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Community Development Block Grant Public Service Expenditure Cap: In Brief

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Introduction

The Community Development Block Grant program (CDBG), administered by the U.S. Department of Housing and Urban Development (HUD), is a primary source of flexible federal funding to states and localities for economic and community development-related purposes. The program was originally authorized under Title I of the Housing and Community Development Act of 1974, P.L. 93-383, with the primary purpose of establishing and maintaining viable communities through the implementation of activities that benefit low- and moderate-income persons.¹

CDBG's flexibility as a block grant program allows grantees to use their program funds for a broad range of activities. Although grantees have broad flexibility in determining how to spend CDBG dollars within statutory and regulatory parameters, the law explicitly limits the use of CDBG dollars for only one non-administrative category of activity: public service activities. Typically, a grantee's expenditure on public service activities must not exceed 15% of its CDBG funding amount, plus 15% of any CDBG program income generated in the previous program year, with some exceptions.² The cap on CDBG public service activity expenditures has been the subject of some debate throughout its existence.

Public Service Activities

Public services are one of the six primary categories of eligible CDBG program activities set out in Title I of the Housing and Community Development Act of 1974:

1. planning and administrative activities;
2. public improvement activities;
3. housing-related activities;
4. public services;
5. economic development; and
6. acquisition, demolition, and disposition of real property.

As outlined in the CDBG program's statute, grantees may use program funds for a wide variety of public service activities, "including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs."³ CDBG public service expenditures may also cover operations and maintenance costs of facilities that are used to provide public service activities.⁴ CDBG regulations require that a grantee's public service expenditures provide a new service or a measurable expansion of an existing service.⁵ In other words, CDBG public service funds cannot be used to replace or supplant municipal expenditures for an existing program or activity.

¹ For more information on the CDBG program and its funding processes, see CRS Report R46733, *Community Development Block Grants: Funding and Allocation Processes*, by Joseph V. Jaroscak.

² 42 U.S.C. §5305(a)(8).

³ *Ibid.*

⁴ HUD, *Basically CDBG Manual*, Chapter 7, July 2012, p. 2, <https://files.hudexchange.info/resources/documents/Basically-CDBG-Chapter-7-Public-Services.pdf#page=2>.

⁵ HUD may grant exceptions to this requirement if the change in funding levels was outside of the grantee's control.

Table A-1 provides an overview of eligible CDBG public service activities, with expenditure data for FY2021 and FY2020.

CDBG’s authorizing statute requires states and local governments to certify that all proposed activities—including public service activities—meet one of the program’s national objectives:

1. principally benefit low- and moderate-income (LMI) persons;⁶
2. aid in the prevention or elimination of slums or blight; or
3. meet an urgent need by addressing conditions that pose a serious and immediate threat to the health and safety of residents.⁷

The statute governing the program requires states and entitlement communities to allocate at least 70% of their CDBG allocation to eligible activities principally benefitting low- and moderate-income persons.⁸ Compliance with this requirement is certified during a one-, two-, or three-year period as specified by the grantee.⁹

Consistent with overall CDBG program requirements, public service expenditures cannot fund political activities. CDBG regulations also prohibit most forms of subsistence grant payments to households or individuals for food, clothing, housing, utilities, or similar costs. The regulations do allow temporary three-month emergency payments to be made on behalf of a family or individual for such costs, in some cases.¹⁰

Expenditure Cap

The CDBG program’s authorizing statute limits a primary grantee’s public service activity expenditures to no more than 15% of its funding amount, plus 15% of CDBG program income from the previous year.¹¹ The public service expenditure cap is consistent with the program’s original intent to prioritize physical development activities, as opposed to providing services.¹²

Initially, the CDBG program did not have a public service expenditure cap. However, the program’s original authorizing act restricted funding for public service activities to novel services supporting the implementation of other CDBG activities (P.L. 93-382, Section 105(a)(8)). In the Omnibus Budget Reconciliation Omnibus Budget Act of 1981 (P.L. 97-35), Congress set the first public service expenditure cap at 10%. Congress subsequently expanded the public service expenditure cap to 15% in the Supplemental Appropriations Act, 1984 (P.L. 98-181), which was enacted in November of 1983.

⁶ The LMI benefit national objective is required to total 70% of a grantee’s projects under the conventional CDBG program, although waivers may be obtained in extenuating circumstances. For information on HUD’s definitions for low and moderate income, see <https://www.hudexchange.info/programs/cdbg/cdbg-low-moderate-income-data/>.

⁷ 42 U.S.C. §§5301 et seq., as interpreted by HUD at 24 C.F.R. §570.200 and the HUD Guide to National Objectives and Eligible Activities for CDBG Entitlement Communities.

⁸ 42 U.S.C. §5301(c). Typically, low- and moderate-income under CDBG is defined as a family or household income at or below 80% of the area median income.

⁹ 24 C.F.R. §570.200(a)(3).

¹⁰ 24 C.F.R. §570.207(b)(4). For expenditure data on eligible short-term emergency subsistence payments, see **Table A-1**.

¹¹ 42 U.S.C. §5305(a)(8). CDBG program income, as defined in 24 C.F.R. §570.500, is “gross income received by the recipient or a subrecipient directly generated from the use of CDBG funds.”

¹² HUD, *Housing and Community Development Act of 1974: Community Development Block Grant Program*, First Annual Report, Washington, DC, December 1975, p. 31, <https://archives.hud.gov/offices/cpd/communitydevelopment/congress/1975.pdf>.

Exceptions, Programmatic Flexibilities, and Waivers

Although CDBG statute and regulations restrict public service activities, there are several exceptions and programmatic flexibilities. Additionally, the public service expenditure cap has been modified or waived on a temporary basis in certain emergency cases.

Statutory Exceptions

Congress has restricted expenditures on CDBG public service activities for most of the program's existence. However, the program's statute provides some alternatives for entitlement grantees that expended more than 15% of their FY1982 or FY1983 CDBG allocation for public service activities in 1982 and 1983.¹³ The statute allows the eligible grantees to use 15% of the previous year's program income plus the greater of the following:¹⁴

- the actual dollar amount obligated in program year 1982 or program year 1983; or
- the percentage of program year 1982 or program year 1983 public service obligations multiplied by the upcoming program year allocation amount.¹⁵

Congress has also amended the CDBG program's authorizing statute to provide temporary expansions of the cap for certain grantees in response to specific events. For example, in response to the 1992 Los Angeles riots, Congress raised the cap to 25% for Los Angeles City and Los Angeles County from 1993 through 2003.¹⁶

Programmatic Flexibilities

CDBG regulations provide some additional exemptions to the 15% public services expenditure cap for certain types of activities. For example, public service activities designed to assist microenterprise or expand employment opportunities associated with an eligible CDBG special economic development activity may be exempt from the cap.¹⁷ Certain public service activities carried out by eligible nonprofit development organizations are also exempt from the expenditure cap, under the following circumstances if:¹⁸

1. the activity is related to employment services;¹⁹ or
2. the eligible organization carries out the activity in an area designated by the grantee and approved by HUD as a Neighborhood Revitalization Strategy Area

¹³ 42 U.S.C. §5305(a)(8). According to data provided to CRS by HUD, 41 entitlement grantees are eligible under this provision.

¹⁴ For HUD guidance on this exception, see HUD, *Guide to National Objectives and Eligible Activities for Entitlement Grantees*, Chapter 2: Categories of Eligible Activities, p. 23, <https://www.hudexchange.info/sites/onecpd/assets/File/CDBG-National-Objectives-Eligible-Activities-Chapter-2.pdf>.

¹⁵ HUD, *Guide to National Objectives and Eligible Activities for CDBG Entitlement Communities*, Chapter 2: Categories of Eligible Activities, 2001, p. 22, <https://www.hudexchange.info/sites/onecpd/assets/File/CDBG-National-Objectives-Eligible-Activities-Chapter-2.pdf>.

¹⁶ 42 U.S.C. §5305(a)(8).

¹⁷ 24 C.F.R. §570.201(o)(2); 24 C.F.R. §570.203(c).

¹⁸ For nonprofit eligibility in entitlement communities, see 24 C.F.R. §570.204(c). For nonprofit eligibility in nonentitlement communities, see 42 U.S.C. §5305(a)(15).

¹⁹ 24 C.F.R. §570.204(b)(2)(i); 24 C.F.R. §570.481(c)(2)(ii).

(entitlement communities) or Community Revitalization Strategy Area (nonentitlement communities).²⁰

In addition to regulatory flexibilities, HUD guidance encourages grantees to examine whether a proposed public service activity could also qualify under a category that is not subject to an expenditure cap.²¹

Waivers

Congress or HUD have waived or modified the public service expenditure cap to provide grantees with additional flexibilities, in response to some urgent events. The Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) included \$5 billion in supplemental CDBG funds (CDBG-CV) “to prevent, prepare for, and respond to coronavirus.” The act also included a provision waiving the public service expenditure cap for CDBG-CV funds and for CDBG funds appropriated for FY2020 and FY2019.²² In its CDBG-CV rulemaking, HUD also extended the eligible period for the provision of emergency subsistence-type payments—which are a form of public service expenditure—from three months to six months.²³

In some cases, HUD has granted waivers or alternative requirements related to public service activities supported by supplemental CDBG funds for Disaster Recovery (commonly referred to as CDBG-DR), as authorized by Congress in supplemental appropriations acts.²⁴ HUD has also used statutory authority to temporarily waive the public service expenditure cap for conventional CDBG grantees recovering from Presidentially Declared Disasters.²⁵

HUD Monitoring of Compliance

HUD assesses individual grantee compliance with the public service expenditure cap on a program year basis. Grantee compliance is determined by assessing individual grantee reporting and measuring public services expenditures against any relevant exemptions or flexibilities. Although HUD publishes data on grantee expenditures at the individual and aggregate levels, these publicly available sources do not provide a clear indication of cap compliance, for a number of reasons. For example, HUD’s published aggregated data are typically on a fiscal year basis,

²⁰ 24 C.F.R. §570.204(b)(2)(ii); 24 C.F.R. §570.481(c)(2)(iii).

²¹ HUD, *Basically CDBG Manual for Entitlements*, Chapter 7, July 2012, p. 3, <https://files.hudexchange.info/resources/documents/Basically-CDBG-Chapter-7-Public-Services.pdf#page=3>; and HUD, *Basically CDBG Manual for States*, April 2012, p. 3, <https://www.hudexchange.info/sites/onecpd/assets/File/Basically-CDBG-State-Chapter-7-Public-Services.pdf>.

²² HUD reporting indicates that public service expenditures made up 67.8% of the overall CDBG-CV expenditures in FY2021 and 43.0% of CDBG-CV expenditures in FY2020. Overall, conventional CDBG public service expenditures did not exceed 15% of the total expenditures during the covered fiscal years.

²³ HUD, “Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs,” 85 *Federal Register* 51457, August 20, 2020.

²⁴ For an example, see HUD, “Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG-DR Consolidated Waivers and Alternative Requirements Notice,” 87 *Federal Register* 31648, May 24, 2022.

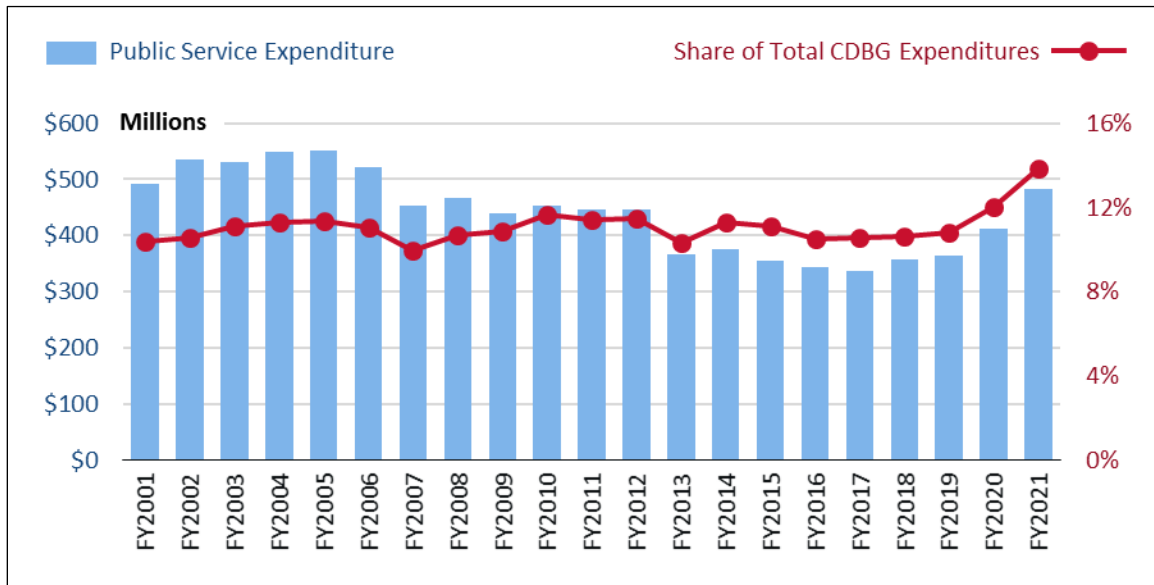
²⁵ 42 U.S.C. §5321. For an example, see HUD, Availability of Waivers of Community Planning and Development Grant Program and Consolidated Plan Requirements to Facilitate Recovery from the Severe Storms, Straight-Line Winds, Flooding, and Tornadoes, December 21, 2021, pp. 5-6, https://www.hud.gov/sites/dfiles/CPD/documents/CPD_KYDisasterWaivers_12_21_2021.pdf.

rather than a grantee prior year basis. Further, they do not reflect the application of the aforementioned cap exceptions and waivers.²⁶

CDBG Public Service Expenditures

Although HUD’s public CDBG activity expenditure reports do not necessarily provide insight on public service expenditure cap compliance, they may provide some insights on broad trends in public service expenditures over time. Public service activities made up 13.9% of overall CDBG expenditures during FY2021. Since FY2001, conventional CDBG fiscal year public service activity expenditures have ranged between 9.9% (FY2007) and 13.9% (FY2021) of overall program expenditures.²⁷ **Figure 1** illustrates public service expenditure amounts and share of total CDBG expenditures, by all grantees between FY2001 and FY2021.

Figure 1. CDBG Public Service Expenditures
All CDBG Grantees



Source: HUD, *CDBG Activity Expenditure Reports*, <https://www.hudexchange.info/programs/cdbg/cdbg-expenditure-reports/>.

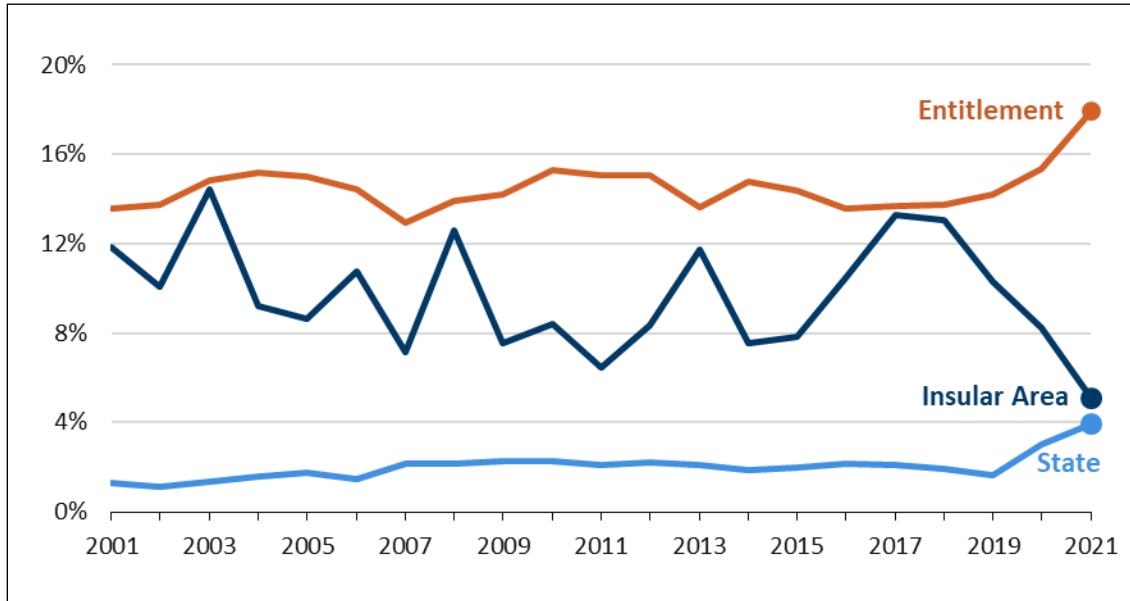
Public service activity expenditures are most common among entitlement community grantees. In FY2021, public service activities made up 17.9% of entitlement community expenditures, as compared with 3.9% for states and 5.1% for insular areas.²⁸ **Figure 2** provides an illustration of trends in public service expenditure by grantee type between FY2001 and FY2021.

²⁶ During some fiscal years, the aggregated public service expenditure amount for entitlement communities has exceeded 15% of the total entitlement CDBG expenditure amount, potentially due to these factors.

²⁷ HUD, *CDBG Activity Expenditure Reports*, <https://www.hudexchange.info/programs/cdbg/cdbg-expenditure-reports/>.

²⁸ As defined in 42 U.S.C. §5302(a)(24), CDBG insular areas are Guam, the Northern Mariana Islands, the U.S. Virgin Islands, and American Samoa.

Figure 2. Public Service Expenditures by Grantee Type: FY2001-FY2021
Share of CDBG Activity Expenditures Within Grantee Type



Source: HUD, *CDBG Activity Expenditure Reports*, <https://www.hudexchange.info/programs/cdbg/cdbg-expenditure-reports/>.

Notes: As mentioned earlier in the report, fiscal year CDBG expenditure data are not indicative of program compliance under the public service expenditure cap.

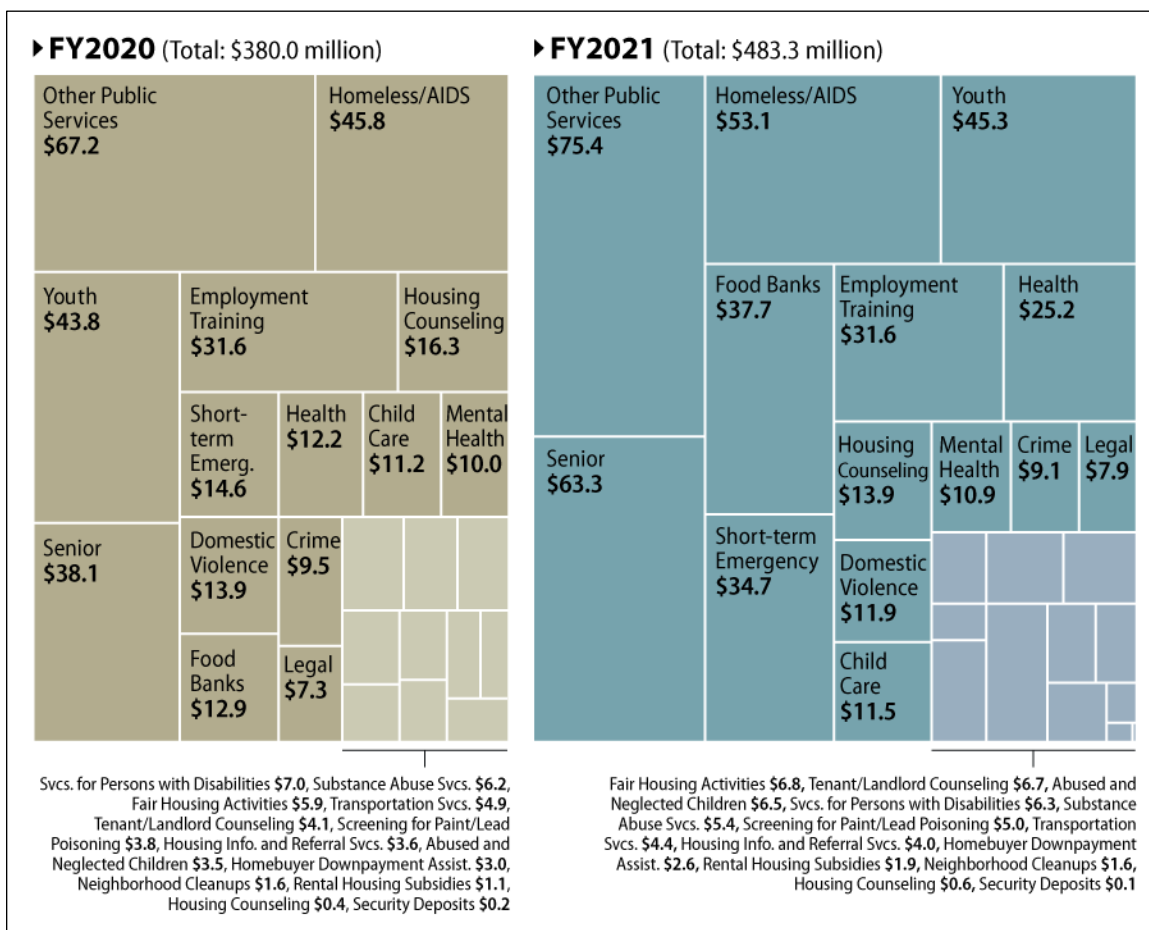
The difference in expenditure levels by grantee type may be attributed to a variety of factors including but not limited to the statutory cap flexibility for some entitlement grantees, described above. Further, states and territories may have more alternative options for funding services activities than entitlement communities, since most major service-related block grants are allocated to them (e.g., Department of Health and Human Community Services Block Grants and Services Social Services Block Grants).

As noted previously, the CDBG program allows for a broad range of eligible public services activities. Since FY2017, operating costs of homeless and AIDS patient programs, youth services, and senior services typically have been among the most common types of CDBG public service expenditures.²⁹ **Figure 3** illustrates the share of selected public service activity types, by all CDBG grantees in FY2020 and FY2021.

²⁹ Ibid.

Figure 3. Share of Public Service Expenditures

Dollars in Millions



Source: CRS graphic with data provided by HUD from the Integrated Disbursement and Information System.

Notes: For a detailed overview of FY2020 and FY2021 public service activity expenditures, see **Table A-1**.

Discussion

Program Intent

Since CDBG’s establishment, Congress and HUD have limited public service activities within the program through statutory and regulatory controls. Congress and HUD have also revised and revisited these restrictions throughout their existence. Past reporting and hearing testimony suggests that limitations on CDBG public service activities were aligned with local priorities in the early years of the program. A 1981 General Accounting Office (GAO) study surveyed local officials and analyzed a range of topics related to local CDBG implementation including targeting of funds, residential rehabilitation, and performance monitoring. The GAO report indicates that at

that time, city officials generally found public services to be a lower priority in urban revitalization efforts.³⁰

In a 1983 hearing before the Senate Committee on Banking, Housing, and Urban Affairs, Subcommittee on Housing and Urban Affairs, the mayor of Norfolk, VA, provided testimony on behalf of the U.S. Conference of Mayors. The mayor expressed support from the Conference for the public services cap, but with inclusion of a process for granting waivers. The mayor stated that the cap was “an appropriate indication of the focus on physical development which always characterized the basic CDBG program.”³¹ As noted above, Congress and HUD have granted waivers and temporary flexibilities from the cap in certain cases.

On June 16, 2021, the House Committee on Financial Services, Subcommittee on Housing, Community Development and Insurance held a hearing to examine the CDBG program and discuss potential reforms, which included discussion of modifications to the public services expenditure cap.³² State and local priorities—associated with CDBG-eligible activities—might have shifted since the inception of the program and the establishment of the public services expenditure cap. On the other hand, the program’s inherent flexibility may allow grantees to address potential adjustments in priorities without a statutory change to the public service expenditure cap.

Recent Proposals

Some Members of Congress have proposed options to remove or modify the public services expenditure cap on a temporary or permanent basis. Congress has considered modifying the definition or list of public service activities, to narrow or expand the range of activities subject to the cap. Congress has also considered permanently or temporarily changing the cap. Title II of H.R. 8294, the version of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2023, which passed the U.S. House of Representatives on July 20, 2022, includes a provision that would expand exemptions to the cap for FY2023. Specifically, the provision would exclude FY2023 expenditures on activities addressing homelessness and emergency rental assistance needs from the public services cap. In the 112th (H.R. 2183, S. 887) and 113th (H.R. 1758, S. 855) Congresses, substantially similar “Public Service Flexibility Acts” were introduced in the House of Representatives and the Senate. These bills would have increased the public services expenditure cap to 25%.

Large-scale changes to the current CDBG public service activity structure could pose duplication of benefits risks, or other coordination concerns, with federal programs more directly intended to address local public service needs, such as the Community Services Block Grant program (administered by the Department of Health and Human Services).³³ However, additional flexibilities for the provision of public service activities could also further enable braiding of federal resources to enhance support for these activities.

³⁰ U.S. Government Accountability Office, *The Community Development Block Grant Program Can Be More Effective in Revitalizing The Nation’s Cities*, CED-81-76, April 30, 1981, <https://www.gao.gov/assets/ced/81-76.pdf>.

³¹ U.S. Congress, Senate Committee On Banking, Housing, and Urban Affairs, Subcommittee on Housing and Urban Affairs, *Fiscal Year 1984 HUD Authorizations: Funding Authorizations for Housing and Community Development Programs for Fiscal Year 1984*, 98th Cong., 1st sess., March 1983, S.Hrg. 98-146 (Washington: GPO, 1983), p. 208.

³² U.S. Congress, House Committee on Financial Services, Subcommittee on Housing, Community Development, and Insurance, *Flexible Federal Funding: Examining the Community Development Block Grant Program and Its Impact on Addressing Local Challenges*, 117th Cong., 1st sess., June 16, 2022, Serial No. 117-31 (Washington: GPO, 2021).

³³ For information on the Community Services Block Grant Program, see CRS Report RL32872, *Community Services Block Grants (CSBG): Background and Funding*, by Conor F. Boyle.

Potential changes to the CDBG public service expenditure cap relate directly to questions of the program's intent, which have come up in the context of congressional oversight and appropriations. However, Congress has not thoroughly examined the intent of the CDBG program since its last reauthorization in the Housing and Community Development Act of 1992 (P.L. 102-550).

Table A-I. CDBG Public Service Activity Expenditures: FY2021 and FY2020

Public Service Activity	FY2021 CDBG Expenditure	FY2021 % of Total CDBG Expenditures	FY2021 % of Public Service Expenditures	FY2020 CDBG Expenditure	FY2020 % of Total CDBG Expenditures	FY2020 % of Public Service Expenditures
Other Public Services ^a	\$75,391,719	2.2%	15.6%	\$67,245,067	2.0%	17.7%
Senior Services	\$63,285,582	1.8%	13.1%	\$38,133,270	1.1%	10.0%
Operating Costs of Homeless/AIDS Patients Programs	\$53,133,046	1.5%	11.0%	\$45,821,319	1.4%	12.1%
Youth Services	\$45,310,200	1.3%	9.4%	\$43,815,243	1.3%	11.5%
Food Banks	\$37,694,595	1.1%	7.8%	\$12,902,165	0.4%	3.4%
Short-Term Emergency Subsistence Payment	\$34,683,063	1.0%	7.2%	\$14,564,667	0.4%	3.8%
Employment Training	\$31,563,096	0.9%	6.5%	\$31,574,049	0.9%	8.3%
Health Services	\$25,176,317	0.7%	5.2%	\$12,240,502	0.4%	3.2%
Housing Counseling only, under 24 C.F.R. 5.100	\$13,918,910	0.4%	2.9%	\$16,283,655	0.5%	4.3%
Services for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking	\$11,932,837	0.3%	2.5%	\$13,884,401	0.4%	3.7%
Child Care Services	\$11,538,789	0.3%	2.4%	\$11,242,546	0.3%	3.0%
Mental Health Services	\$10,852,064	0.3%	2.2%	\$9,991,583	0.3%	2.6%
Crime Awareness	\$9,072,260	0.3%	1.9%	\$9,539,953	0.3%	2.5%
Legal Services	\$7,917,009	0.2%	1.6%	\$7,290,867	0.2%	1.9%
Fair Housing Activities	\$6,824,059	0.2%	1.4%	\$5,894,909	0.2%	1.6%

Public Service Activity	FY2021 CDBG Expenditure	FY2021 % of Total CDBG Expenditures	FY2021 % of Public Service Expenditures	FY2020 CDBG Expenditure	FY2020 % of Total CDBG Expenditures	FY2020 % of Public Service Expenditures
Tenant/Landlord Counseling	\$6,669,249	0.2%	1.4%	\$4,101,909	0.1%	1.1%
Abused and Neglected Children	\$6,544,023	0.2%	1.4%	\$3,508,449	0.1%	0.9%
Services for Persons with Disabilities	\$6,338,956	0.2%	1.3%	\$7,019,159	0.2%	1.8%
Substance Abuse Services	\$5,414,303	0.2%	1.1%	\$6,205,860	0.2%	1.6%
Screening for Lead-Based Paint/Lead Hazards Poisoning	\$4,980,851	0.1%	1.0%	\$3,755,644	0.1%	1.0%
Transportation Services	\$4,366,237	0.1%	0.9%	\$4,936,721	0.1%	1.3%
Housing Information and Referral Services	\$3,973,148	0.1%	0.8%	\$3,649,700	0.1%	1.0%
Homebuyer Downpayment Assistance—Excluding Housing Counseling, under 24 C.F.R. 5.100	\$2,551,795	0.1%	0.5%	\$2,991,650	0.1%	0.8%
Rental Housing Subsidies	\$1,877,847	0.1%	0.4%	\$1,133,212	0.0%	0.3%
Neighborhood Cleanups	\$1,557,878	0.0%	0.3%	\$1,646,142	0.0%	0.4%
Housing Counseling, under 24 C.F.R. 5.100, Supporting Homebuyer Downpayment Assistance ^b	\$619,485	0.0%	0.1%	\$391,666	0.0%	0.1%

Public Service Activity	FY2021 CDBG Expenditure	FY2021 % of Total CDBG Expenditures	FY2021 % of Public Service Expenditures	FY2020 CDBG Expenditure	FY2020 % of Total CDBG Expenditures	FY2020 % of Public Service Expenditures
Security Deposits	\$147,283	0.0%	0.0%	\$199,133	0.0%	0.1%
Total Expenditures for Public Services	\$483,334,600	13.9%	—	\$379,963,441	11.3%	—
Total Expenditures for Fiscal Year	\$3,482,789,572	—	—	\$3,350,182,226	—	—

Source: CRS Analysis of data provided by HUD from the Integrated Disbursement and Information System.

Notes: Expenditure figures and percentages in this table are inclusive of all CDBG grantees. For guidance on CDBG public service activity eligibility, see HUD, *Basically CDBG Manual for Entitlements*, Chapter 7, July 2012; and HUD, *Basically CDBG Manual for States*, April 2012.

- a. This category consists of public service activities not listed in CDBG matrix codes 05A-05Y, 03T. For CDBG matrix code definitions, see HUD, *CDBG Matrix Code Definitions*, <https://files.hudexchange.info/resources/documents/Matrix-Code-Definitions.pdf>.
- b. Homebuyer Downpayment Assistance is defined in 05R of the CDBG matrix codes.

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