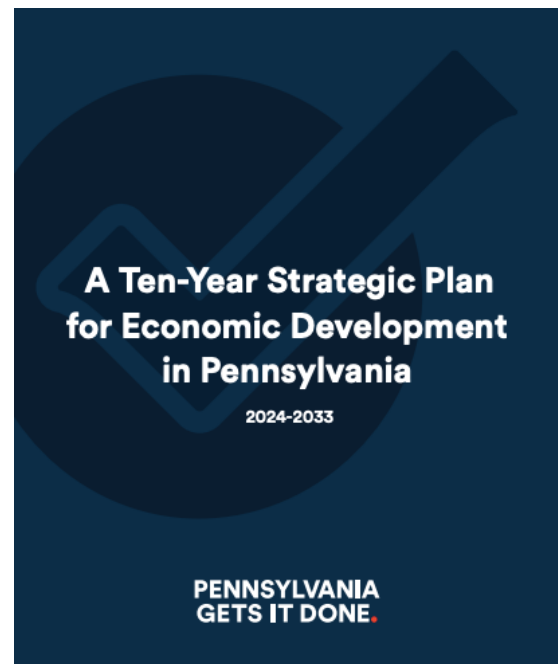
²⁰ Commonwealth of Pennsylvania, Department of Community and Economic Development, *Ten Year Strategic Plan for Economic Development in Pennsylvania*, 2024. https://pagetsitdone.com/wp-content/uploads/EconomicDevelopmentStrategy-DCED_2024_FINAL.pdf

activities, DCED’s grantees’ rarely utilize their CDBG funds for economic development. Of the 4687 CDBG grant activities in contracts from FY 2012 to FY 2022, three (3) were economic development activities to assist local businesses (this excludes all CDBG-CV, or COVID-19 relief, funds).

Expanding the below grant programs with additional funding or adjusting program perimeters could allow for more rural UGLGs to apply for funding for projects that they don’t wish to federalize through the CDBG program. This would be advantageous for projects under \$1M where adhering to federal procurement and monitoring requirements would be an administrative burden for their small staffs.

Strategic Plan for Economic Development Priorities:

1. Expand Availability of Housing: *Increase Pennsylvania’s housing inventory*
 - a. Action: Expand PA Whole Home Repair Program
2. Compete for Federal Funding to Improve Pennsylvania’s Infrastructure and Support Businesses and Workers: *Modernize, expand, and rebuild Pennsylvania’s transportation, water and sewage, high-speed internet, and energy infrastructure*
 - a. Action: Expand PA Small Water and Sewer Grant Program
 - b. Action: Expand H2O PA Act Grants
 - c. Action: Expand Pennsylvania Infrastructure Investment Authority (PennVEST) Grants
3. Support Communities by Investing in Downtowns and Main Streets: *Revitalize communities by providing resources for downtowns and main streets*
 - a. Action: Expand Keystone Communities Program (KCP)
 - b. Increase Historic Preservation Tax Credit cap from \$5M to \$50M
4. Expand Support for Pennsylvania’s Small Businesses with a Focus on Historically Disadvantaged Businesses and Workers: *Increase assistance for small, disadvantaged, and minority businesses, entrepreneurs, and workers*



Expand the Municipal Assistance Program

The Municipal Assistance Program (MAP)²¹, is a DCED program that provides funding to assist local governments to plan for and efficiently implement a variety of services and

²¹ “Municipal Assistance Program (MAP),” DCED.pa.gov, <https://dced.pa.gov/programs/municipal-assistance-program-map/>.

improvements, and soundly manage development with an emphasis on intergovernmental approaches. Eligible entitlement entities that do not have an open contract for a previously awarded CDBG competitive project may apply for funding through a program similar to MAP or MAP amended.

The funding would support the creation of new shared services: consolidating or regionalizing services among multiple counties and municipalities, boundary change studies, and shared personnel. New or expanded intergovernmental initiatives that promote local government efficiencies and effectiveness. The Goal of the grant would be to support increased shared capacity.²² Grants may be awarded to defer costs associated with a group of two or more municipalities/counties who seek to create by intergovernmental agreement a shared position that will perform specific functions or services for all partners.

Currently, the grant does not allow for funding current positions, however, UGLGs who'd stand to lose funds without the annual allocation of CDBG funds through Act 179 would be able to submit a new position description for staff to perform shared services with another UGLG that is not a direct HUD entitlement. Requests of this nature would require the creation of a job description and measurable objectives that will be attained as a result of DCED grant funding support. This could include shared economic development staff, and past examples have included shared planners, shared codes enforcement officers and shared fire chiefs in newly merged volunteer fire companies.

Under my recommendations the MAP program would be updated to allow for grants of 100% of eligible costs.

Limitations and Recommendations for Further Study

This capstone and analysis did not consider other CDBG programs such as CDBG Disaster Recovery (DR) or CDBG COVID Relief (CV). While those grant programs are administered by the same 10 CDBG Grant Managers and add burden to DCED and practitioners similar to the regular CDBG program, I did not have the capacity to analyze the DR and CV program data for this project. Future analysis should include the CDBG-DR program as natural disasters due to climate change will continue and administration will impact the DCED's ability to carry out overall program requirements. Additionally, I did not include administrative activities (HUD Matrix code 21A) for PA CDBG grantees. To ensure political support and to curtail any loss of funding for rural community development jobs, next steps should include an assessment of how many positions in rural UGLGs are funded by CDBG administration funds. The other PA grant programs listed in the recommendations section should be analyzed and updated to allow for positions and activities to be covered.

Amending Act 179 poses a heavy political lift, that's why the statute has remained the same over the last 40 years. I hope that through this capstone I demonstrated that the current situation is truly unsustainable. Further stakeholder engagement with community development professionals and policy makers is necessary to clearly communicate the problem and amass support and determine champions. Finally, a comprehensive advocacy plan is needed to gain political support and traction in the general assembly. CDBG is a great program and it's time that it worked better and smarter for more citizens of Pennsylvania.

Appendices

Appendix A- Glossary of Common Acronyms & Terms

“Act”	PA Act 179 of 1984
ABA	Architectural Barriers Act of 1968
Act 47	Pennsylvania statute outlining procedures to stabilize municipalities in Pennsylvania undergoing financial distress
ADA	Americans with Disabilities Act
BG	Block Group (within a Census Tract)
BNA	Block Numbering Area
CAPER	Consolidated Annual Performance Evaluation Report
CBDO	Community Based Development Organization
CDBG	Community Development Block Grant Program
CDC	Community Development Corporation
CDFI	Community Development Finance Institution
Certs	Certifications
CFDA	Catalog of Federal Domestic Assistance
CFR	Code of Federal Regulations
CHAS	Comprehensive Housing Affordability Strategy
CHDO	Community Housing Development Organization
COGs	Council of Governments
ConPlan	Consolidated Plan
COSFDA	Council of State Community Development Agencies
CP	Citizen Participation
CRS	Community Revitalization Strategy
CSCAP	Central Service Cost Allocation Plan
CT	Census Tract
CWHSSA	Contract Work Hours and Safety Standards Act
DBA/DBRA	Davis Bacon and Related Acts
DCED	Department of Community and Economic Development
DOL	Department of Labor
DUNS	Data Universal Numbering System
ED	Economic Development
EA	Environmental Assessment
EDI	Economic Development Initiative
EIS	Environmental Impact Statement
EO	Executive Order
EPA	Environmental Protection Agency
ESG	Emergency Solutions Grants
EZ/EC	Empowerment Zone/Enterprise Community
FHEO	HUD, Office of Fair Housing and Equal Opportunity
FHA	Federal Housing Administration
FLSA	Fair Labor Standards Act
GAAP	Generally Accepted Accounting Principles

HCDA	Housing and Community Development Act of 1974
HHS	U.S. Department of Health and Human Services
HOME	Home Investment Partnership Program
HOPWA	Housing Opportunities for Persons With AIDS
HUD	U.S. Department of Housing and Urban Development
IDA	Individual Development Accounts
IDIS	Integrated Disbursement and Information System
LMI/Low-Mod	Low/Moderate Income
LOCAP	Local Government Cost Allocation Plan
MBE/WBE	Minority-Owned Business Enterprise/Woman-Owned Business Enterprise
MOD	Method of Distribution
NCSHA	National Council of State Housing Agencies
NCDA	National Community Development Association
NEPA	National Environmental Policy Act of 1969
NIMBY	Not-In-My-Back-Yard (anti-affordable housing sentiment)
Non-HUD-Entitlement	A municipality that does not receive a direct annual allocation of CDBG funds from HUD
OMB	Office of Management and Budget
PER	Performance and Evaluation Report
PHA	Public Housing Authority
PI	Program Income
RFP	Request for Proposals
RLF	Revolving Loan Fund
ROF	Release of Funds
RROF	Request for the Release of Funds
SB	Slums & Blight
SBA	Small Business Administration
SBDC	Small Business Development Corporation
SHP	Supportive Housing Program
SHPO	State Historic Preservation Officer
SWCAP	Statewide Cost Allocation Plan
TA	Technical Assistance
TANF	Temporary Assistance for Needy Families
Title VIII	Title VIII of the Civil Rights Act of 1967 (aka Fair Housing Act)
UGLG	Unit of General Local Government
URA	Uniform Relocation Act
USC	United States Code

Appendix B- CDBG Competitive Grant Program Application Process and Lifecycle

1. Applicants provide the Department of Community and Economic Development (DCED) with a Statement of Intent. The statements will be evaluated based upon criteria established by DCED through their Consolidated Plan and Annual Action Plans. Each year at the annual Community Development and Housing (CD&H) Practitioners' Conference, DCED will provide an updated list of funding priorities for the upcoming year. There will be no cap on the amount, which can be applied for.
2. DCED staff will visit the eligible applicant to conduct an on-site review of the proposed project and to provide an overview of the requirements of the program.
 - a. If the applicant decides to continue to move forward with the project, DCED will allocate "Planning" funds for the activity, including the completion of the environmental review and project design.
 - b. If an income survey is needed to establish activity eligibility in an LMI area, prior to receiving "Planning" funds, the grantee must submit an income survey plan to be approved by DCED, prior to undertaking the income survey.
3. After DCED staff certifies the project is an eligible activity and meets a national objective, in accordance with the federal regulations, the project may move forward.
4. The grantee will have three (3) years to complete the project. This should be reasonable as prior planning will occur before the allocation of CDBG funds is made.
5. During the construction phase of the project, the grantee will provide monthly progress reports. DCED staff will conduct occasional site visits to view progress as well as conduct periodic monitoring to ensure compliance with federal and state regulations.
6. Within six (6) months of the completion of the project, the contract between the grantee and DCED will be fully monitored and closed out.
7. Grantees will only be allowed to administer one (1) contract at a time.
 - a. Third-party administrators will be allowed to administer three (3) contracts at one time, depending on certification from DCED that the administrator has adequate capacity.

Appendix C- Data

Metric	Distress Direction	Metric Value for Distress	S1: Weight for Pop. 4000 or Greater	S2: Weight for Pop. 4000 or Greater	S3: Weight for Pop. 4000 or Greater
% of Population Change	Descending	0.024	2.5	0.5	5
LMI %	Ascending	0.51	75	90	65
% Population 65+ Years Old, 2017-2021	Ascending	0.1821	5	2	10
% Families Below Poverty Level, 2017-2021	Ascending	0.07997	0	0	0
Median Household Income, 2017-2021	Descending	67587	2.5	0.5	5
% Homeowners (Owner-Occupied Housing Units), 2017-2021	Descending	0.6917	0	0	0
% Owner-Occupied: Built 1939 or earlier	Ascending	0.2338	0	0	0
% Owner-Occupied: Built 1940 to 1949	Ascending	0.0689	0	0	0
% Owner-Occupied: Built 1950 to 1959	Ascending	0.1468	0	0	0
% Owner-Occupied: Built 1960 to 1969	Ascending	0.0973	0	0	0
% Owner-Occupied: Built 1970 to 1979	Ascending	0.117	0	0	0
% Renter Occupied Units	Ascending	0.3083	15	7	15
% Renter: Built 1939 or earlier	Ascending	0.2748	0	0	0
% Renter: Built 1940 to 1949	Ascending	0.0763	0	0	0
% Renter: Built 1950 to 1959	Ascending	0.1182	0	0	0
% Renter: Built 1960 to 1969	Ascending	0.1135	0	0	0
% Renter: Built 1970 to 1979	Ascending	0.1456	0	0	0

Rank*	S1: Municipality Name	S2: Municipality Name	S3: Municipality Name
1	New Kensington City	New Kensington City	New Kensington City
2	Nanticoke City	Nanticoke City	Nanticoke City
3	Uniontown City	Uniontown City	Uniontown City
4	Sunbury City	Sunbury City	Sunbury City
5	Oil City City	Oil City City	Oil City City
6	Carbondale City	Carbondale City	Carbondale City
7	Jeannette City	Jeannette City	Jeannette City
8	Connellsville City	Connellsville City	Connellsville City
9	Corry City	Corry City	Corry City
10	Franklin City	Franklin City	Franklin City
11	Punxsutawney Borough	Stroudsburg Borough	Punxsutawney Borough
12	Mount Carmel Borough	Punxsutawney Borough	Mount Carmel Borough
13	Titusville City	Mount Carmel Borough	Titusville City
14	Lehighon Borough	Titusville City	Lehighon Borough
15	Redstone Township	Lehighon Borough	Redstone Township
16	Honesdale Borough	Redstone Township	Honesdale Borough
17	Scottdale Borough	Honesdale Borough	Scottdale Borough
18	Farrell City	Scottdale Borough	Farrell City
19	Danville Borough	Farrell City	Danville Borough
20	Stroudsburg Borough	Danville Borough	Stroudsburg Borough

***Complete list for each scenario available upon request.**

