



## CDFA Circular CDBG 2019-01

**Related to:** CDBG Housing

**Subject:** The Use of CDBG and LIHTC Funding in Eligible Housing Projects

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**Issuance date:** February 8, 2019

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### **Summary**

This CDFA Circular provides clarification to the information provided to our partners regarding the use of CDBG funds together with New Hampshire Housing Finance Authority's Low Income Housing Tax Credit Funding (LIHTC). CDFA has made the following decision based on section 105(a)(15) of the Housing and Community Development Act (HCDA) and with guidance from 26 USC 42 (h)(5)(c) (ii).

### **Background**

CDFA seeks to set forth a consistent interpretation of CDBG rules related to housing projects that utilize subrecipients to carry out the community development activity that have obtained or are seeking to obtain LIHTC funding.

### **Decision**

HUD gives maximum feasible deference to the state's interpretation of the statutory requirements and the requirements of CDBG regulation, provided that these interpretations are not plainly inconsistent with the Housing and Community Development Act. Based on available rules and guidance from HUD, CDFA has determined that all projects using LIHTC funding will be handled per the applicant in the following manner:

1. Non-profit: If Grantee chooses to use a non-profit entity to complete an eligible housing activity that has obtained or is seeking LIHTC funding, that entity must own a controlling interest in the project and materially participate in the development and management of the project throughout the compliance period. Only with this interpretation, can CDFA certify that the non-profit entity is not controlled by a for-profit organization.
  - a. A non-profit sub granted CDBG funds by a municipality may contract with a for-profit entity for the purposes of LIHTC eligibility only and must maintain sufficient control over federal funds at all times. Compliance of the non-profit's obligations owed to the grantee will be secured through the subrecipient agreement signed with the grantee.

2. For-profit: If the Grantee chooses to use a for-profit entity to complete an eligible housing activity that has obtained or is seeking LIHTC funding, that entity must own a controlling interest in the project and materially participate in the development and management of the project throughout the compliance period.

All other applicable state and federal CDBG regulations will apply to each subrecipient based on their legal designation.

**Effective Date**            Immediately

**Waiver Authority**        No