

**2023
COUNTY OF HAWAII
COMMUNITY DEVELOPMENT BLOCK GRANT
(CDBG) PROGRAM
PROPOSAL PACKET**



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INTRODUCTION

The purpose of this proposal packet is to provide information and guidance to the applicant who is considering applying for the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) program, through the County of Hawai'i Office of Housing and Community Development (OHCD).

The CDBG program provides grants and loans to units of general local government and eligible private non-profit entities to meet housing and community development needs. The primary objective of the program is the development of viable communities, including decent housing and a suitable living environment and expanding economic opportunities, PRINCIPALLY FOR PERSONS OF LOW AND MODERATE INCOME. Under the CDBG program, applicants may select one of the three income definitions for a low and moderate (L/M) income person. (See Appendix A for HUD income limits and definitions). The CDBG program's overall objective is achieved through a program in which funds are granted or loaned for activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight. The projected use of funds may also include activities which are designed to meet other community development needs having particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. Each program or project must have a direct impact on the applicant's identified need, as well as meet at least one of the national objectives described.

In order to fairly rate and rank the projects, the OHCD has developed the County Selection System. The system is intended to ensure that the projects submitted to HUD are eligible for funds and can be implemented in a timely manner as well as to avoid the problems and mistakes the OHCD has experienced with past projects.

As a prerequisite to receive federal funding all applicants will be required to have a Unique Entity Identifier (UEI) and be actively registered with current information in the System for Award Management (SAM.gov), formerly known as the Central Contractor Registration (CCR), prior to applying for CDBG funding. The applicant will have to submit proof that they have a UEI number and are actively registered in the SAM.gov system with their project proposal packet.

For the purpose of preparing the Action Plan and its project recommendation, all decisions as to timeliness, eligibility, and adequacy of the proposal, ranking and rating will be made by the OHCD. The OHCD will submit its 2023 Action Plan with its recommended projects to the Hawai'i County Council for its action to approve the Mayor to submit the Action Plan to the U.S. Department of Housing and Urban Development.

Please read all the enclosed program material before you prepare the proposal. **In order to be considered for CDBG funds, all eligible applicants will be required to submit a complete proposal that satisfies the threshold factors established by HUD and the County before the OHCD will rank and rate the proposal.** However, since the demand for grants far exceed the available funds, the County Selection System is designed to ensure that the projects are fairly and equitably reviewed and rated. This selection system establishes a specific range of points for various elements of the project; the OHCD will rate and rank the projects accordingly. To be evaluated fairly, the applicant must provide appropriate, quantifiable information in a manner that will enable the OHCD to score the project on each rating elements. **To be considered for CDBG funding an eligible project proposal must receive a minimum of 50% of the total points to be considered for ranking. If time permits, an interview and project site inspection with eligible applicants will be conducted, to clarify any information presented in the project proposal, prior to final recommendation.**

This proposal packet has been prepared to assist the applicant by explaining the review system and providing information and guidance on how to prepare the proposal.

The proposal packet provides the following information:

- ❖ Explanation of how needs, benefit and performance judgments and the selection system assessments will be made.
- ❖ Description of the documentation applicants must submit to substantiate the data, qualifications and other necessary requirements.
- ❖ Description of the review and rating process that will be used.
- ❖ Additional Federal Regulations applicable to applicants receiving CDBG funding.

IMPORTANT NOTICE:

The time frames established in the proposal process are firm. At the close of the proposal submittal period, no further information will be accepted by the OHCD, although clarification of information will be allowed or additional information may be requested as required to comply with the County's Consolidated Plan, as amended. It is, therefore, important that your proposal is complete, factual and contains the required supporting data. If the proposal is incomplete, the OHCD will not review the proposal.

All original bounded (PLEASE NO SPIRAL BINDING) project proposal and two (2) copies must be received and time stamped no later than 4:30 p.m., November 15, 2022 Hawaii Standard Time, at the:

Office of Housing and Community Development
1990 Kino'ole Street, Suite 102
Hilo, Hawai'i 96720
Phone No. (808)961-8379

or

Office of Housing and Community Development
West Hawai'i Civic Center
74-5044 Ane Keohokalole Highway
Kailua-Kona, Hawai'i 96740
Phone No. (808)323-4300

Proposals submitted after the date and time stamp deadline or insufficient copies of the proposal will not be accepted and therefore not rated for funding. Project Proposals delivered and/or submitted by e-mail or fax will not be accepted.

I. GENERAL INFORMATION FOR APPLICANTS

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A. ELIGIBILITY OF THE APPLICANTS

In general, government agencies, private non-profit entities, and Community Based Development Organizations (CBDO) are eligible to utilize CDBG funds.

Private entities organized for profit may be eligible under certain circumstances, including some rehabilitation and economic development activities. The applicant should consult the Federal Register, 24 CFR Subpart C 570.200 - 570.205. See Appendix C for a list of the eligible applicants.

As a general rule, CDBG assistance may not be used for religious activities or provided to primarily religious entities. Religious organizations may be eligible to utilize CDBG funds under rules and restrictions as specified in 24 CFR 570.200(j), Appendix C.

If there are any questions on the eligibility of any applicant, please call the OHCD at (808)961-8379.

B. ELIGIBLE COMMUNITY DEVELOPMENT PROJECTS

The applicant should consult the Federal Register, 24 CFR Subpart C 570.200 - 570.205 (Appendix C), for a list of the eligible activities.

Major Categories: In general, the following categories contain the major types of projects which are eligible for funding under the CDBG Program:

PROJECTS	EXAMPLE
Acquisition or disposition of real property	for community development of deteriorated or undeveloped property, preservation of historic sites or conservation activities.
Public facilities	for water and sewer improvements, street improvements, centers for senior citizens, recreation facilities or neighborhood facilities.

Rehabilitation and
Preservation

for rehabilitation of residential
or commercial structures,
modernization of public housing,
code enforcement or historic
preservation.

Economic development

Acquisition of real property, site
improvements or grants and loans
to private entities for the
purposes of economic development.

**NOTE: THIS LIST IS PROVIDED SIMPLY TO SHOW EXAMPLES OF THE
TYPES OF PROJECTS THAT MAY BE ELIGIBLE FOR CDBG FUNDS.
IT IS IN NO WAY INTENDED TO BE INCLUSIVE. APPLICANTS
SHOULD CONSULT THE FEDERAL REGISTER (APPENDIX C), 24
CFR 570.200 - 570.205 FOR GUIDANCE ON ELIGIBLE
ACTIVITIES.**

Determining Eligibility:

A project may be clearly eligible, or it may be subject to
special requirements or qualifications. If there are
special requirements, such as ties to other activities, the
proposal must demonstrate how the proposed project will
meet the special considerations.

If there are any questions about the eligibility of your
proposed project, call the OHCD for information.

C. INELIGIBLE COMMUNITY DEVELOPMENT PROJECTS

The general rule is that any activity not authorized under
the provisions of Section 570.200 - 570.205 is ineligible
to be assisted with CDBG funds.

**The following is a brief list of activities that may not be
assisted with CDBG funds.** This list is in no way intended
to be inclusive. Applicants should consult the Federal
Register, 24 CFR Section 570.207 (Appendix C) for a
comprehensive list and guidance in determining the
eligibility of other activities associated with housing and
community development.

1. Buildings or portions thereof, used for the general
conduct of government cannot be assisted with CDBG
funds.

Examples: City halls; County administrative buildings;
State Capitol or office buildings;

legislative, judicial or general
administrative affairs of government.

2. General government expenses, unless authorized in 2 CFR Part 200, Subpart E.

Examples: Bad debts, contributions and donations, entertainment, fines and penalties, legislative expenses.

3. Political activities cannot be financed with CDBG funds:

Examples: Candidate forums, voter transportation or registration or the financing of facilities or equipment for political purposes.

4. Purchasing of equipment; with exceptions for projects that qualify under economic development and public service.

Examples: Construction, furnishing and personal property.

5. Operating and maintenance expenses. Exceptions to this rule are operating and maintenance expenses associated with public service activities.

Examples: Repairing, operating or maintaining public facilities, improvements and services.

6. New housing construction.

Examples: New permanent residential structures.

7. Income payments for housing.

Examples: Income maintenance, housing allowances and mortgage subsidies.

D. FUNDING ALLOCATIONS

The CDBG funds are allocated to the counties of Kauai, Maui and Hawai'i on a formula basis. The formula, established by HUD, is based on the County's population, the extent of poverty and the extent of housing overcrowding. However, HUD may reduce the County's allocated amount if the County is not utilizing the grant amount effectively and efficiently and not complying with the project schedules or not complying with other program requirements.

The County's expenditure performance affects the allocation of CDBG funds; thus, great care will be taken to ensure that the projects selected by the County for the application increases its chances of receiving the maximum funding allocation for future grants.

Based on the previous CDBG allocations, the County estimates that the 2023 allocation will be approximately \$2,600,000.

E. COMPLIANCE WITH APPLICABLE FEDERAL/STATE REGULATIONS

Recipients and sub-recipients selected to receive CDBG funds for eligible projects will be required, if applicable, to certify, provide documentation and assure that it will comply with the following regulations, policies, guidelines and requirements with respect to the acceptance and use of federal funds.

1. The project will be conducted and administered in compliance with:
 - (a) Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 42 U.S.C. 2000d et seq.) and implementing regulations issued at 24 CFR Part 1; which states that no person may be excluded from participation in, denied the benefits of or subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color or national origin.
 - (b) The Fair Housing Act (42 U.S.C. 3601-3619), as amended, and implementing regulations issued at 24 CFR Part 100; by prohibiting acts of discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status.
 - (c) Section 109 of the Housing and Community Development Act of 1974, as amended, and the regulations issued pursuant thereto at 24 CFR 570.602; which requires that no person be excluded from participation in, denied the benefits of or be subjected to discrimination under any program or activity funded under the CDBG program on the basis of race, color, religion, national origin or sex.

- (d) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as amended; which ensures that employment and other economic opportunities generated by HUD assistance or HUD assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance.
- (e) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60, as set forth in 24 CFR 570.607; which is applicable to contracts in excess of \$10,000, which prohibits discrimination in the employment on the basis of race, color, national origin, religion or sex.
- (f) Executive Order 11063, as amended by Executive Order 12259, and implementing regulations at 24 CFR Part 107; which prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental leasing or other disposition of residential property or in the use or occupancy of housing assisted with federal funds.
- (g) The Rehabilitation Act of 1973 (P. L. 93-112) and implementing regulations issued at 24 CFR Part 8; which prohibits discrimination in federally assisted programs on the basis of handicap and imposes requirements to ensure that qualified individuals with handicaps have access to programs and activities that receive federal funds.
- (h) The Age Discrimination Act of 1975 (P. L. 94-135) and implementing regulations issued at 24 CFR Part 146; which prohibits age discrimination in programs receiving federal financial assistance.
- (i) The labor standards requirements as set forth in 24 CFR 570.603 and HUD regulations issued to implement such requirements; which require compliance with the Federal Davis-Bacon Act and related Acts for all construction contracts in excess of \$2,000. Applicants will be required to obtain the applicable federal wage determination, review, approve and submit certified payrolls that validates that laborers and mechanics working on the project are paid the unconditionally and not less than once a week in

accordance with the projects applicable federal wage determination.

- (j) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 40001 et seq.) as set forth in 24 CFR 570.605; federal law requiring the purchase of flood insurance for all federally assisted projects located in a floodplain as well as the compliance with the eight-step decision making process during the environmental review for compliance with Executive Order 11988.
- (k) The regulations, policies, guidelines and requirements of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for Federal Awards, as they relate to the acceptance and use of federal funds under this federally-assisted program; which requires recipients of federal funds establish a written procurement procedure that at a minimum avoids purchasing unnecessary items, provides analysis for the most economical and practical procurement of goods and services and states a clear and accurate description of the requirements for material, product or services procured.
- (l) Assistance under this part shall not be used directly or indirectly to employ, award contracts to or otherwise engage the service of or fund any contractor or sub-recipient during any period of debarment, suspension or placement in ineligible status under the provisions of 24 CFR Part 24;
- (m) The Architectural Barriers Act of 1968, as amended, (42 U.S.C. 4151-4157) which requires that certain federally-funded buildings or facilities be designed, constructed or altered to ensure accessibility to and use by, physically disabled persons.

- 2. It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as required under 24 CFR 570.606(a) and Federal implementing regulations; the requirements in 24 CFR 570.606(b) governing the residential anti-displacement and relocation assistance plan under Section 104(d) of the Act; the relocation requirements

of 24 CFR 570.606(c) governing displacement subject to Section 104(k) of the Act; and the relocation requirements of 24 CFR 570.606(d) governing optional relocation assistance under Section 105(a)(ii) of the Act;

3. It will certify that no member, officer or employee or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the grant, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification, as set forth in 24 CFR 570.611, Conflict of Interest.
4. It will give the County, HUD and the Comptroller General or any authorized representatives access to and the right to examine all records, books, papers or documents related to the grant.
5. Its notification, inspection, testing and abatement procedures concerning lead-based paint will comply with 24 CFR 570.608; all facilities constructed prior to 1978 which are occupied by families with children under seven years of age and which are proposed for rehabilitation shall be inspected for defective lead paint surfaces. Facilities found to contain lead-based paint abatement procedures;
6. It will not attempt to recover any capital costs of public improvements assisted in whole or in part with CDBG funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 - (a) CDBG funds received are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title I of the Act; or

- (b) For purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the

Secretary that it lacks sufficient CDBG funds to comply with the requirements of subparagraph (a) above.

7. No federal-appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement;
8. As a condition for receiving federal funds, recipients are required to certify that they will provide drug-free workplaces in accordance with the Drug-Free Workplace Act of 1988;
9. Will comply with the National Environmental Policy Act of 1969 and other authorities as specified in 24 CFR Part 58. Such provisions are to include, but not be limited to, Historic Properties, Flood Plain and Wetland Protection, Coastal Zone Management, Endangered Species, Air Quality, Farmlands Protection Policy Act and Environmental Justice. All projects will be required to have a completed environmental review prior to the expenditure of CDBG funds. Applicants should assess the time to conduct the appropriate type of environmental review within their project schedule;
10. As a prerequisite to entering into an agreement for \$25,000 or more of CDBG funds, applicants will be required to submit a tax clearance from the State Director of Taxation and the Internal Revenue Service to state the effect that all tax returns due have been filed, and all state and federal taxes, interest and penalties levied or accrued have been paid;
11. It will comply with 24 CFR 570.613, Eligibility Restrictions for Certain Resident Aliens;

12. It will comply with 24 CFR 570.614, Architectural Barriers Act and the Americans with Disabilities Act of 1968 (42 U.S.C. 4151-4157) requiring certain Federal and Federally funded buildings and other facilities to be designed, constructed or altered in accordance with standards that insure accessibility to, and use by, physically disabled people. A building or facility designed, constructed or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 24 CFR 101-19.602(a) is subject to the requirements of the Fair Housing Act and Architectural Barriers Act of 1968 and shall comply with the Uniform Federal Accessibility Standards;
13. It will comply with the American with Disabilities Act (ADA) which provides comprehensive civil rights to individuals with disabilities in areas of employment, public accommodations, state and local government services and telecommunications.

II. THE COUNTY SELECTION SYSTEM

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The County Selection System is designated to help select those projects having the greatest need and which most effectively addresses that need along with the capacity and resources to complete the project within the agreed timeframe.

In order to be considered for funding and to determine the project and applicants ability to address and implements its project, the project must meet certain minimum requirements established by HUD and the OHCD. These are identified as **"Threshold Factors."** If all the threshold factors are met, the project will be rated on the basis of **"Priority Factors,"** including the National/Consolidated Plan priorities, the project impact, the project funding, the applicant's capabilities, past performance in block grant management and ability to meet and comply with federal overlay statutes.

A. THRESHOLD FACTORS

A proposal must address and meet certain minimum requirements before the OHCD will begin to rate the project. **If your proposal does not address or meet all these threshold factors, the OHCD will not rank and rate your project proposal.** The threshold requirements are listed below:

1. Applicant's Eligibility:

The applicant must be eligible with respect to 24 CFR 570.200 - 570.205 (See Appendix C).

2. Project Eligibility:

The project must be eligible with respect to 24 CFR 570.200 - 570.205 (See Appendix C).

3. National Objectives of the U.S. Department of Housing and Urban Development:

Each project must be consistent with the primary objective and at least one of the following national objectives of HUD:

Primary Objective:

The primary objective of the Community Development Block Grant program is the development of viable communities, including decent housing and a suitable living environment and expanding economic

opportunities, principally for persons of low and moderate income.

National Objectives:

The project must comply with 24 CFR 570.208 and 24 CFR 570.209 for Economic Development Project's (See Appendix D).

- (a) Activities benefiting low- and moderate-income persons.
- (b) Activities which aid in the prevention or elimination of slums or blight.
- (c) Activities designed to meet community development needs having a particular urgency.

4. County General Plan:

The County General Plan provides the broad framework for all activities and expenditures with Hawai'i County. As such, all projects must show that they are consistent with the General Plan in order to be considered by the OHCD for block grant funds.

5. Consolidated Plan:

The Consolidated Plan contains the County of Hawai'i's priorities and objectives for HUD programs. As such, all projects must show that they are consistent with the Consolidated Plan's priorities in order to be considered by the OHCD for CDBG funds.

Projects requesting CDBG funding will need to address at least one of those priorities stated in the Community Development Priorities Section of the County's five-year 2020-2024 Consolidated Plan for utilizing HUD's CDBG program funds.

The County's Consolidated Plan's priorities will be used to allocate CDBG funds in accordance with project eligibility requirements and program rules. Higher points will be awarded to project proposals that address high priority activities.

The following are the County's CP Priorities:

HIGH PRIORITIES:

- Housing: Housing for households earning less than 80% of median income [i.e. rental, homeownership, special needs, homeless and activities which will produce new housing

(i.e. water, streets, environmental activities, planning, etc.)]
- Public Health and Safety: Activities that protect the health and safety of the residents in Hawai'i County. (i.e. fire, police, environment, etc.)
- Federal Mandates: Activities to meet legal obligations or federal mandates. (i.e. ADA, cesspool conversion)
- Public Facilities: Childcare, youth, and/or senior centers; facilities for the disabled; homeless facilities; health facilities; neighborhood facilities; parks & recreation facilities; and/or infrastructure
- Disaster Relief: Activities to address designated Disaster Relief Areas (i.e. Infrastructure, Economic Development, Health Facilities)
- Infrastructure: (other than housing related) Water/sewer/street improvements; solid waste disposal; and/or flood drainage improvements.
- Public Services: Senior, disabled, youth, childcare, transportation, substance abuse, employment, health, lead hazards, crime, including activities that prevent, prepare for, address and/or respond to disaster related events such as flooding, lava flow, hurricane, tsunami, infectious diseases, etc.
- Economic Development: Activities which create jobs for low- and moderate-income persons.

LOW PRIORITIES:

- Public Facilities: Parking facilities and non-residential historic preservation.
- Infrastructure: Sidewalks.

6. Project Schedule:

In order to comply and meet the CDBG Program requirements, all activities funded with CDBG funds shall be expended and **completed within a twelve - (12) month period. This period begins from July 1, 2023 and ends on June 30, 2024.**

Submitted project schedules will be reviewed based on OHCD's experience with past and similar projects. As determined by the OHCD, improbable or problematic schedules that will not meet the one (1) year expenditure deadline will not satisfy this threshold. Projects with lengthy schedules should consider being phased or implemented on a smaller scale.

As a note, projects that exceed the expenditure deadline may and will lose funds to other on-going projects.

7. Relocation Plan:

If individuals or businesses will be relocated in order to carry out the proposed project, it is required that the applicant describe why displacement is necessary and submit a Relocation Plan that complies with 24 CFR 570.606, Uniform Relocation Act as contained in Appendix E. **If there is no approved Relocation/Displacement Plan, the proposed project will not be rated and ranked.**

8. Environmental Considerations:

All projects utilizing CDBG funds are required by CDBG program rules and regulations to be reviewed for the **appropriate federal level of environmental compliance.** The type of environmental compliance is a significant milestone in the project schedule and will ultimately affect the progress of the project. Projects requiring Environmental Impact Statements (EIS) or an Environmental Assessment expecting to have numerous environmental concerns will not be rated and ranked.

9. Site Selection:

In order to implement the project in a timely manner, it is vital that the project site be **identified** and **controlled** by the applicant. Projects requiring changes in zoning and/or if it involves site acquisition with CDBG funds must submit a timeline identifying the steps and their process to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

10. Project Funding:

Applicants will need to state and identify whether there are other sources of funds (i.e., County, State, private donations, etc.). Documentation to verify that these funds are secured and committed are required to be submitted.

B. PRIORITY FACTORS

If the threshold requirements are met, the project will be rated and awarded points on the elements listed in the chart below.

<u>PROJECT EVALUATION</u>	MAXIMUM POINTS
<u>Project Element</u>	
Extent and seriousness of the identifiable needs	100
Results to be achieved	100
Consolidated Plan Priorities	100
Environmental considerations	100
Site selection standards	100
Additional actions needed	<u>50</u>
Sub-total	550
<u>Project Funding & Budget</u>	
Funding Impact	100
Budget Impact	<u>100</u>
Sub-total	200
<u>Applicant Evaluation</u>	
Compliance with Federal Overlay Statutes	50
Project/Program Management	100

Past Performance	<u>100</u>
Sub-total	<u>250</u>
TOTAL	1,000

Project Evaluation

The project evaluation element, which represents a significant portion of the total number of points each project can receive, is intended to ensure that the best projects are considered for funding. Six components have been identified and will be considered in the rating of this element. These components are:

1. Extent and Seriousness of the Identified Needs:

Applicants should clearly describe the problem, its extent and seriousness of the identified needs.

2. Results to be Achieved:

Applicants should explain what will actually be accomplished as an outcome of undertaking this project. Applicants should describe who will benefit and how and to what extent the proposed project will address their needs. The kind of benefit which the proposal provides may make a difference in judging and comparing the adequacy of the proposal in meeting the identified needs.

3. Consolidated Plan Priorities:

The CDBG program is moving towards a performance-based funding. Based on community input and current data, the County established its high and low priorities for the CDBG program. Applicants should clearly describe how its proposed project will comply and ultimately accomplish a priority(ies) of the County's 2020-2024 Consolidated Plan. Higher points will be awarded to projects that address high priority activities.

4. Environmental Considerations:

A federal environmental review will be required for all projects selected for funding. Consequently, information relating to environmental concerns at the selection stage can have a significant impact on the proposal. The extent to which the applicant has considered and acted upon potential environmental

concerns may be important. Some examples are: relocation of activities from a flood plain, the effect of increased traffic in a neighborhood resulting from a funded activity, historic sites, hazardous material, etc.

5. Site Selection Standards:

Applicants proposing to acquire land for housing, or any other eligible activity should address the site selection standards and the efforts it will take to meet them. See Exhibit 8 of the proposal for site selection standards.

6. Additional Actions Needed:

Evidence should be provided where necessary to indicate that other resources or activities needed to ensure a complete project will be available. If such support is not documented, or if the need is evident but not addressed, the impact of the proposal may be diminished.

The first five components will have a maximum score of 100 points each followed by additional actions of 50 points maximum, for a total possible score of 550 points for these elements. To further ensure that the selected projects address the most significant community needs, the sum of the component scores will be multiplied by a "Need Factor" to determine the total project evaluation score.

The Need Factor will be calculated by dividing the score of the need component by the maximum number of points possible (100).

$$\text{Need Factor} = \frac{\text{Need Component Score}}{\text{Maximum Possible Score (100)}}$$

TOTAL PROJECT EVALUATION SCORE = Sum of Components Scores x
Need Factor

Points Assignment

Points will be assigned for each component based on the following criteria:

1. Extent and Seriousness of the Identified Needs (Need Component):

- 100 pts. Clear need is described which is major and current and the need is more crucial than others.
- 75 pts. Need is clearly described and is serious.
- 50 pts. Need is described and is fairly serious.
The need does not appear to be as crucial as others being considered in the selection process.
- 25 pts. Need is described but not major or pronounced.
- 0 pts. No clear need is described, or need is not major or pronounced.

2. Results to be Achieved:

- 100 pts. The project outcome would resolve the problem completely, other actions needed to support the project have been committed and are clearly stated in the proposal.
- 75 pts. The project outcome would have a major impact on the need but would not completely resolve the problem.
- 50 pts. The project outcome would have some impact on the need but not as much as that of other projects.
- 25 pts. The project outcome does not clearly address the need. The project appears to be of general community benefit and would only minimally serve low and moderate income persons.
- 0 pts. Only a small portion of the described need would be addressed. The community has made no apparent effort to solve the problem through local and other sources.

3. Consolidated Plan Priorities:

- 100 pts. The project will address and complete at least one of the high priorities and goals of the Community Development priorities within the County's Consolidated Plan.
- 75 pts. The project meets a high priority but will only partially complete the goal of the Community Development priorities within the County's Consolidated Plan.
- 50 pts. The project will address a high priority but will not accomplish a goal within the County's Consolidated Plan.
- 25 pts. The project will address and complete a low priority and goal of the Community Development priorities within the County's Consolidated Plan.
- 0 pts. The project does not address a priority and goal of the Community Development priorities within the County's Consolidated Plan.

Note: The OHCD acknowledges that economic development proposals may have a lesser percentage of low- and moderate-income benefit. In these cases, less benefit will not necessarily preclude a project from receiving the maximum score.

4. Environmental Considerations:

- 100 pts. All environmental requirements have been completed and there are no environmental problems.
- 75 pts. Environmental problems have been identified; however, they appear to be fully resolvable.
- 50 pts. The project appears to have slight problems with respect to environmental concerns.
- 25 pts. The project appears to have moderate problems with respect to environmental concerns.
- 0 pts. The project appears to have extensive problems with respect to environmental concerns.

5. Site Selection Standards:

- 100 pts. There is no identified site selection problems.
- 75 pts. There may be some site selection problems; however, they appear to be fully resolvable.
- 50 pts. The project appears to have some problems with respect to site selection.
- 25 pts. The project appears to have a moderate amount of problems with respect to site selection.
- 0 pts. The project appears to have extensive problems with respect to site selection.

6. Additional Actions Needed:

- 50 pts. No further action is needed. The project fully resolves the identified need.
- 40 pts. Some additional action may be needed to fully resolve the need.
- 30 pts. Moderate action is still needed to resolve the identified need.
- 20 pts. Extensive action is still needed to fully resolve the identified need.
- 0 pts. The project does not address the identified need.

Project Funding & Budget

The project funding and budget elements are intended to ensure that the proposed project can be completed and that the program funds are effectively used and secured. It is to the

applicant's benefit that their project budget demonstrates that CDBG funds will be encumbered and utilized prior to the one-year expenditure deadline. The scoring system is also intended to encourage the use of resources and funds over and above the CDBG funds applied for in undertaking a project. The components to be examined include:

1. Need for CDBG funds.
2. Sufficiency of resources to complete the project.
3. Effective and timely expenditure of CDBG funds.
4. Accurate cost estimates.

Points to be awarded on project funding are:

Funding Impact 100 pts.

Budget Impact 100 pts.

The following general criteria will be used in measuring impact:

1. Funding impact:

- 100 pts. The applicant clearly documents the need for CDBG funds and all sources of funds are secured and committed to complete the project.
- 75 pts. The applicant appears to need CDBG funds to complete the project and other sources of funds have been identified and firm commitments have been received.
- 50 pts. CDBG funds may not be sufficient to complete the project but other resources have been identified and no commitments have been received.
- 25 pts. The CDBG funds would have little impact to complete the project and other resources have not been identified or secured.
- 0 pts. No other funds have been identified and committed to complete the project.

2. Budget impact:

- 100 pts. The project costs are clearly documented and are accurate.
- 75 pts. The project costs appears to be accurate but not well documented.
- 50 pts. The accuracy of the project costs are questionable and not well documented.
- 25 pts. The project costs are inaccurate and are not documented.
- 0 pts. The project costs were not submitted and not documented.

Applicant Evaluation

The applicant evaluation element is intended to ensure that the applicant has the necessary qualifications and expertise to carry out the proposed project. To be awarded a grant, the applicant must have the capacity to undertake, complete and administer the project in compliance with the CDBG program rules in a timely and efficient manner. In addition, applicants who have received CDBG funds in the past will be evaluated on the basis of their past performance.

The components to be examined include:

1. Compliance with Federal Overlay Statutes:

Applicants are required to indicate whether their activities will necessitate compliance with federal overlay statutes as described in Appendix E and the applicant should describe its understanding and procedures for complying with these federal statutes.

2. Project/Program Management Capabilities:

The project management component is designed to evaluate the applicant's capacity to implement the project. If an on-going program activity will result from this project (i.e., construction of a building for operation as an elderly day-care center, etc.), the program management section will be evaluated to determine if the applicant has the capacity to implement the program activity as well as the project.

3. Past Performance:

The performance component involves an examination of the applicant's previous record in carrying out the CDBG project. Criteria to be examined include:

- a. Applicant's rate of progress in completing community development activities.
- b. Applicant's rate of expenditure and obligation of community development funds.
- c. Applicant's compliance with applicable laws and regulations.
- d. Applicant's track record for responding to the OHCD in a timely manner.

If the applicant has not received CDBG funding or other federal funding in the past, it will be rated

solely on its Project Management Capabilities to complete the project in the one-year time frame and use of other funding types.

Points will be assigned for each component based on the following criteria:

1. Compliance with Federal Overlay Statutes:

- 50 pts. The applicant has fully addressed all applicable overlay statutes and describes its procedures for compliance.
- 40 pts. The applicant has addressed most of the applicable statutes and describes its procedures for compliance, which appear reasonable and fully achievable.
- 30 pts. The applicant has addressed most of the applicable statutes and describes its procedures for compliance but there appears to have slight problems with respect to overlay statute compliance.
- 20 pts. The applicant has addressed some of the applicable statutes and describes its procedures for compliance but there appears to have moderate problems with respect to overlay statute compliance.
- 0 pts. The applicant did not address the applicable statutes and the project appears to have extensive problems with respect to overlay statute compliance.

2. Project/Program Management:

- 100 pts. The applicant clearly documents the necessary qualifications and experience to carry out the project.
- 75 pts. The applicant appears to have the necessary qualifications and experience to carry out the project, but it is not well documented.
- 50 pts. The applicant appears to have most of the necessary qualifications and experience to carry out the project.
- 25 pts. The applicant appears to have some of the necessary qualifications and experience to carry out the project.
- 0 pts. The applicant does not appear to have the necessary qualifications or experience.

3. Past Performance:

- 100 pts. The applicant has implemented past projects in a satisfactory and timely basis.
- 75 pts. The applicant had some problems in implementing the past projects, but the problems were fully resolvable.
- 50 pts. The applicant had a moderate amount of problems in implementing past projects that were resolvable or has no prior experience implementing CDBG or other government funded projects.
- 25 pts. The applicant had serious problems in implementing past projects.
- 0 pts. The applicant had extensive problems in implementing past projects.

C. FINAL SELECTION

1. Ranking:

The points received on each of the elements will be added and the projects ranked accordingly. **A project proposal is required to receive a minimum of 50% of the total points to be considered for ranking.** An interview/and or site inspection with each eligible applicant may be conducted, to clarify any information prior to the final project review, rating and recommendation. The OHCD will submit its 2023 Action Plan with its recommended projects to the Hawai'i County Housing Agency/Council for Mayor's approval to submit the Action Plan to HUD, based on this ranking system.

In cases of a tie in the number of points a project receives, the following method will be used:

- (a) The project which has the higher "Extent and Seriousness of the Identified Needs" evaluation score will be selected.
- (b) If the projects meet the same "Extent and Seriousness of the Identified Needs", the proposal which has the higher "Need for CDBG Funds" evaluation score will be elected.

III. PROPOSAL REQUIREMENTS

A. GENERAL

The information required in the proposal will be used by the OHCD to make a recommendation to the Hawai'i County Council for final funding decisions. Appendix F contains a copy of the proposal form.

B. SUBMISSION DATES

Original project proposal and two (2) copies for (NO SPIRAL BINDING) 2023 CDBG program funds should be bounded to secure all documents and must be submitted and time stamped to the OHCD Hilo or Kona office by November 15, 2022, no later than 4:30 p.m. PROPOSALS RECEIVED AND TIME STAMPED AFTER THE DATE AND TIME DEADLINE, PROPOSALS NOT ACCOMPANIED WITH THE APPROPRIATE TWO (2) COPIES AND INCOMPLETE PROPOSALS WILL BE REJECTED. Project Proposals delivered and/or submitted by e-mail or fax will NOT be accepted. All Project Proposals must be received and timestamped by the OHCD by 4:30pm November 15, 2022 Hawaii Standard Time.

Only data submitted by the deadline will be considered in the selection process. The OHCD may request additional data which will be required to be submitted as promulgated by the CDBG Program rules to comply with the Consolidated Plan.

For your information, Appendix B contains the Tentative CDBG proposal (Action Plan) schedule. **Additional data submitted after the proposal due date and not requested by the OHCD will be returned.**

C. PROPOSAL REQUIREMENTS

The proposal and its exhibits in Appendix F contain specific instructions for completing each section. Applicants should check and verify their proposal requirements as contained in the Instructions and Checklist form.

APPENDIX A

HUD INCOME LIMITS

HUD INCOME DEFINITIONS AND LIMITS

Under the CDBG program, applicants must select and consistently utilize one of the three definitions of income in determining a low- and moderate-income household.

1. Annual income as defined under Section 8 Housing Assistance Payments Program income limits as established by HUD. Low- and moderate-income household, or lower income household means a household whose annual income does not exceed 80% of the median family income for the County of Hawai'i. Very low income is defined as 50% of the median family income.

INCOME LIMITS FOR 2022

(To be used with the HUD-approved survey)

Family Size	Low & Moderate Income Limit	Very Low Income Limit
1	\$53,350	\$33,350
2	\$60,950	\$38,100
3	\$68,550	\$42,850
4	\$71,150	\$47,600
5	\$82,250	\$51,450
6	\$88,350	\$55,520
7	\$94,450	\$59,050
8	\$100,550	\$62,850

Effective date: June 15, 2022

Fiscal 2022 Median Family Income: \$91,600

NOTE: HUD income limits are updated annually. If you are unsure on how to apply these income limits, contact the OHCD for advice and especially how to document compliance with the appropriate quantifiable data to support this national objective.

Elderly persons are defined as members of a one-or two-person household containing a person over 62 years of age.

2. Annual Income as reported under the Census long-form for the most recent available decennial Census. This definition includes:
 - a) Wages, salaries, tips, commission, etc.;
 - b) Self-employment income;
 - c) Interest, dividends, net rental income or income from estates or trust;
 - d) Farm self-employment income;
 - e) Social security;
 - f) Supplemental security income or other public assistance or public welfare programs;
 - g) Retirement, survivor or disability pensions; and
 - h) Any other sources of income received regularly including veteran's payments, unemployment compensation and/or alimony.
3. Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 for individual federal annual income tax purposes.

APPENDIX B

CDBG APPLICATION SCHEDULE

TENTATIVE 2023 ACTION PLAN SCHEDULE CDBG & HOME-ARP

<u>DATE</u>	<u>TASK</u>
August 2022	Public hearings to hear the Housing & Community Development Needs and explain the CDBG & HOME-ARP proposal procedures and Consolidated/Action Plan process.
08/16/22	Virtual Public Hearing at 10:00 a.m.
08/25/22	In-Person Public Hearing at OHCD Conference Room; 1990 Kinoole Street, Suite 104, Hilo at 1:00 p.m.
09/01/22	CDBG & HOME-ARP project proposals available.
11/15/22	CDBG & HOME-ARP project proposals due to the OHCD.
11/16/22 to 01/13/23	OHCD to review, rank and select CDBG & HOME-ARP projects for the County's Action Plan to HUD.
01/25 to 02/02/23	OHCD to draft the County's proposed 2023 Action Plan.
02/06/23	Public Notice appears in newspapers announcing the availability of the proposed 2023 Action Plan for public review and comment.
02/06 to 03/07/23	Comment period for the County's proposed 2023 Action Plan (30 days required).
03/13/23	Deadline to submit documents for Hawai'i County Housing Agency (HCHA) and Hawai'i County Finance Committee meetings.
04/04/23	HCHA and Finance meetings to approve the submittal of 2023 Action Plan.
04/19/23	Council meeting to authorize Mayor to sign and submit the County's 2023 Action Plan to HUD.
05/01/23	Obtain Mayor's signature.
05/04/23	Public Notice appears in newspapers summarizing the final 2023 Action Plan.
05/12/23	Submit 2023 Action Plan to HUD.
05/15/23	2023 Action Plan due.

APPENDIX C

ELIGIBLE ACTIVITIES, ENTITIES & INELIGIBLE ACTIVITIES

24 CFR 570.200 – 570.205 & 570.207

Subpart C – Eligible Activities

- \$ 570.200 General policies.
- \$ 570.201 Basic eligible activities.
- \$ 570.202 Eligible rehabilitation and preservation activities.
- \$ 570.203 Special economic development activities.
- \$ 570.204 Special activities by Community-Based Development Organizations (CBDOs).
- \$ 570.205 Eligible planning, urban environmental design and policy-planning management-capacity building activities.
- \$ 570.206 Program administrative costs.
- \$ 570.207 Ineligible activities.
- \$ 570.208 Criteria for national objectives.
- \$ 570.209 Guidelines for evaluating and selecting economic development projects.
- \$ 570.210 Prohibition on use of assistance for employment relocation activities.

\$570.200 General policies.

(a) *Determination of eligibility.* An activity may be assisted in whole or in part with CDBG funds only if all of the following requirements are met:

(1) *Compliance with section 105 of the Act.* Each activity must meet the eligibility requirements of section 105 of the Act as further defined in this subpart.

(2) *Compliance with national objectives.* Grant recipients under the Entitlement and HUD-administered Small Cities programs and recipients of insular area funds under section 106 of the Act must certify that their projected use of funds has been developed so as to give maximum feasible priority to activities which will carry out one of the national objectives of benefit to low- and moderate-income families or aid in the prevention or elimination of slums or blight. The projected use of funds may also include activities that the recipient certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. Consistent with the foregoing, each recipient under the Entitlement or HUD-administered Small Cities programs, and each recipient of insular area funds under section 106 of the Act must ensure and maintain evidence that each of its activities assisted with CDBG funds meets one of the three national objectives as contained in its certification. Criteria for determining whether an activity addresses one or more of these objectives are found in \$570.208.

(3) *Compliance with the primary objective.* The primary objective of the Act is described in section 101(c) of the Act. Consistent with this objective, entitlement recipients, non-entitlement CDBG grantees in Hawai'i, and recipients of insular area funds under section 106 of the Act must ensure that, over a period of time specified in their certification not to exceed three years, not less than 70 percent of the aggregate of CDBG fund expenditures shall be for activities

meeting the criteria under §570.208(a) or under §570.208(d)(5) or (6) for benefiting low- and moderate-income persons. For grants under section 107 of the Act, insular area recipients must meet this requirement for each separate grant. See §570.420(d)(3) for additional discussion of the primary objective requirement for insular areas funded under section 106 of the Act. The requirements for the HUD-administered Small Cities program in New York are at §570.420(d)(2). In determining the percentage of funds expended for such activities:

(i) Cost of administration and planning eligible under §570.205 and §570.206 will be assumed to benefit low- and moderate-income persons in the same proportion as the remainder of the CDBG funds and, accordingly shall be excluded from the calculation;

(ii) Funds deducted by HUD for repayment of urban renewal temporary loans pursuant to §570.802(b) shall be excluded;

(iii) Funds expended for the repayment of loans guaranteed under the provisions of subpart M of this part (including repayment of the portion of a loan used to pay any issuance, servicing, underwriting, or other costs as may be incurred under §570.705(g)) shall also be excluded;

(iv) Funds expended for the acquisition, new construction or rehabilitation of property for housing that qualifies under §570.208(a)(3) shall be counted for this purpose but shall be limited to an amount determined by multiplying the total cost (including CDBG and non-CDBG costs) of the acquisition, construction or rehabilitation by the percent of units in such housing to be occupied by low and moderate income persons.

(v) Funds expended for any other activities qualifying under §570.208(a) shall be counted for this purpose in their entirety.

(4) *Compliance with environmental review procedures.* The environmental review procedures set forth at 24 CFR part 58 must be completed for each activity (or project as defined in 24 CFR part 58), as applicable.

(5) *Cost principles.* Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with 2 CFR part 200, subpart E. All items of cost listed in 2 CFR part 200, subpart E, that require prior Federal agency approval are allowable without prior approval of HUD to the extent they comply with the general policies and principles stated in 2 CFR part 200, subpart E and are otherwise eligible under this subpart C, except for the following:

(i) Depreciation methods for fixed assets shall not be changed without the approval of the Federal cognizant agency.

(ii) Fines penalties, damages, and other settlements are unallowable costs to the CDBG program.

(iii) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses (goods or services for personal use) regardless of whether reported as taxable income to the employees (2 CFR 200.445);

(iv) Organization costs (2 CFR 200.455); and

(v) Pre-award costs are limited to those authorized under paragraph (h) of this section.

(b) *Special policies governing facilities.* The following special policies apply to:

(1) *Facilities containing both eligible and ineligible uses.* A public facility otherwise eligible for assistance under the CDBG program may be provided with CDBG funds even if it is part of a multiple use building containing ineligible uses, if:

(i) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and

(ii) The recipient can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple use building and/or facility.

Allowable costs are limited to those attributable to the eligible portion of the building or facility.

(2) *Fees for use of facilities.* Reasonable fees may be charged for the use of the facilities assisted with CDBG funds, but charges such as excessive membership fees, which will have the effect of precluding low- and moderate-income persons from using the facilities, are not permitted.

(c) *Special assessments under the CDBG program.* The following policies relate to special assessments under the CDBG program:

(1) *Definition of special assessment.* The term "special assessment" means the recovery of the capital costs of a public improvement, such as streets, water or sewer lines, curbs, and gutters, through a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, or a one-time charge made as a condition of access to a public improvement. This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes, and does not include periodic charges based on the use of a public improvement, such as water or sewer user charges, even if such charges include the recovery of all or some portion of the capital costs of the public improvement.

(2) *Special assessments to recover capital costs.* Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be imposed as follows:

(i) Special assessments to recover the CDBG funds may be made only against properties owned and occupied by persons not of low and moderate income. Such assessments constitute program income.

(ii) Special assessments to recover the non-CDBG portion may be made provided that CDBG funds are used to pay the special assessment in behalf of all properties owned and occupied by low and moderate income persons; except that CDBG funds need not be used to pay the special assessments in behalf of properties owned and occupied by moderate income persons if the grant recipient certifies that it does not have sufficient CDBG funds to pay the assessments in behalf of all of the low and moderate income owner-occupant persons. Funds collected through such special assessments are not program income.

(3) *Public improvements not initially assisted with CDBG funds.* The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments provided:

(i) The installation of the public improvements was carried out in compliance with requirements applicable to activities assisted under this part including environmental, citizen participation and Davis-Bacon requirements;

(ii) The installation of the public improvement meets a criterion for national objectives in §570.208(a)(1), (b), or (c); and

(iii) The requirements of §570.200(c)(2)(ii) are met.

(d) *Consultant activities.* Consulting services are eligible for assistance under this part for professional assistance in program planning, development of community development objectives, and other general professional guidance relating to program execution. The use of consultants is governed by the following:

(1) *Employer-employee type of relationship.* No person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with CDBG funds. In no event, however, shall such compensation exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule. Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation.

(2) *Independent contractor relationship.* Consultant services provided under an independent contractor relationship are governed by the procurement requirements in 2 CFR part 200, subpart D, and are not subject to the compensation limitation of Level IV of the Executive Schedule.

(e) *Recipient determinations required as a condition of eligibility.* In several instances under this subpart, the eligibility of an activity depends on a special local determination. Recipients shall maintain documentation of all such determinations. A written

determination is required for any activity carried out under the authority of §§570.201(f), 570.201(i)(2), 570.201(p), 570.201(q), 570.202(b)(3), 570.206(f), 570.209, 570.210, and 570.309.

(f) *Means of carrying out eligible activities.* (1) Activities eligible under this subpart, other than those authorized under §570.204(a), may be undertaken, subject to local law:

(i) By the recipient through:

(A) Its employees, or

(B) Procurement contracts governed by the requirements of 2 CFR part 200, subpart D; or

(ii) Through loans or grants under agreements with subrecipients, as defined at §570.500(c); or

(iii) By one or more public agencies, including existing local public agencies, that are designated by the chief executive officer of the recipient.

(2) Activities made eligible under §570.204(a) may only be undertaken by entities specified in that section.

(g) *Limitation on planning and administrative costs—*(1) *Origin year grant expenditure test.* For origin year 2015 grants and subsequent grants, no more than 20 percent of any origin year grant shall be expended for planning and program administrative costs, as defined in §§570.205 and 570.206, respectively. Expenditures of program income for planning and program administrative costs are excluded from this calculation.

(2) *Program year obligation test.* For all grants and recipients subject to subpart D, the amount of CDBG funds obligated during each program year for planning plus administrative costs, as defined in §§570.205 and 570.206, respectively, shall be limited to an amount no greater than 20 percent of the sum of the grant made for that program year (if any) plus the program income received by the recipient and its subrecipients (if any) during that program year. For origin year 2015 grants and subsequent grants, recipients must apply this test consistent with paragraph (g)(1) of this section.

(3) Funds from a grant of any origin year may be used to pay planning and program administrative costs associated with any grant of any origin year.

(h) *Reimbursement for pre-award costs.* The effective date of the grant agreement is the program year start date or the date that the consolidated plan is received by HUD, whichever is later. For a Section 108 loan guarantee, the effective date of the grant agreement is the date of HUD execution of the grant agreement amendment for the particular loan guarantee commitment.

(1) Prior to the effective date of the grant agreement, a recipient may incur costs or may authorize a subrecipient to incur costs, and then after the effective date of the grant agreement pay for those costs using its CDBG funds, provided that:

(i) The activity for which the costs are being incurred is included, prior to the costs being incurred, in a consolidated plan action plan, an amended consolidated plan action plan, or an application under subpart M of this part, except that a new entitlement grantee preparing to receive its first allocation of CDBG funds may incur costs necessary to develop its consolidated plan and undertake other administrative actions necessary to receive its first grant, prior to the costs being included in its consolidated plan;

(ii) Citizens are advised of the extent to which these pre-award costs will affect future grants;

(iii) The costs and activities funded are in compliance with the requirements of this part and with the Environmental Review Procedures stated in 24 CFR part 58;

(iv) The activity for which payment is being made complies with the statutory and regulatory provisions in effect at the time the costs are paid for with CDBG funds;

(v) CDBG payment will be made during a time no longer than the next two program years following the effective date of the grant agreement or amendment in which the activity is first included; and

(vi) The total amount of pre-award costs to be paid during any program year pursuant to this provision is no more than the greater of 25 percent of the amount of the grant made for that year or \$300,000.

(2) Upon the written request of the recipient, HUD may authorize payment of pre-award costs for activities that do not meet the criteria at paragraph (h)(1)(v) or (h)(1)(vi) of this section, if HUD determines, in writing, that there is good cause for granting an exception upon consideration of the following factors, as applicable:

(i) Whether granting the authority would result in a significant contribution to the goals and purposes of the CDBG program;

(ii) Whether failure to grant the authority would result in undue hardship to the recipient or beneficiaries of the activity;

(iii) Whether granting the authority would not result in a violation of a statutory provision or any other regulatory provision;

(iv) Whether circumstances are clearly beyond the recipient's control; or

(v) Any other relevant considerations.

(i) *Urban Development Action Grant.* Grant assistance may be provided with Urban Development Action Grant funds, subject to the provisions of subpart G, for:

(1) Activities eligible for assistance under this subpart; and

(2) Notwithstanding the provisions of §570.207, such other activities as the Secretary may determine to be consistent with the purposes of the Urban Development Action Grant program.

(j) *Equal participation of faith-based organizations.* The HUD program requirements in §5.109 of this title apply to the CDBG program, including the requirements regarding disposition and change in use of real property by a faith-based organization.

(k) Any unexpended CDBG origin year grant funds in the United States Treasury account on September 30 of the fifth Federal fiscal year after the end of the origin year grant's period of availability for obligation by HUD will be canceled. HUD may require an earlier expenditure and draw down deadline under a grant agreement.

[53 FR 34439, Sept. 6, 1988, as amended at 54 FR 47031, Nov. 8, 1989; 57 FR 27119, June 17, 1992; 60 FR 1943, Jan. 5, 1995; 60 FR 17445, Apr. 6, 1995; 60 FR 56910, Nov. 9, 1995; 61 FR 11476, Mar. 20, 1996; 61 FR 18674, Apr. 29, 1996; 65 FR 70215, Nov. 21, 2000; 68 FR 56404, Sept. 30, 2003; 69 FR 32778, June 10, 2004; 70 FR 76369, Dec. 23, 2005; 72 FR 46370, Aug. 17, 2007; 80 FR 67633, Nov. 3, 2015; 80 FR 69870, Nov. 12, 2015; 80 FR 75936, Dec. 7, 2015; 81 FR 19418, Apr. 4, 2016]

§570.201 Basic eligible activities.

CDBG funds may be used for the following activities:

(a) *Acquisition.* Acquisition in whole or in part by the recipient, or other public or private nonprofit entity, by purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of §570.207.

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in §570.504.

(c) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in §570.207(a), carried out by the recipient or other public or private nonprofit entities. (However, activities under this paragraph may be directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to public

facilities and improvements, including those provided for in §570.207(a)(1).) In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Facilities designed for use in providing shelter for persons having special needs are considered public facilities and not subject to the prohibition of new housing construction described in §570.207(b)(3). Such facilities include shelters for the homeless; convalescent homes; hospitals, nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims. In certain cases, nonprofit entities and subrecipients including those specified in §570.204 may acquire title to public facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph are subject to the policies in §570.200(b).

(d) *Clearance and remediation activities.* Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites and remediation of known or suspected environmental contamination. Demolition of HUD-assisted or HUD-owned housing units may be undertaken only with the prior approval of HUD. Remediation may include project-specific environmental assessment costs not otherwise eligible under §570.205.

(e) *Public services.* Provision of public services (including labor, supplies, and materials) including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare (but excluding the provision of income payments identified under §570.207(b)(4)), homebuyer down payment assistance, or recreational needs. To be eligible for CDBG assistance, a public service must be either a new service or a quantifiable increase in the level of an existing service above that which has been provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the State in which it is located) in the 12 calendar months before the submission of the action plan. (An exception to this requirement may be made if HUD determines that any decrease in the level of a service was the result of events not within the control of the unit of general local government.) The amount of CDBG funds used for public services shall not exceed paragraphs (e)(1) or (2) of this section, as applicable:

(1) The amount of CDBG funds used for public services shall not exceed 15 percent of each grant, except that for entitlement grants made under subpart D of this part, nonentitlement CDBG grants in Hawai'i, and for recipients of insular area funds under section 106 of the Act, the amount shall not exceed 15 percent of the grant plus 15 percent of program income, as defined in §570.500(a). For entitlement grants

under subpart D of this part, nonentitlement CDBG grants in Hawai'i, and for recipients of insular area funds under section 106 of the Act, compliance is based on limiting the amount of CDBG funds obligated for public service activities in each program year to an amount no greater than 15 percent of the entitlement grant made for that program year plus 15 percent of the program income received during the grantee's immediately preceding program year.

(2) A recipient which obligated more CDBG funds for public services than 15 percent of its grant funded from origin year 1982 or 1983 appropriations (excluding program income and any assistance received under Public Law 98-8), may obligate more CDBG funds than allowable under paragraph (e)(1) of this section, so long as the total amount obligated in any program year does not exceed:

(i) For an entitlement grantee, 15% of the program income it received during the preceding program year; plus

(ii) A portion of the grant received for the program year which is the highest of the following amounts:

(A) The amount determined by applying the percentage of the grant it obligated for public services in the 1982 program year against the grant for its current program year;

(B) The amount determined by applying the percentage of the grant it obligated for public services in the 1983 program year against the grant for its current program year;

(C) The amount of funds it obligated for public services in the 1982 program year; or,

(D) The amount of funds it obligated for public services in the 1983 program year.

(f) *Interim assistance.* (1) The following activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable:

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings; and

(ii) The execution of special garbage, trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) In order to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution, CDBG funds may be used for:

(i) The activities specified in paragraph (f)(1) of this section, except for the repair of parks and playgrounds;

(ii) The clearance of streets, including snow removal and similar activities, and

(iii) The improvement of private properties.

(3) All activities authorized under paragraph (f)(2) of this section are limited to the extent necessary to alleviate emergency conditions.

(g) *Payment of non-Federal share.* Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise eligible and in compliance with applicable requirements under this subpart.

(h) *Urban renewal completion.* Payment of the cost of completing an urban renewal project funded under title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in §570.801.

(i) *Relocation.* Relocation payments and other assistance for permanently and temporarily relocated individuals families, businesses, nonprofit organizations, and farm operations where the assistance is (1) required under the provisions of §570.606 (b) or (c); or (2) determined by the grantee to be appropriate under the provisions of §570.606(d).

(j) *Loss of rental income.* Payments to housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be used for the relocation of individuals and families displaced by program activities assisted under this part.

(k) *Housing services.* Housing services, as provided in section 105(a)(21) of the Act (42 U.S.C. 5305(a)(21)).

(l) *Privately owned utilities.* CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines.

(m) *Construction of housing.* CDBG funds may be used for the construction of housing assisted under section 17 of the United States Housing Act of 1937.

(n) *Homeownership assistance.* CDBG funds may be used to provide direct homeownership assistance to low- or moderate-income households in accordance with section 105(a) of the Act.

(o)(1) The provision of assistance either through the recipient directly or through public and private organizations, agencies, and

other subrecipients (including nonprofit and for-profit subrecipients) to facilitate economic development by:

(i) Providing credit, including, but not limited to, grants, loans, loan guarantees, and other forms of financial support, for the establishment, stabilization, and expansion of microenterprises;

(ii) Providing technical assistance, advice, and business support services to owners of microenterprises and persons developing microenterprises; and

(iii) Providing general support, including, but not limited to, peer support programs, counseling, childcare, transportation, and other similar services, to owners of microenterprises and persons developing microenterprises.

(2) Services provided this paragraph (o) shall not be subject to the restrictions on public services contained in paragraph (e) of this section.

(3) For purposes of this paragraph (o), "persons developing microenterprises" means such persons who have expressed interest and who are, or after an initial screening process are expected to be, actively working toward developing businesses, each of which is expected to be a microenterprise at the time it is formed.

(4) Assistance under this paragraph (o) may also include training, technical assistance, or other support services to increase the capacity of the recipient or subrecipient to carry out the activities under this paragraph (o).

(p) *Technical assistance.* Provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities. (The recipient must determine, prior to the provision of the assistance, that the activity for which it is attempting to build capacity would be eligible for assistance under this subpart C, and that the national objective claimed by the grantee for this assistance can reasonably be expected to be met once the entity has received the technical assistance and undertakes the activity.) Capacity building for private or public entities (including grantees) for other purposes may be eligible under §570.205.

(q) *Assistance to institutions of higher education.* Provision of assistance by the recipient to institutions of higher education when the grantee determines that such an institution has demonstrated a capacity to carry out eligible activities under this subpart C.

[53 FR 34439, Sept. 6, 1988, as amended at 53 FR 31239, Aug. 17, 1988; 55 FR 29308, July 18, 1990; 57 FR 27119, June 17, 1992; 60 FR 1943, Jan. 5, 1995; 60 FR 56911, Nov. 9, 1995; 61 FR 18674, Apr. 29, 1996; 65 FR 70215, Nov. 21, 2000; 67 FR 47213, July 17, 2002; 71 FR 30034, May 24, 2006; 80 FR 69870, Nov. 12, 2015]

§570.202 Eligible rehabilitation and preservation activities.

(a) *Types of buildings and improvements eligible for rehabilitation assistance.* CDBG funds may be used to finance the rehabilitation of:

(1) Privately owned buildings and improvements for residential purposes; improvements to a single-family residential property which is also used as a place of business, which are required in order to operate the business, need not be considered to be rehabilitation of a commercial or industrial building, if the improvements also provide general benefit to the residential occupants of the building;

(2) Low-income public housing and other publicly owned residential buildings and improvements;

(3) Publicly or privately owned commercial or industrial buildings, except that the rehabilitation of such buildings owned by a private for-profit business is limited to improvement to the exterior of the building, abatement of asbestos hazards, lead-based paint hazard evaluation and reduction, and the correction of code violations;

(4) Nonprofit-owned nonresidential buildings and improvements not eligible under §570.201(c); and

(5) Manufactured housing when such housing constitutes part of the community's permanent housing stock.

(b) *Types of assistance.* CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements described in paragraph (a) of this section, except that rehabilitation of commercial or industrial buildings is limited as described in paragraph (a)(3) of this section.

(1) Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties, for use or resale for residential purposes;

(2) Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, including smoke detectors and dead bolt locks, and renovation through alterations, additions to, or enhancement of existing structures and improvements, abatement of asbestos hazards (and other contaminants) in buildings and improvements that may be undertaken singly, or in combination;

(3) Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds if such financing is determined by the recipient to be necessary or appropriate to achieve the locality's community development objectives;

(4) Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;

(5) Improvements to increase the efficient use of water through such means as water savings faucets and shower heads and repair of water leaks;

(6) Connection of residential structures to water distribution lines or local sewer collection lines;

(7) For rehabilitation carried out with CDBG funds, costs of:

(i) Initial homeowner warranty premiums;

(ii) Hazard insurance premiums, except where assistance is provided in the form of a grant; and

(iii) Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to §570.605.

(8) Costs of acquiring tools to be lent to owners, tenants, and others who will use such tools to carry out rehabilitation;

(9) Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under section 312 of the Housing Act of 1964, as amended, under section 810 of the Act, or under section 17 of the United States Housing Act of 1937;

(10) Assistance for the rehabilitation of housing under section 17 of the United States Housing Act of 1937; and

(11) Improvements designed to remove material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to buildings and improvements eligible for assistance under paragraph (a) of this section.

(c) *Code enforcement.* Costs incurred for inspection for code violations and enforcement of codes (e.g., salaries and related expenses of code enforcement inspectors and legal proceedings, but not including the cost of correcting the violations) in deteriorating or deteriorated areas when such enforcement together with public or private improvements, rehabilitation, or services to be provided may be expected to arrest the decline of the area.

(d) *Historic preservation.* CDBG funds may be used for the rehabilitation, preservation or restoration of historic properties, whether publicly or privately owned. Historic properties are those

sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local inventory of historic places, or designated as a State or local landmark or historic district by appropriate law or ordinance. Historic preservation, however, is not authorized for buildings for the general conduct of government.

(e) *Renovation of closed buildings.* CDBG funds may be used to renovate closed buildings, such as closed school buildings, for use as an eligible public facility or to rehabilitate such buildings for housing.

(f) *Lead-based paint activities.* Lead-based paint activities pursuant to §570.608.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1944, Jan. 5, 1995; 60 FR 56911, Nov. 9, 1995; 64 FR 50225, Sept. 15, 1999; 71 FR 30035, May 24, 2006]

§570.203 *Special economic development activities.*

A recipient may use CDBG funds for special economic development activities in addition to other activities authorized in this subpart that may be carried out as part of an economic development project. Guidelines for selecting activities to assist under this paragraph are provided at §570.209. The recipient must ensure that the appropriate level of public benefit will be derived pursuant to those guidelines before obligating funds under this authority. Special activities authorized under this section do not include assistance for the construction of new housing. Activities eligible under this section may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination. Special economic development activities include:

(a) The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private nonprofit subrecipients.

(b) The provision of assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is appropriate to carry out an economic development project, excluding those described as ineligible in §570.207(a). In selecting businesses to assist under this authority, the recipient shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods.

(c) Economic development services in connection with activities eligible under this section, including, but not limited to, outreach efforts to market available forms of assistance; screening of applicants; reviewing and underwriting applications for assistance;

preparation of all necessary agreements; management of assisted activities; and the screening, referral, and placement of applicants for employment opportunities generated by CDBG-eligible economic development activities, including the costs of providing necessary training for persons filling those positions.

[53 FR 34439, Sept. 6, 1988, as amended at 60 FR 1944, Jan. 5, 1995; 71 FR 30035, May 24, 2006]

§570.204 Special activities by Community-Based Development Organizations (CBDOs).

(a) *Eligible activities.* The recipient may provide CDBG funds as grants or loans to any CBDO qualified under this section to carry out a neighborhood revitalization, community economic development, or energy conservation project. The funded project activities may include those listed as eligible under this subpart, and, except as described in paragraph (b) of this section, activities not otherwise listed as eligible under this subpart. For purposes of qualifying as a project under paragraphs (a)(1), (a)(2), and (a)(3) of this section, the funded activity or activities may be considered either alone or in concert with other project activities either being carried out or for which funding has been committed. For purposes of this section:

(1) Neighborhood revitalization project includes activities of sufficient size and scope to have an impact on the decline of a geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation; or the entire jurisdiction of a unit of general local government which is under 25,000 population;

(2) Community economic development project includes activities that increase economic opportunity, principally for persons of low- and moderate-income, or that stimulate or retain businesses or permanent jobs, including projects that include one or more such activities that are clearly needed to address a lack of affordable housing accessible to existing or planned jobs and those activities specified at 24 CFR 91.1(a)(1)(iii); activities under this paragraph may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination;

(3) Energy conservation project includes activities that address energy conservation, principally for the benefit of the residents of the recipient's jurisdiction; and

(4) To carry out a project means that the CBDO undertakes the funded activities directly or through contract with an entity other than the grantee, or through the provision of financial assistance for activities in which it retains a direct and controlling involvement and responsibilities.

(b) *Ineligible activities.* Notwithstanding that CBDOs may carry out activities that are not otherwise eligible under this subpart, this section does not authorize:

(1) Carrying out an activity described as ineligible in §570.207(a);

(2) Carrying out public services that do not meet the requirements of §570.201(e), except that:

(i) Services carried out under this section that are specifically designed to increase economic opportunities through job training and placement and other employment support services, including, but not limited to, peer support programs, counseling, childcare, transportation, and other similar services; and

(ii) Services of any type carried out under this section pursuant to a strategy approved by HUD under the provisions of 24 CFR 91.215(e) shall not be subject to the limitations in §570.201(e)(1) or (2), as applicable;

(3) Providing assistance to activities that would otherwise be eligible under §570.203 that do not meet the requirements of §570.209; or

(4) Carrying out an activity that would otherwise be eligible under §570.205 or §570.206, but that would result in the recipient's exceeding the spending limitation in §570.200(g).

(c) *Eligible CBDOs.* (1) A CBDO qualifying under this section is an organization which has the following characteristics:

(i) Is an association or corporation organized under State or local law to engage in community development activities (which may include housing and economic development activities) primarily within an identified geographic area of operation within the jurisdiction of the recipient, or in the case of an urban county, the jurisdiction of the county; and

(ii) Has as its primary purpose the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more critical problems of the area, with particular attention to the needs of persons of low and moderate income; and

(iii) May be either non-profit or for-profit, provided any monetary profits to its shareholders or members must be only incidental to its operations; and

(iv) Maintains at least 51 percent of its governing body's membership for low- and moderate-income residents of its geographic area of operation, owners or senior officers of private establishments and other institutions located in and serving its geographic area of operation, or representatives of low- and moderate-income neighborhood organizations located in its geographic area of operation; and

(v) Is not an agency or instrumentality of the recipient and does not permit more than one-third of the membership of its governing body to be appointed by, or to consist of, elected or other public officials or employees or officials of an ineligible entity (even though such persons may be otherwise qualified under paragraph (c)(1)(iv) of this section); and

(vi) Except as otherwise authorized in paragraph (c)(1)(v) of this section, requires the members of its governing body to be nominated and approved by the general membership of the organization, or by its permanent governing body; and

(vii) Is not subject to requirements under which its assets revert to the recipient upon dissolution; and

(viii) Is free to contract for goods and services from vendors of its own choosing.

(2) A CBDO that does not meet the criteria in paragraph (c)(1) of this section may also qualify as an eligible entity under this section if it meets one of the following requirements:

(i) Is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making; or

(ii) Is an SBA approved Section 501 State Development Company or Section 502 Local Development Company, or an SBA Certified Section 503 Company under the Small Business Investment Act of 1958, as amended; or

(iii) Is a Community Housing Development Organization (CHDO) under 24 CFR 92.2, designated as a CHDO by the HOME Investment Partnerships program participating jurisdiction, with a geographic area of operation of no more than one neighborhood, and has received HOME funds under 24 CFR 92.300 or is expected to receive HOME funds as described in and documented in accordance with 24 CFR 92.300(e).

(3) A CBDO that does not qualify under paragraph (c)(1) or (2) of this section may also be determined to qualify as an eligible entity under this section if the recipient demonstrates to the satisfaction of HUD, through the provision of information regarding the organization's charter and by-laws, that the organization is sufficiently similar in purpose, function, and scope to those entities qualifying under paragraph (c)(1) or (2) of this section.

[60 FR 1944, Jan. 5, 1995, as amended at 71 FR 30035, May 24, 2006]

§570.205 Eligible planning, urban environmental design and policy-planning-management-capacity building activities.

(a) Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, including, but not limited to:

- (1) Comprehensive plans;
- (2) Community development plans;
- (3) Functional plans, in areas such as:
 - (i) Housing, including the development of a consolidated plan;
 - (ii) Land use and urban environmental design;
 - (iii) Economic development;
 - (iv) Open space and recreation;
 - (v) Energy use and conservation;
 - (vi) Floodplain and wetlands management in accordance with the requirements of Executive Orders 11988 and 11990;
 - (vii) Transportation;
 - (viii) Utilities; and
 - (ix) Historic preservation.
- (4) Other plans and studies such as:
 - (i) Small area and neighborhood plans;
 - (ii) Capital improvements programs;
 - (iii) Individual project plans (but excluding engineering and design costs related to a specific activity which are eligible as part of the cost of such activity under §§570.201-570.204);
 - (iv) The reasonable costs of general environmental, urban environmental design and historic preservation studies; and general environmental assessment- and remediation-oriented planning related to properties with known or suspected environmental contamination. However, costs necessary to comply with 24 CFR part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this part, are eligible as part of the cost of such activities under §§570.201-570.204. Costs for such specific assessments and clearances may also be incurred under this paragraph but would then be considered planning costs for the purposes of §570.200(g);
 - (v) Strategies and action programs to implement plans, including the development of codes, ordinances and regulations;
 - (vi) Support of clearinghouse functions, such as those specified in Executive Order 12372; and

(vii) Assessment of Fair Housing.

(viii) Developing an inventory of properties with known or suspected environmental contamination.

(5) [Reserved]

(6) Policy-planning-management-capacity building activities which will enable the recipient to:

(1) Determine its needs;

(2) Set long-term goals and short-term objectives, including those related to urban environmental design;

(3) Devise programs and activities to meet these goals and objectives;

(4) Evaluate the progress of such programs and activities in accomplishing these goals and objectives; and

(5) Carry out management, coordination and monitoring of activities necessary for effective planning implementation but excluding the costs necessary to implement such plans.

[53 FR 34439, Sept. 6, 1988, as amended at 56 FR 56127, Oct. 31, 1991; 60 FR 1915, Jan. 5, 1995; 71 FR 30035, May 24, 2006; 80 FR 42366, July 16, 2015]

\$570.206 Program administrative costs.

Payment of reasonable program administrative costs and carrying charges related to the planning and execution of community development activities assisted in whole or in part with funds provided under this part and, where applicable, housing activities (described in paragraph (g) of this section) covered in the recipient's housing assistance plan. This does not include staff and overhead costs directly related to carrying out activities eligible under \$570.201 through \$570.204, since those costs are eligible as part of such activities.

(a) *General management, oversight and coordination.* Reasonable costs of overall program management, coordination, monitoring, and evaluation. Such costs include, but are not necessarily limited to, necessary expenditures for the following:

(1) Salaries, wages, and related costs of the recipient's staff, the staff of local public agencies, or other staff engaged in program administration. In charging costs to this category the recipient may either include the entire salary, wages, and related costs allocable to the program of each person whose *primary* responsibilities with regard to the program involve program administration assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes *any* program administration assignments. The recipient may use only one of these methods during the program year. Program administration includes the following types of assignments:

- (i) Providing local officials and citizens with information about the program;
 - (ii) Preparing program budgets and schedules, and amendments thereto;
 - (iii) Developing systems for assuring compliance with program requirements;
 - (iv) Developing interagency agreements and agreements with subrecipients and contractors to carry out program activities;
 - (v) Monitoring program activities for progress and compliance with program requirements;
 - (vi) Preparing reports and other documents related to the program for submission to HUD;
 - (vii) Coordinating the resolution of audit and monitoring findings;
 - (viii) Evaluating program results against stated objectives; and
 - (ix) Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in paragraph (a)(1)(i) through (viii) of this section.
- (2) Travel costs incurred for official business in carrying out the program;
- (3) Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services; and
- (4) Other costs for goods and services required for administration of the program, including such goods and services as rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space.
- (b) *Public information.* The provisions of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of activities being assisted with CDBG funds.
- (c) *Fair housing activities.* Provision of fair housing services designed to further the fair housing objectives of the Fair Housing Act (42 U.S.C. 3601-20) by making all persons, without regard to race, color, religion, sex, national origin, familial status or handicap, aware of the range of housing opportunities available to them; other fair housing enforcement, education, and outreach activities; and other activities designed to further the housing objective of avoiding undue concentrations of assisted persons in areas containing a high proportion of low and moderate income persons.
- (d) [Reserved]

(e) *Indirect costs.* Indirect costs may be charged to the CDBG program under a cost allocation plan prepared in accordance with 2 CFR part 200, subpart E.

(f) *Submission of applications for federal programs.* Preparation of documents required for submission to HUD to receive funds under the CDBG and UDAG programs. In addition, CDBG funds may be used to prepare applications for other Federal programs where the recipient determines that such activities are necessary or appropriate to achieve its community development objectives.

(g) *Administrative expenses to facilitate housing.* CDBG funds may be used for necessary administrative expenses in planning or obtaining financing for housing as follows: for entitlement recipients, assistance authorized by this paragraph is limited to units which are identified in the recipient's HUD approved housing assistance plan; for HUD-administered small cities recipients, assistance authorized by the paragraph is limited to facilitating the purchase or occupancy of existing units which are to be occupied by low and moderate income households, or the construction of rental or owner units where at least 20 percent of the units in each project will be occupied at affordable rents/costs by low and moderate income persons. Examples of eligible actions are as follows:

(1) The cost of conducting preliminary surveys and analysis of market needs;

(2) Site and utility plans, narrative descriptions of the proposed construction, preliminary cost estimates, urban design documentation, and "sketch drawings," but excluding architectural, engineering, and other details ordinarily required for construction purposes, such as structural, electrical, plumbing, and mechanical details;

(3) Reasonable costs associated with development of applications for mortgage and insured loan commitments, including commitment fees, and of applications and proposals under the Section 8 Housing Assistance Payments Program pursuant to 24 CFR parts 880-883;

(4) Fees associated with processing of applications for mortgage or insured loan commitments under programs including those administered by HUD, Farmers Home Administration (FmHA), Federal National Mortgage Association (FNMA), and the Government National Mortgage Association (GNMA);

(5) The cost of issuance and administration of mortgage revenue bonds used to finance the acquisition, rehabilitation or construction of housing, but excluding costs associated with the payment or guarantee of the principal or interest on such bonds; and

(6) Special outreach activities which result in greater landlord participation in Section 8 Housing Assistance Payments Program-Existing Housing or similar programs for low and moderate income persons.

(h) *Section 17 of the United States Housing Act of 1937.* Reasonable costs equivalent to those described in paragraphs (a), (b), (e) and (f) of this section for overall program management of the Rental Rehabilitation and Housing Development programs authorized under section 17 of the United States Housing Act of 1937, whether or not such activities are otherwise assisted with funds provided under this part.

(i) Whether or not such activities are otherwise assisted by funds provided under this part, reasonable costs equivalent to those described in paragraphs (a), (b), (e), and (f) of this section for overall program management of:

(1) A Federally designated Empowerment Zone or Enterprise Community; and

(2) The HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 note).

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 54 FR 37411, Sept. 8, 1989; 60 FR 56912, Nov. 9, 1995; 69 FR 32778, June 10, 2004; 80 FR 69870, Nov. 12, 2015; 80 FR 75937, Dec. 7, 2015]

§570.207 Ineligible activities.

The general rule is that any activity that is not authorized under the provisions of §§570.201-570.206 is ineligible to be assisted with CDBG funds. This section identifies specific activities that are ineligible and provides guidance in determining the eligibility of other activities frequently associated with housing and community development.

(a) The following activities may not be assisted with CDBG funds:

(1) *Buildings or portions thereof, used for the general conduct of government* as defined at §570.3(d) cannot be assisted with CDBG funds. This does not include, however, the removal of architectural barriers under §570.201(c) involving any such building. Also, where acquisition of real property includes an existing improvement which is to be used in the provision of a building for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible, provided such acquisition meets a national objective described in §570.208.

(2) *General government expenses.* Except as otherwise specifically authorized in this subpart or under 2 CFR part 200, subpart E, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

(3) *Political activities.* CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally

assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.

(b) The following activities may not be assisted with CDBG funds unless authorized under provisions of §570.203 or as otherwise specifically noted herein or when carried out by an entity under the provisions of §570.204.

(1) *Purchase of equipment.* The purchase of equipment with CDBG funds is generally ineligible.

(i) *Construction equipment.* The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing or depreciation pursuant to 2 CFR part 200, subpart E, as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible under §570.201(c).

(ii) *Fire protection equipment.* Fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible under §570.201(c).

(iii) *Furnishings and personal property.* The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation in accordance with 2 CFR part 200, subpart E, for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as firefighting equipment, or when such items constitute all or part of a public service pursuant to §570.201(e).

(2) *Operating and maintenance expenses.* The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of operating and maintaining a facility used in providing a public service would be eligible under §570.201(e), even if no other costs of providing such a service are assisted with such funds. Examples of ineligible operating and maintenance expenses are:

(i) Maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with a disabilities, parking and other public facilities and improvements. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of potholes in streets, repairing of cracks in sidewalks, the

mowing of recreational areas, and the replacement of expended street light bulbs; and

(ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.

(3) *New housing construction.* For the purpose of this paragraph, activities in support of the development of low or moderate income housing including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing pre-construction costs set forth in §570.206(g), are not considered as activities to subsidize or assist new residential construction. CDBG funds may not be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction, except:

(i) As provided under the last resort housing provisions set forth in 24 CFR part 42;

(ii) As authorized under §570.201(m) or (n);

(iii) When carried out by an entity pursuant to §570.204(a);

(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.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1945, Jan. 5, 1995; 60 FR 56912, Nov. 9, 1995; 65 FR 70215, Nov. 21, 2000; 80 FR 75937, Dec. 7, 2015]

APPENDIX D

CRITERIA FOR NATIONAL OBJECTIVES AND PUBLIC BENEFIT STANDARDS

24 CFR 570.208 & 570.209

§570.208 Criteria for National Objectives.

The following criteria shall be used to determine whether a CDBG-assisted activity complies with one or more of the national objectives as required under §570.200(a)(2):

(a) *Activities benefiting low- and moderate-income persons.* Activities meeting the criteria in paragraph (a) (1), (2), (3), or (4) of this section as applicable, will be considered to benefit low- and moderate-income persons unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. (The recipient shall appropriately ensure that activities that meet these criteria do not benefit moderate income persons to the exclusion of low-income persons.)

(1) *Area benefit activities.* (i) An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low- and moderate-income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion.

(ii) For metropolitan cities and urban counties, an activity that would otherwise qualify under §570.208(a)(1)(i), except that the area served contains less than 51 percent low- and moderate-income residents, will also be considered to meet the objective of benefiting low- and moderate-income persons where the proportion of such persons in the area is within the highest quartile of all areas in the recipient's jurisdiction in terms of the degree of concentration of such persons. This exception is inapplicable to non-entitlement CDBG grants in Hawai'i. In applying this exception, HUD will determine the lowest proportion a recipient may use to qualify an area for this purpose, as follows:

(A) All census block groups in the recipient's jurisdiction shall be rank ordered from the block group of highest proportion of low- and moderate-income persons to the block group with the lowest. For urban counties, the rank ordering shall cover the entire area constituting the urban county and shall not be done separately for each participating unit of general local government.

(B) In any case where the total number of a recipient's block groups does not divide evenly by four, the block group which would be fractionally divided between the highest and second quartiles shall be considered to be part of the highest quartile.

(C) The proportion of low- and moderate-income persons in the last census block group in the highest quartile shall be identified. Any service area located within the recipient's jurisdiction and having a proportion of low- and moderate-income persons at or above this level shall be considered to be within the highest quartile.

(D) If block group data are not available for the entire jurisdiction, other data acceptable to the Secretary may be used in the above calculations.

(iii) An activity to develop, establish, and operate for up to two years after the establishment of, a uniform emergency telephone number system serving an area having less than the percentage of low- and moderate-income residents required under paragraph (a)(1)(i) of this section or (as applicable) paragraph (a)(1)(ii) of this section, provided the recipient obtains prior HUD approval. To obtain such approval, the recipient must:

(A) Demonstrate that the system will contribute significantly to the safety of the residents of the area. The request for approval must include a list of the emergency services that will participate in the emergency telephone number system;

(B) Submit information that serves as a basis for HUD to determine whether at least 51 percent of the use of the system will be by low- and moderate-income persons. As available, the recipient must provide information that identifies the total number of calls actually received over the preceding 12-month period for each of the emergency services to be covered by the emergency telephone number system and relates those calls to the geographic segment (expressed as nearly as possible in terms of census tracts, block numbering areas, block groups, or combinations thereof that are contained within the segment) of the service area from which the calls were generated. In analyzing this data to meet the requirements of this section, HUD will assume that the distribution of income among the callers generally reflects the income characteristics of the general population residing in the same geographic area where the callers reside. If HUD can conclude that the users have primarily consisted of low- and moderate-income persons, no further submission is needed by the recipient. If a recipient plans to make other submissions for this purpose, it may request that HUD review its planned methodology before expending the effort to acquire the information it expects to use to make its case;

(C) Demonstrate that other Federal funds received by the recipient are insufficient or unavailable for a uniform emergency telephone number system. For this purpose, the recipient must submit a statement explaining whether the lack of funds is due to the insufficiency of the amount of the available funds, restrictions on the use of such funds, or the prior commitment of funds by the recipient for other purposes; and

(D) Demonstrate that the percentage of the total costs of the system paid for by CDBG funds does not exceed the percentage of low- and moderate-income persons in the service area of the system. For this purpose, the recipient must include a description of the boundaries of the service area of the emergency telephone number system, the census divisions that fall within the boundaries of the service area (census tracts or block numbering areas), the total number of persons and the total number of low- and moderate-income persons within each census division, the percentage of low- and moderate-income persons within the service area, and the total cost of the system.

(iv) An activity for which the assistance to a public improvement that provides benefits to all the residents of an area is limited to paying special assessments (as defined in §570.200(c)) levied against residential properties owned and occupied by persons of low and moderate income.

(v) For purposes of determining qualification under this criterion, activities of the same type that serve different areas will be considered separately on the basis of their individual service area.

(vi) In determining whether there is a sufficiently large percentage of low- and moderate-income persons residing in the area served by an activity to qualify under paragraph (a)(1)(i), (ii), or (vii) of this section, the most recently available decennial census information must be used to the fullest extent feasible, together with the section 8 income limits that would have applied at the time the income information was collected by the Census Bureau. Recipients that believe that the census data does not reflect current relative income levels in an area, or where census boundaries do not coincide sufficiently well with the service area of an activity, may conduct (or have conducted) a current survey of the residents of the area to determine the percent of such persons that are low and moderate income. HUD will accept information obtained through such surveys, to be used in lieu of the decennial census data, where it determines that the survey was conducted in such a manner that the results meet standards of statistical reliability that are comparable to that of the decennial census data for areas of similar size. Where there is substantial evidence that provides a clear basis to believe that the use of the decennial census data would substantially overstate the proportion of persons residing there that are low and moderate income, HUD may require that the recipient rebut such evidence in order to demonstrate compliance with section 105(c)(2) of the Act.

(vii) Activities meeting the requirements of paragraph (d)(5)(i) of this section may be considered to qualify under this paragraph, provided that the area covered by the strategy is either a Federally-designated Empowerment Zone or Enterprise Community or primarily residential and contains a percentage of low- and moderate-income residents that is no less than the percentage computed by HUD pursuant to paragraph (a)(1)(ii) of this section or 70 percent, whichever is less, but in no event less than 51 percent. Activities meeting the requirements of paragraph (d)(6)(i) of this section may also be considered to qualify under paragraph (a)(1) of this section.

(2) *Limited clientele activities.* (i) An activity which benefits a limited clientele, at least 51 percent of whom are low- or moderate-income persons. (The following kinds of activities may not qualify under paragraph (a)(2) of this section: activities, the benefits of which are available to all the residents of an area; activities involving the acquisition, construction or rehabilitation of property for housing; or activities where the benefit to low- and moderate-income persons to be considered is the creation or retention of jobs, except as provided in paragraph (a)(2)(iv) of this section.) To qualify under paragraph (a)(2) of this section, the activity must meet one of the following tests:

(A) Benefit a clientele who are generally presumed to be principally low- and moderate-income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or

(B) Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low- and moderate-income limit; or

(C) Have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons; or

(D) Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low- and moderate-income persons.

(ii) An activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled" will be presumed to qualify under this criterion if it is restricted, to the extent practicable, to the removal of such barriers by assisting:

(A) The reconstruction of a public facility or improvement, or portion thereof, that does not qualify under paragraph (a)(1) of this section;

(B) The rehabilitation of a privately owned nonresidential building or improvement that does not qualify under paragraph (a)(1) or (4) of this section; or

(C) The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under paragraph (a)(3) of this section.

(iii) A microenterprise assistance activity carried out in accordance with the provisions of §570.201(o) with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity during each program year who are low- and moderate-income persons. For purposes of this paragraph, persons determined to be low and moderate income may be presumed to continue to qualify as such for up to a three-year period.

(iv) An activity designed to provide job training and placement and/or other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, in which the percentage of low- and moderate-income persons assisted is less than 51 percent may qualify under this paragraph in the following limited circumstance:

(A) In such cases where such training or provision of supportive services assists business(es), the only use of CDBG assistance for the project is to provide the job training and/or supportive services; and

(B) The proportion of the total cost of the project borne by CDBG funds is no greater than the proportion of the total number of persons assisted who are low or moderate income.

(3) *Housing activities.* An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low- and moderate-income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property by the recipient, a subrecipient, a developer, an individual homebuyer, or an individual homeowner; conversion of nonresidential structures; and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. Where housing activities being assisted meet the requirements of paragraph §570.208 (d)(5)(ii) or (d)(6)(ii) of this section, all such housing may also be considered for this purpose as a single structure. For rental housing, occupancy by low- and moderate-income households must be at affordable rents to qualify under this criterion. The recipient shall adopt and make public its standards for determining "affordable rents" for this purpose. The following shall also qualify under this criterion:

(i) When less than 51 percent of the units in a structure will be occupied by low- and moderate-income households, CDBG assistance may be provided in the following limited circumstances:

(A) The assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project;

(B) Not less than 20 percent of the units will be occupied by low- and moderate-income households at affordable rents; and

(C) The proportion of the total cost of developing the project to be borne by CDBG funds is no greater than the proportion of units in the project that will be occupied by low- and moderate-income households.

(ii) When CDBG funds are used to assist rehabilitation eligible under §570.202(b)(9) or (10) in direct support of the recipient's Rental Rehabilitation program authorized under 24 CFR part 511, such funds shall be considered to benefit low and moderate income persons where not less than 51 percent of the units assisted, or to be assisted, by the recipient's Rental Rehabilitation program overall are for low and moderate income persons.

(iii) When CDBG funds are used for housing services eligible under §570.201(k), such funds shall be considered to benefit low- and moderate-income persons if the housing units for which the services are provided are HOME-assisted and the requirements at 24 CFR 92.252 or 92.254 are met.

(4) *Job creation or retention activities.* An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full-time equivalent basis, involve the employment of low- and moderate-income persons. To qualify under this paragraph, the activity must meet the following criteria:

(i) For an activity that creates jobs, the recipient must document that at least 51 percent of the jobs will be held by, or will be available to, low- and moderate-income persons.

(ii) For an activity that retains jobs, the recipient 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 at the time the CDBG assistance is provided:

(A) The job is known to be held by a low- or moderate-income person; or

(B) The job can reasonably be expected to turn over within the following two years and that steps will be taken to ensure that it will be filled by, or made available to, a low- or moderate-income person upon turnover.

(iii) Jobs that are not held or filled by a low- or moderate-income person may be considered to be available to low- and moderate-income persons for these purposes only if:

(A) Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and

(B) The recipient and the assisted business take actions to ensure that low- and moderate-income persons receive first consideration for filling such jobs.

(iv) For purposes of determining whether a job is held by or made available to a low- or moderate-income person, the person may be presumed to be a low- or moderate-income person if:

(A) He/she resides within a census tract (or block numbering area) that either:

(1) Meets the requirements of paragraph (a)(4)(v) of this section; or

(2) Has at least 70 percent of its residents who are low- and moderate-income persons; or

(B) The assisted business is located within a census tract (or block numbering area) that meets the requirements of paragraph (a)(4)(v) of this section and the job under consideration is to be located within that census tract.

(v) A census tract (or block numbering area) qualifies for the presumptions permitted under paragraphs (a)(4)(iv)(A)(1) and (B) of this section if it is either part of a Federally-designated Empowerment Zone or Enterprise Community or meets the following criteria:

(A) It has a poverty rate of at least 20 percent as determined by the most recently available decennial census information;

(B) It does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30 percent as determined by the most recently available decennial census information; and

(C) It evidences pervasive poverty and general distress by meeting at least one of the following standards:

(1) All block groups in the census tract have poverty rates of at least 20 percent;

(2) The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or

(3) Upon the written request of the recipient, HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

(vi) As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except:

(A) In certain cases such as where CDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park) the requirement may be met by measuring jobs in the aggregate for all the businesses which locate on the property, provided such businesses are not otherwise assisted by CDBG funds.

(B) Where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses exclusively from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during each program year.

(C) Where CDBG funds are used by a recipient or subrecipient to provide technical assistance to businesses, this requirement may be met by aggregating the jobs created or retained by all of the businesses receiving technical assistance during each program year.

(D) Where CDBG funds are used for activities meeting the criteria listed at §570.209(b)(2)(v), this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

(E) Where CDBG funds are used by a Community Development Financial Institution to carry out activities for the purpose of creating or retaining jobs, this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

(F) Where CDBG funds are used for public facilities or improvements which will result in the creation or retention of jobs by more than one business, this requirement may be met by aggregating the jobs created or retained by all such businesses as a result of the public facility or improvement.

(1) Where the public facility or improvement is undertaken principally for the benefit of one or more particular businesses, but where other businesses might also benefit from the assisted activity, the requirement may be met by aggregating only the jobs created or retained by those businesses for which the facility/improvement is principally undertaken, provided that the cost (in CDBG funds) for the facility/improvement is less than \$10,000 per permanent full-time equivalent job to be created or retained by those businesses.

(2) In any case where the cost per job to be created or retained (as determined under paragraph (a)(4)(vi)(F)(1) of this section) is \$10,000 or more, the requirement must be met by aggregating the jobs created or retained as a result of the public facility or improvement by all businesses in the service area of the facility/improvement. This aggregation must include businesses which, as a result of the public facility/improvement, locate or expand in the service area of the facility/improvement between the date the recipient identifies the activity in its action plan under part 91 of this title and the date one year after the physical completion of the facility/improvement. In addition, the assisted activity must comply with the public benefit standards at §570.209(b).

(b) Activities which aid in the prevention or elimination of slums or blight. Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

(1) Activities to address slums or blight on an area basis. An activity will be considered to address prevention or elimination of slums or blight in an area if:

(i) The area, delineated by the recipient, meets a definition of a slum, blighted, deteriorated or deteriorating area under State or local law;

(ii) The area also meets the conditions in either paragraph (A) or (B):

(A) At least 25 percent of properties throughout the area experience one or more of the following conditions:

(1) Physical deterioration of buildings or improvements;

(2) Abandonment of properties;

(3) Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;

(4) Significant declines in property values or abnormally low property values relative to other areas in the community; or

(5) Known or suspected environmental contamination.

(B) The public improvements throughout the area are in a general state of deterioration.

(iii) Documentation is to be maintained by the recipient on the boundaries of the area and the conditions and standards used that qualified the area at the time of its designation. The recipient shall establish definitions of the conditions listed at §570.208(b)(1)(ii)(A) and maintain records to substantiate how the area met the slums or blighted criteria. The designation of an area as slum or blighted under this section is required to be redetermined every 10 years for continued qualification. Documentation must be retained pursuant to the recordkeeping requirements contained at §570.506 (b)(8)(ii).

(iv) The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area. Rehabilitation of residential buildings carried out in an area meeting the above requirements will be considered to address the area's deterioration only where each such building rehabilitated is considered substandard under local definition before rehabilitation, and all deficiencies making a building substandard have been eliminated if less critical work on the building is undertaken. At a minimum, the local definition for this purpose must be such that buildings that it would render substandard would also fail to meet the housing quality standards for the Section 8 Housing Assistance Payments Program-Existing Housing (24 CFR 882.109).

(2) *Activities to address slums or blight on a spot basis.* The following activities may be undertaken on a spot basis to eliminate specific conditions of blight, physical decay, or environmental contamination that are not located in a slum or blighted area: acquisition; clearance; relocation; historic preservation; remediation of environmentally contaminated properties; or rehabilitation of buildings or improvements. However, rehabilitation must be limited to eliminating those conditions that are detrimental to public health and safety. If acquisition or relocation is undertaken, it must be a

precursor to another eligible activity (funded with CDBG or other resources) that directly eliminates the specific conditions of blight or physical decay, or environmental contamination.

(3) *Activities to address slums or blight in an urban renewal area.* An activity will be considered to address prevention or elimination of slums or blight in an urban renewal area if the activity is:

(i) Located within an urban renewal project area or Neighborhood Development Program (NDP) action area; i.e., an area in which funded activities were authorized under an urban renewal Loan and Grant Agreement or an annual NDP Funding Agreement, pursuant to title I of the Housing Act of 1949; and

(ii) Necessary to complete the urban renewal plan, as then in effect, including *initial* land redevelopment permitted by the plan.

NOTE: Despite the restrictions in (b) (1) and (2) of this section, any rehabilitation activity which benefits low and moderate income persons pursuant to paragraph (a) (3) of this section can be undertaken without regard to the area in which it is located or the extent or nature of rehabilitation assisted.

(c) *Activities designed to meet community development needs having a particular urgency.* In the absence of substantial evidence to the contrary, an activity will be considered to address this objective if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the recipient.

(d) *Additional criteria.* (1) Where the assisted activity is acquisition of real property, a preliminary determination of whether the activity addresses a national objective may be based on the planned use of the property after acquisition. A final determination shall be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisition is for the purpose of clearance which will eliminate specific conditions of blight or physical decay, the clearance activity shall be considered the actual use of the property. However, any subsequent use or disposition of the cleared property shall be treated as a "change of use" under §570.505.

(2) Where the assisted activity is relocation assistance that the recipient is required to provide, such relocation assistance shall be considered to address the same national objective as is addressed by the displacing activity. Where the relocation assistance is voluntary on the part of the grantee the recipient may qualify the assistance either on the basis of the national objective addressed by the displacing activity or on the basis that the recipients of the relocation assistance are low and moderate income persons.

(3) In any case where the activity undertaken for the purpose of creating or retaining jobs is a public improvement and the area served is primarily residential, the activity must meet the requirements of paragraph (a)(1) of this section as well as those of paragraph (a)(4) of this section in order to qualify as benefiting low and moderate income persons.

(4) CDBG funds expended for planning and administrative costs under \$570.205 and \$570.206 will be considered to address the national objectives.

(5) Where the grantee has elected to prepare an area revitalization strategy pursuant to the authority of §91.215(e) of this title and HUD has approved the strategy, the grantee may also elect the following options:

(i) Activities undertaken pursuant to the strategy for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and

(ii) All housing activities in the area for which, pursuant to the strategy, CDBG assistance is obligated during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.

(6) Where CDBG-assisted activities are carried out by a Community Development Financial Institution whose charter limits its investment area to a primarily residential area consisting of at least 51 percent low- and moderate-income persons, the grantee may also elect the following options:

(i) Activities carried out by the Community Development Financial Institution for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and

(ii) All housing activities for which the Community Development Financial Institution obligates CDBG assistance during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.

(7) Where an activity meeting the criteria at §570.209(b)(2)(v) may also meet the requirements of either paragraph (d)(5)(i) or (d)(6)(i) of this section, the grantee may elect to qualify the activity under either the area benefit criteria at paragraph (a)(1)(vii) of this section or the job aggregation criteria at paragraph (a)(4)(vi)(D) of this section, but not both. Where an activity may meet the job aggregation criteria at both paragraphs (a)(4)(vi)(D) and (E) of this section, the grantee may elect to qualify the activity under either criterion, but not both.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1945, Jan. 5, 1995; 60 FR 17445, Apr. 6, 1995; 60 FR 56912, Nov. 9, 1995; 61 FR 18674, Apr. 29, 1996; 71 FR 30035, May 24, 2006; 72 FR 46370, Aug. 17, 2007]

§570.209 Guidelines for evaluating and selecting economic development projects.

The following guidelines are provided to assist the recipient to evaluate and select activities to be carried out for economic development purposes. Specifically, these guidelines are applicable to activities that are eligible for CDBG assistance under §570.203. These guidelines also apply to activities carried out under the authority of §570.204 that would otherwise be eligible under §570.203, were it not for the involvement of a Community-Based Development Organization (CBDO). (This would include activities where a CBDO makes loans to for-profit businesses.) These guidelines are composed of two components: guidelines for evaluating project costs and financial requirements; and standards for evaluating public benefit. The standards for evaluating public benefit are *mandatory*, but the guidelines for evaluating projects costs and financial requirements are not.

(a) *Guidelines and objectives for evaluating project costs and financial requirements.* HUD has developed guidelines that are designed to provide the recipient with a framework for financially underwriting and selecting CDBG-assisted economic development projects which are financially viable and will make the most effective use of the CDBG funds. These guidelines, also referred to as the underwriting guidelines, are published as appendix A to this part. The use of the underwriting guidelines published by HUD is not mandatory. However, grantees electing not to use these guidelines would be expected to conduct basic financial underwriting prior to the provision of CDBG financial assistance to a for-profit business. Where appropriate, HUD's underwriting guidelines recognize that different levels of review are appropriate to take into account differences in the size and scope of a proposed project, and in the case of a microenterprise or other small business to take into account the differences in the capacity and level of sophistication among businesses of differing sizes. Recipients are encouraged, when they develop their own programs and underwriting criteria, to also take these factors into account. The objectives of the underwriting guidelines are to ensure:

- (1) That project costs are reasonable;
- (2) That all sources of project financing are committed;
- (3) That to the extent practicable, CDBG funds are not substituted for non-Federal financial support;
- (4) That the project is financially feasible;
- (5) That to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and

(6) That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.

(b) *Standards for evaluating public benefit.* The grantee is responsible for making sure that at least a minimum level of public benefit is obtained from the expenditure of CDBG funds under the categories of eligibility governed by these guidelines. The standards set forth below identify the types of public benefit that will be recognized for this purpose and the minimum level of each that must be obtained for the amount of CDBG funds used. Unlike the guidelines for project costs and financial requirements covered under paragraph (a) of this section, the use of the standards for public benefit is mandatory. Certain public facilities and improvements eligible under §570.201(c) of the regulations, which are undertaken for economic development purposes, are also subject to these standards, as specified in §570.208(a)(4)(vi)(F)(2).

(1) *Standards for activities in the aggregate.* Activities covered by these guidelines must, in the aggregate, either:

(i) Create or retain at least one full-time equivalent, permanent job per \$35,000 of CDBG funds used; or

(ii) Provide goods or services to residents of an area, such that the number of low- and moderate-income persons residing in the areas served by the assisted businesses amounts to at least one low- and moderate-income person per \$350 of CDBG funds used.

(2) *Applying the aggregate standards.* (i) A metropolitan city, an urban county, a non-entitlement CDBG grantee in Hawai'i, or an Insular Area shall apply the aggregate standards under paragraph (b)(1) of this section to all applicable activities for which CDBG funds are first obligated within each single CDBG program year, without regard to the source year of the funds used for the activities. For Insular Areas, the preceding sentence applies to grants received in program years after Fiscal Year 2004. A grantee under the HUD-administered Small Cities Program, or Insular Areas CDBG grants prior to Fiscal Year 2005, shall apply the aggregate standards under paragraph (b)(1) of this section to all funds obligated for applicable activities from a given grant; program income obligated for applicable activities will, for these purposes, be aggregated with the most recent open grant. For any time period in which a community has no open HUD-administered or Insular Areas grants, the aggregate standards shall be applied to all applicable activities for which program income is obligated during that period.

(ii) The grantee shall apply the aggregate standards to the number of jobs to be created/retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

(iii) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, the grantee may elect to count the activity under either the jobs standard or the area residents standard, but not both.

(iv) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the aggregate standards.

(v) Any activity subject to these guidelines which meets one or more of the following criteria may, at the grantee's option, be excluded from the aggregate standards described in paragraph (b)(1) of this section:

(A) Provides jobs exclusively for unemployed persons or participants in one or more of the following programs:

(1) Jobs Training Partnership Act (JTPA);

(2) Jobs Opportunities for Basic Skills (JOBS); or

(3) Aid to Families with Dependent Children (AFDC);

(B) Provides jobs predominantly for residents of Public and Indian Housing units;

(C) Provides jobs predominantly for homeless persons;

(D) Provides jobs predominantly for low-skilled, low- and moderate-income persons, where the business agrees to provide clear opportunities for promotion and economic advancement, such as through the provision of training;

(E) Provides jobs predominantly for persons residing within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

(F) Provides assistance to business(es) that operate(s) within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

(G) Stabilizes or revitalizes a neighborhood that has at least 70 percent of its residents who are low- and moderate-income;

(H) Provides assistance to a Community Development Financial Institution that serve an area that is predominantly low- and moderate-income persons;

(I) Provides assistance to a Community-Based Development Organization serving a neighborhood that has at least 70 percent of its residents who are low- and moderate-income;

(J) Provides employment opportunities that are an integral component of a project designed to promote spatial deconcentration of low- and moderate-income and minority persons;

(K) With prior HUD approval, provides substantial benefit to low-income persons through other innovative approaches;

(L) Provides services to the residents of an area pursuant to a strategy approved by HUD under the provisions of §91.215(e) of this title;

(M) Creates or retains jobs through businesses assisted in an area pursuant to a strategy approved by HUD under the provisions of §91.215(e) of this title.

(N) Directly involves the economic development or redevelopment of environmentally contaminated properties.

(3) *Standards for individual activities.* Any activity subject to these guidelines which falls into one or more of the following categories will be considered by HUD to provide insufficient public benefit, and therefore may under no circumstances be assisted with CDBG funds:

(i) The amount of CDBG assistance exceeds either of the following, as applicable:

(A) \$50,000 per full-time equivalent, permanent job created or retained; or

(B) \$1,000 per low- and moderate-income person to which goods or services are provided by the activity.

(ii) The activity consists of or includes any of the following:

(A) General promotion of the community as a whole (as opposed to the promotion of specific areas and programs);

(B) Assistance to professional sports teams;

(C) Assistance to privately-owned recreational facilities that serve a predominantly higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons;

(D) Acquisition of land for which the specific proposed use has not yet been identified; and

(E) Assistance to a for-profit business while that business or any other business owned by the same person(s) or entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient.

(4) *Applying the individual activity standards.* (i) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, it will be disqualified only if the amount of CDBG assistance exceeds both of the amounts in paragraph (b) (3) (i) of this section.

(ii) The individual activity standards in paragraph (b) (3) (i) of this section shall be applied to the number of jobs to be created or retained, or to the number of persons residing in the area served (as

applicable), as determined at the time funds are obligated to activities.

(iii) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the individual activity standards in paragraph (b)(3)(i) of this section.

(c) *Amendments to economic development projects after review determinations.* If, after the grantee enters into a contract to provide assistance to a project, the scope or financial elements of the project change to the extent that a significant contract amendment is appropriate, the project should be reevaluated under these and the recipient's guidelines. (This would include, for example, situations where the business requests a change in the amount or terms of assistance being provided, or an extension to the loan payment period required in the contract.) If a reevaluation of the project indicates that the financial elements and public benefit to be derived have also substantially changed, then the recipient should make appropriate adjustments in the amount, type, terms or conditions of CDBG assistance which has been offered, to reflect the impact of the substantial change. (For example, if a change in the project elements results in a substantial reduction of the total project costs, it may be appropriate for the recipient to reduce the amount of total CDBG assistance.) If the amount of CDBG assistance provided to the project is increased, the amended project must still comply with the public benefit standards under paragraph (b) of this section.

(d) *Documentation.* The grantee must maintain sufficient records to demonstrate the level of public benefit, based on the above standards, that is actually achieved upon completion of the CDBG-assisted economic development activity(ies) and how that compares to the level of such benefit anticipated when the CDBG assistance was obligated. If the grantee's actual results show a pattern of substantial variation from anticipated results, the grantee is expected to take all actions reasonably within its control to improve the accuracy of its projections. If the actual results demonstrate that the recipient has failed the public benefit standards, HUD may require the recipient to meet more stringent standards in future years as appropriate.

[60 FR 1947, Jan. 5, 1995, as amended at 60 FR 17445, Apr. 6, 1995; 71 FR 30035, May 24, 2006; 72 FR 12535, Mar. 15, 2007; 72 FR 46370, Aug. 17, 2007]

§570.210 Prohibition on use of assistance for employment relocation activities.

(a) *Prohibition.* CDBG funds may not be used to directly assist a business, including a business expansion, in the relocation of a plant, facility, or operation from one LMA to another LMA if the relocation is likely to result in a significant loss of jobs in the LMA from which the relocation occurs.

(b) *Definitions.* The following definitions apply to this section:

(1) *Directly assist.* Directly assist means the provision of CDBG funds for activities pursuant to:

(i) §570.203(b); or

(ii) §§570.201(a)-(d), 570.201(l), 570.203(a), or §570.204 when the grantee, subrecipient, or, in the case of an activity carried out pursuant to §570.204, a Community Based Development Organization (CDBO) enters into an agreement with a business to undertake one or more of these activities as a condition of the business relocating a facility, plant, or operation to the grantee's LMA. Provision of public facilities and indirect assistance that will provide benefit to multiple businesses does not fall under the definition of "directly assist," unless it includes the provision of infrastructure to aid a specific business that is the subject of an agreement with the specific assisted business.

(2) *Labor market area (LMA).* For metropolitan areas, an LMA is an area defined as such by the BLS. An LMA is an economically integrated geographic area within which individuals can live and find employment within a reasonable distance or can readily change employment without changing their place of residence. In addition, LMAs are nonoverlapping and geographically exhaustive. For metropolitan areas, grantees must use employment data, as defined by the BLS, for the LMA in which the affected business is currently located and from which current jobs may be lost. For non-metropolitan areas, an LMA is either an area defined by the BLS as an LMA, or a state may choose to combine non-metropolitan LMAs. States are required to define or reaffirm prior definitions of their LMAs on an annual basis and retain records to substantiate such areas prior to any business relocation that would be impacted by this rule. Metropolitan LMAs cannot be combined, nor can a non-metropolitan LMA be combined with a metropolitan LMA. For the HUD-administered Small Cities Program, each of the three participating counties in Hawai'i will be considered to be its own LMA. Recipients of Fiscal Year 1999 Small Cities Program funding in New York will follow the requirements for State CDBG recipients.

(3) *Operation.* A business operation includes, but is not limited to, any equipment, employment opportunity, production capacity or product line of the business.

(4) *Significant loss of jobs.* (i) A loss of jobs is significant if: The number of jobs to be lost in the LMA in which the affected business is currently located is equal to or greater than one-tenth of one percent of the total number of persons in the labor force of that LMA; or in all cases, a loss of 500 or more jobs. Notwithstanding the aforementioned, a loss of 25 jobs or fewer does not constitute a significant loss of jobs.

(ii) A job is considered to be lost due to the provision of CDBG assistance if the job is relocated within three years of the provision of assistance to the business; or the time period within which jobs

are to be created as specified by the agreement between the business and the recipient if it is longer than three years.

(c) *Written agreement.* Before directly assisting a business with CDBG funds, the recipient, subrecipient, or a CDBO (in the case of an activity carried out pursuant to §570.204) shall sign a written agreement with the assisted business. The written agreement shall include:

(1) *Statement.* A statement from the assisted business as to whether the assisted activity will result in the relocation of any industrial or commercial plant, facility, or operation from one LMA to another, and, if so, the number of jobs that will be relocated from each LMA;

(2) *Required information.* If the assistance will not result in a relocation covered by this section, a certification from the assisted business that neither it, nor any of its subsidiaries, has plans to relocate jobs at the time the agreement is signed that would result in a significant job loss as defined in this rule; and

(3) *Reimbursement of assistance.* The agreement shall provide for reimbursement of any assistance provided to, or expended on behalf of, the business in the event that assistance results in a relocation prohibited under this section.

(d) *Assistance not covered by this section.* This section does not apply to:

(1) *Relocation assistance.* Relocation assistance required by the Uniform Assistance and Real Property Acquisition Policies Act of 1970, (URA) (42 U.S.C. 4601-4655);

(2) *Microenterprises.* Assistance to microenterprises as defined by Section 102(a)(22) of the Housing and Community Development Act of 1974; and

(3) *Arms-length transactions.* Assistance to a business that purchases business equipment, inventory, or other physical assets in an arms-length transaction, including the assets of an existing business, provided that the purchase does not result in the relocation of the sellers' business operation (including customer base or list, goodwill, product lines, or trade names) from one LMA to another LMA and does not produce a significant loss of jobs in the LMA from which the relocation occurs.

PUBLIC BENEFIT STANDARDS

Introduction

The CDBG authorizing statute requires that activities qualifying under particular categories of eligibility must meet standards of public benefit established by HUD in regulations. Specifically, it requires that an activity carried out under the category of Special Economic Development (§ 570.203), or one which could be carried out under that category but is instead carried out under the category of Special Activities by CBDOS (§ 570.204), must meet the standards of public benefit set forth in § 570.209(b). By regulation, HUD has also included under this requirement, under certain circumstances, a public improvement activity that qualifies under the L/M Income Jobs subcategory of the L/M Income Benefit national objective. (The situation in which such a Jobs activity must meet public benefit standards is described in Chapter 3 under the discussion of the L/M Income Jobs criteria.)

Background

It should be noted from the outset that the public benefit requirement has, in effect, taken the place of the previously required "appropriate" determination for CDBG financial assistance to a for-profit business. While public benefit had long been required to be considered, the "appropriate" determination previously focused on financial underwriting of the assistance. Statutory changes were made that had the effect of removing this focus and replacing it with one of ensuring that the amount of public benefit to be derived from this type of activity (and some others as well) will be appropriate given the amount of CDBG assistance being provided to the activity. This statutory change required HUD to publish guidelines for performing a financial analysis of these economic development activities, but it also specifies that HUD may not find an activity ineligible for failure to meet them. HUD has published these underwriting guidelines as an appendix to the regulations in an attempt to make it clear that they are not required to be used.

Despite the fact that the HUD-published underwriting guidelines are not mandatory, a grantee is still expected to perform a due diligence assessment of any assistance it provides to a for-profit business as a means of ensuring that public funds are not wasted and that the expected economic benefit will flow from the project and help to meet a CDBG national objective.

As required by the statute, HUD has also established standards for public benefit, and they are contained in the regulations at § 570.209(b). Unlike the underwriting guidelines, the public benefit guidelines (or standards) are *required* to be used for the activities mentioned in the introductory paragraph to this Appendix.

It should be noted that the requirement for meeting the public benefit standards is a basic eligibility issue and should not be confused with the requirements concerning meeting a national objective. This caveat is provided in recognition of the fact that the same factors (jobs and area served) are involved in the criteria for both requirements. While the same factors come into play, they are used differently. For example, for public benefit purposes, compliance involves the *total number* of jobs created or retained without regard to how many (if any) benefit L/M income persons. In contrast, the use of jobs for meeting a national objective is determined by the *percentage* of the created or retained jobs that benefit L/M income persons, and only incidentally involves the total number of such jobs. The determination of compliance with the L/M Income Jobs national objective is based on the jobs that are *actually* created or retained and who actually benefits from those jobs. The focus for determining compliance for public benefit purposes lies in the number of jobs *expected* to be created or retained.

Similarly, for the area benefit factor, compliance with national objectives is based on the *percent* of L/M income residents served, while public benefit is determined based on the *number* of L/M income persons served.

It should also be noted that an activity that is subject to the public benefit standards does not have to use the same factor for meeting that standard as it does for meeting national objective requirements. For example, assistance to a grocery store serving a L/M income neighborhood that also retains some jobs may qualify as meeting the national objective based on the area served while the grantee may choose to qualify it under the public benefit standards based on the retained jobs.

The fact that an activity qualifies for national objective purposes under one of the Slum/Blight subcategories or even under the Urgent Need category does not affect its need to separately meet the public benefit standards.

The Standards

In developing the public benefit standards, HUD attempted to make them unambiguous, reasonable, and fitting within the context of the rest of the program. Accordingly, while there are many aspects that could be considered to constitute a public benefit resulting from these activities, only two have been adopted for the standards: jobs and the provision of goods or services.

As formulated, the public benefit standards are to be applied to the activities funded under the relevant categories both on an *individual activity* basis and on all such *activities in the aggregate*. Thus, the standards fall into those two basic categories, each of which is described below:

Individual Activity Standards

The following individual activity standards apply to any activity subject to these standards:

- For an activity that creates or retains jobs, the use of CDBG funds cannot exceed \$50,000 per full-time equivalent job; or
- For an activity that provides goods or services to residents of an area, the amount of CDBG funds provided for the activity cannot exceed \$1,000 per L/M person served.

The effect of these dollar limits is that, if an activity could both create or retain jobs AND provide goods or services to persons, it must fail *both* dollar standards to be precluded on the basis of these individual activity standards (and thus ineligible to be carried out using CDBG funds).

HUD also determined that there are certain kinds of economic development activities that by their nature fail to provide sufficient public benefit. They are:

- An activity in which the grantee promotes the community as a whole (as opposed to promotion of specific areas and programs);
- Assistance to a professional sports team;
- Assistance to privately-owned recreational facilities that serve a predominantly higher-income clientele, where the recreational benefit to be derived by users or members clearly outweighs the employment or other benefits to L/M income persons;

- Acquisition of land for which the specific proposed use has not yet been identified; and
- Assistance to a for-profit business while that business or any other business owned by the same person(s) or entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided to the business.

Therefore, any activity subject to the public benefit standards that falls into any of the above descriptions *may not be assisted with CDBG funds* regardless of any other aspect of the activity.

Aggregate Standards

Activities that are subject to the public benefit standards and pass the individual activity tests outlined above also must generally, in the aggregate, either:

- Create or retain at least *one full-time equivalent, permanent job per \$35,000* of CDBG funds used for all such activities; or
- Provide goods or services to residents of an area, such that the number of L/M income persons residing in the area served by the assisted businesses amounts to at least *one L/M income person per \$350* of CDBG funds used for all such activities.

As with the individual standards, if the activity can both create or retain jobs AND provide goods or services to residents of an area, the grantee may elect to apply either of the above aggregate standards to the activity. However, only one standard shall be used for each such activity. That is, if the grantee elects to use the area standard, any jobs created or retained by the activity are not to be counted for purposes of applying that aggregate standard.

Applying the Aggregate Standard

In applying the aggregate standard, grantees are to aggregate the dollars and resultant jobs, or L/M income persons served (as applicable) based on the following:

- Entitlement grantees shall apply the standards to all applicable activities for which CDBG funds are *first obligated* within each single CDBG program year, without regard to the source year of the funds used for the activity; and

- Grantees under the HUD-administered Small Cities or Insular Areas CDBG programs shall apply the aggregate standards to all funds obligated for applicable activities from a given grant. Obligations made using program income, if any, are to be aggregated with the most recent open grant. For any time period in which a community has no open grant under the HUD-administered Small Cities or Insular Areas programs, the aggregate standards shall be applied to all applicable activities for which program income is obligated during the period starting with the closeout of the most recent such grant and ending with the date the next such grant is received by the grantee.

Excludable Activities

Certain activities that would otherwise be subject to the aggregate public benefit standards may be excluded from the aggregate calculations under the authority of § 570.209(b)(2)(v). Such activities are those which have been determined by HUD to serve important national interests. The activities must still pass the individual activity tests. Activities that qualify for this optional exclusion from the aggregate calculations are those that:

- Provide jobs exclusively for unemployed persons or participants in one or more of the following programs:
 - JTPA
 - JOBS; or
 - AFDC.
- Provide jobs predominantly for residents of Public and Indian Housing units;
- Provide jobs predominantly for homeless persons;
- Provide jobs predominantly for low-skilled, L/M income persons, where the business agrees to provide clear opportunities for promotion and economic advancement to such persons who are hired, such as through provision of training;
- Provide jobs predominantly for persons residing within a census tract (or BNA) that has at least 20% of its residents who are in poverty;

- Provide assistance to business(es) that operate(s) within a census tract (or BNA) that has at least 20% of its residents who are in poverty;
- Stabilize or revitalize a neighborhood that has at least 70% of its residents who are L/M income persons;
- Provide assistance to a CDFI that serves an area that is predominantly L/M income persons;
- Provide assistance to a CBDO serving a neighborhood that has at least 70% of its residents who are L/M income persons;
- Provide employment opportunities that are an integral component of a project designed to promote spatial deconcentration of L/M income and minority persons;
- With prior HUD approval, provide substantial benefit to L/M income persons through other innovative approaches;
- Provide services to the residents of an area pursuant to a Neighborhood Revitalization Strategy approved by HUD (see Appendix E); or
- Create or retain jobs through businesses assisted in an area pursuant to a Neighborhood Revitalization Strategy approved by HUD (see Appendix E).

Note that the above-listed activity types may be excluded at the *grantee's option*. This means, of course, that they do not have to be excluded. While a grantee might choose to exclude such activities in order to minimize the recordkeeping requirements of complying with the aggregate public benefit standards, there is at least one good reason why the grantee would want to have one or more of them included. That reason is that the public benefit (jobs or goods/services per dollar) might be such that the grantee would want to include the activity in order to make the overall aggregate calculation more favorable. For example, if the grantee runs its economic development program in a way that stays very close to the aggregate standard (e.g., \$35,000 per job), it may want to include an activity that provides jobs at a much lower CDBG cost per job, even if that activity falls into one of the above-described categories and the grantee had the option of excluding it.

General Ground Rules

Both the individual and aggregate standards are to be applied based on the number of jobs to be created or retained or to the number of persons residing in the area served (as applicable), as determined at the time the funds are obligated to the activities. This is because there is always the possibility that an economic development activity might not proceed as planned, and for the purpose of this particular requirement, a grantee should generally only be held to the conditions that prevailed at the time it provided the assistance. Nevertheless, grantees are required to keep records that show how it performed against the public benefit standards based on actual jobs and L/M income persons served. Where the actual results attained by a grantee consistently fall substantially below what it expected, the grantee is expected to make adjustments in how it conducts its front end assessments for complying with the public benefit standards for future activities, and HUD may require that the grantee meet more stringent standards in the future, as appropriate.

Where the CDBG assistance for an activity is limited to job training and placement and/or other employment support services under § 570.203, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying both the individual and aggregate standards.

Tips

Although the aggregate standards may sound very difficult to keep track of, one way to minimize additional recordkeeping burdens is for a grantee to operate its CDBG economic development program in a way which ensures that no assistance will be provided for an *individual* activity that exceeds the *aggregate* standard. For example, while the individual standard based on jobs created/retained is \$50,000 per job, if the grantee makes sure that no individual activity is funded that would exceed \$35,000 per job (which is the aggregate standard), the result becomes an amount of assistance that does not exceed \$35,000 per job in the aggregate. Since studies on the use of CDBG for economic development in the past have indicated that the average assistance per job created or retained is, on average, less than \$10,000 per job, it seems likely that few grantees would have difficulty operating their activities based on an individual activity limitation of \$35,000, which would ensure their compliance with the aggregate standard without any additional recordkeeping.

APPENDIX E

CDBG PROGRAM – OTHER FEDERAL REQUIREMENTS

Subpart K - Other Program Requirements

- \$ 570.600 General.
- \$ 570.601 Public Law 88-352 and Public Law 90-284; affirmatively furthering fair housing; Executive Order 11063.
- \$ 570.602 Section 109 of the Act.
- \$ 570.603 Labor standards.
- \$ 570.604 Environmental standards.
- \$ 570.605 National Flood Insurance Program.
- \$ 570.606 Displacement, relocation, acquisition, and replacement of housing.
- \$ 570.607 Employment and contracting opportunities.
- \$ 570.608 Lead-based paint.
- \$ 570.609 Use of debarred, suspended or ineligible contractors or subrecipients.
- \$ 570.610 Uniform administrative requirements and cost principles.
- \$ 570.611 Conflict of interest.
- \$ 570.612 Executive Order 12372.
- \$ 570.613 Eligibility restrictions for certain resident aliens.
- \$ 570.614 Architectural Barriers Act and Americans with Disabilities Act

Subpart K-Other Program Requirements

SOURCE: 53 FR 34456, Sept. 6, 1988, unless otherwise noted.

\$570.600 General.

(a) This subpart K enumerates laws that the Secretary will treat as applicable to grants made under section 106 of the Act, other than grants to states made pursuant to section 106(d) of the Act, for purposes of the Secretary's determinations under section 104(e)(1) of the Act, including statutes expressly made applicable by the Act and certain other statutes and Executive Orders for which the Secretary has enforcement responsibility. This subpart K applies to grants made under the Insular Areas Program in \$570.405 and \$570.440 with the exception of \$570.612. The absence of mention herein of any other statute for which the Secretary does not have direct enforcement responsibility is not intended to be taken as an indication that, in the Secretary's opinion, such statute or Executive Order is not applicable to activities assisted under the Act. For laws that the

Secretary will treat as applicable to grants made to states under section 106(d) of the Act for purposes of the determination required to be made by the Secretary pursuant to section 104(e)(2) of the Act, see §570.487.

(b) This subpart also sets forth certain additional program requirements which the Secretary has determined to be applicable to grants provided under the Act as a matter of administrative discretion.

(c) In addition to grants made pursuant to section 106(b) and 106(d)(2)(B) of the Act (subparts D and F, respectively), the requirements of this subpart K are applicable to grants made pursuant to sections 107 and 119 of the Act (subparts E and G, respectively), and to loans guaranteed pursuant to subpart M.

[53 FR 34456, Sept. 6, 1988, as amended at 61 FR 11477, Mar. 20, 1996; 72 FR 12536, Mar. 15, 2007]

§570.601 Public Law 88-352 and Public Law 90-284; affirmatively furthering fair housing; Executive Order 11063.

(a) The following requirements apply according to sections 104(b) and 107 of the Act:

(1) Public Law 88-352, which is title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and implementing regulations in 24 CFR part 1.

(2) Public Law 90-284, which is the Fair Housing Act (42 U.S.C. 3601-3620). In accordance with the Fair Housing Act, the Secretary requires that grantees administer all programs and activities related to housing and urban development in a manner to affirmatively further the policies of the Fair Housing Act. Furthermore, in accordance with section 104(b)(2) of the Act, for each community receiving a grant under subpart D of this part, the certification that the grantee will affirmatively further fair housing shall specifically require the grantee to take meaningful actions to further the goals identified in the grantee's AFH conducted in accordance with the requirements of 24 CFR 5.150 through 5.180 and take no action that is materially inconsistent with its obligation to affirmatively further fair housing.

(b) Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959-1963 Comp., p. 652; 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing), and implementing regulations in 24 CFR part 107, also apply.

[61 FR 11477, Mar. 20, 1996, as amended at 80 FR 42368, July 16, 2015]

§570.602 Section 109 of the Act.

Section 109 of the Act requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex

be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title I programs. The policies and procedures necessary to ensure enforcement of section 109 are codified in 24 CFR part 6.

[64 FR 3802, Jan. 25, 1999]

§570.603 Labor standards.

(a) Section 110(a) of the Act contains labor standards that apply to nonvolunteer labor financed in whole or in part with assistance received under the Act. In accordance with section 110(a) of the Act, the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) also applies. However, these requirements apply to the rehabilitation of residential property only if such property contains not less than 8 units.

(b) The regulations in 24 CFR part 70 apply to the use of volunteers.

[61 FR 11477, Mar. 20, 1996]

§570.604 Environmental standards.

For purposes of section 104(g) of the Act, the regulations in 24 CFR part 58 specify the other provisions of law which further the purposes of the National Environmental Policy Act of 1969, and the procedures by which grantees must fulfill their environmental responsibilities. In certain cases, grantees assume these environmental review, decision making, and action responsibilities by execution of grant agreements with the Secretary.

[61 FR 11477, Mar. 20, 1996]

§570.605 National Flood Insurance Program.

Notwithstanding the date of HUD approval of the recipient's application (or, in the case of grants made under subpart D of this part or HUD-administered small cities recipients in Hawai'i, the date of submission of the grantee's consolidated plan, in accordance with 24 CFR part 91), section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) and the regulations in 44 CFR parts 59 through 79 apply to funds provided under this part 570.

[61 FR 11477, Mar. 20, 1996]

§570.606 Displacement, relocation, acquisition, and replacement of housing.

(a) *General policy for minimizing displacement.* Consistent with the other goals and objectives of this part, grantees (or States or state recipients, as applicable) shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of activities assisted under this part.

(b) *Relocation assistance for displaced persons at URA levels.* (1) A displaced person shall be provided with relocation assistance at the levels described in, and in accordance with the requirements of 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655).

(2) *Displaced person.* (i) For purposes of paragraph (b) of this section, the term "displaced person" means any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of rehabilitation, demolition, or acquisition for an activity assisted under this part. A permanent, involuntary move for an assisted activity includes a permanent move from real property that is made:

(A) After notice by the grantee (or the state recipient, if applicable) to move permanently from the property, if the move occurs after the initial official submission to HUD (or the State, as applicable) for grant, loan, or loan guarantee funds under this part that are later provided or granted.

(B) After notice by the property owner to move permanently from the property, if the move occurs after the date of the submission of a request for financial assistance by the property owner (or person in control of the site) that is later approved for the requested activity.

(C) Before the date described in paragraph (b)(2)(i)(A) or (B) of this section, if either HUD or the grantee (or State, as applicable) determines that the displacement directly resulted from acquisition, rehabilitation, or demolition for the requested activity.

(D) After the "initiation of negotiations" if the person is the tenant-occupant of a dwelling unit and any one of the following three situations occurs:

(1) The tenant has not been provided with a reasonable opportunity to lease and occupy a suitable decent, safe, and sanitary dwelling in the same building/complex upon the completion of the project, including a monthly rent that does not exceed the greater of the tenant's monthly rent and estimated average utility costs before the initiation of negotiations or 30 percent of the household's average monthly gross income; or

(2) The tenant is required to relocate temporarily for the activity but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary location and any increased housing costs, or other conditions of the temporary relocation are not reasonable; and the tenant does not return to the building/complex; or

(3) The tenant is required to move to another unit in the building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

(ii) Notwithstanding the provisions of paragraph (b)(2)(i) of this section, the term "*displaced person*-" does not include:

(A) A person who is evicted for cause based upon serious or repeated violations of material terms of the lease or occupancy agreement. To exclude a person on this basis, the grantee (or State or state recipient, as applicable) must determine that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance under this section;

(B) A person who moves into the property after the date of the notice described in paragraph (b)(2)(i)(A) or (B) of this section, but who received a written notice of the expected displacement before occupancy.

(C) A person who is not displaced as described in 49 CFR 24.2(g)(2).

(D) A person who the grantee (or State, as applicable) determines is not displaced as a direct result of the acquisition, rehabilitation, or demolition for an assisted activity. To exclude a person on this basis, HUD must concur in that determination.

(iii) A grantee (or State or state recipient, as applicable) may, at any time, request HUD to determine whether a person is a displaced person under this section.

(3) *Initiation of negotiations.* For purposes of determining the type of replacement housing assistance to be provided under paragraph (b) of this section, if the displacement is the direct result of privately undertaken rehabilitation, demolition, or acquisition of real property, the term "*initiation of negotiations*" means the execution of the grant or loan agreement between the grantee (or State or state recipient, as applicable) and the person owning or controlling the real property.

(c) *Residential antidisplacement and relocation assistance plan.* The grantee shall comply with the requirements of 24 CFR part 42, subpart B.

(d) *Optional relocation assistance.* Under section 105(a)(11) of the Act, the grantee may provide (or the State may permit the state recipient to provide, as applicable) relocation payments and other

relocation assistance to persons displaced by activities that are not subject to paragraph (b) or (c) of this section. The grantee may also provide (or the State may also permit the state recipient to provide, as applicable) relocation assistance to persons receiving assistance under paragraphs (b) or (c) of this section at levels in excess of those required by these paragraphs. Unless such assistance is provided under State or local law, the grantee (or state recipient, as applicable) shall provide such assistance only upon the basis of a written determination that the assistance is appropriate (see, e.g., 24 CFR 570.201(i), as applicable). The grantee (or state recipient, as applicable) must adopt a written policy available to the public that describes the relocation assistance that the grantee (or state recipient, as applicable) has elected to provide and that provides for equal relocation assistance within each class of displaced persons.

(e) *Acquisition of real property.* The acquisition of real property for an assisted activity is subject to 49 CFR part 24, subpart B.

(f) *Appeals.* If a person disagrees with the determination of the grantee (or the state recipient, as applicable) concerning the person's eligibility for, or the amount of, a relocation payment under this section, the person may file a written appeal of that determination with the grantee (or state recipient, as applicable). The appeal procedures to be followed are described in 49 CFR 24.10. In addition, a low- or moderate-income household that has been displaced from a dwelling may file a written request for review of the grantee's decision to the HUD Field Office. For purposes of the State CDBG program, a low- or moderate-income household may file a written request for review of the state recipient's decision with the State.

(g) *Responsibility of grantee or State.* (1) The grantee (or State, if applicable) is responsible for ensuring compliance with the requirements of this section, notwithstanding any third party's contractual obligation to the grantee to comply with the provisions of this section. For purposes of the State CDBG program, the State shall require state recipients to certify that they will comply with the requirements of this section.

(2) The cost of assistance required under this section may be paid from local public funds, funds provided under this part, or funds available from other sources.

(3) The grantee (or State and state recipient, as applicable) must maintain records in sufficient detail to demonstrate compliance with the provisions of this section.

(Approved by the Office of Management and Budget under OMB control number 2506-0102)

[61 FR 11477, Mar. 20, 1996, as amended at 61 FR 51760, Oct. 3, 1996]

§570.607 *Employment and contracting opportunities.*

To the extent that they are otherwise applicable, grantees shall comply with:

(a) Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964-1965 Comp. p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264 (Equal Employment Opportunity), and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60; and

(b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135.

[68 FR 56405, Sept. 30, 2003]

§570.608 *Lead-based paint.*

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this part apply to activities under this program.

[64 FR 50226, Sept. 15, 1999]

§570.609 *Use of debarred, suspended or ineligible contractors or subrecipients.*

The requirements set forth in 24 CFR part 5 apply to this program.

[61 FR 5209, Feb. 9, 1996]

§570.610 *Uniform administrative requirements, cost principles, and audit requirements for Federal awards.*

The recipient, its agencies or instrumentalities, and subrecipients shall comply with 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards", as set forth at §570.502.

[80 FR 75938, Dec. 7, 2015]

§570.611 *Conflict of interest.*

(a) *Applicability.* (1) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 2 CFR 200.317 and 200.318 shall apply.

(2) In all cases not governed by 2 CFR 200.317 and 200.318, the provisions of this section shall apply. Such cases include the

acquisition and disposition of real property and the provision of assistance by the recipient or by its subrecipients to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to §570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to §570.203, 570.204, 570.455, or 570.703(i)).

(b) *Conflicts prohibited.* The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project and shall cover any such financial interest or benefit during, or at any time after, such person's tenure.

(c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.

(d) *Exceptions.* Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.

(1) *Threshold requirements.* HUD will consider an exception only after the recipient has provided the following documentation:

(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(2) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;

(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(vi) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) Any other relevant considerations.

[60 FR 56916, Nov. 9, 1995, as amended at 80 FR 75938, Dec. 7, 2015]

§570.612 Executive Order 12372.

(a) *General.* Executive Order 12372, Intergovernmental Review of Federal Programs, and the Department's implementing regulations at 24 CFR part 52, allow each State to establish its own process for review and comment on proposed Federal financial assistance programs.

(b) *Applicability.* Executive Order 12372 applies to the CDBG Entitlement program and the UDAG program. The Executive Order applies to all activities proposed to be assisted under UDAG, but it applies to the Entitlement program only where a grantee proposes to use funds for the planning or construction (reconstruction or installation) of water or sewer facilities. Such facilities include storm sewers as well as all sanitary sewers, but do not include water and sewer lines connecting a structure to the lines in the public right-of-way or easement. It is the responsibility of the grantee to initiate the Executive Order review process if it proposes to use its CDBG or UDAG funds for activities subject to review.

§570.613 Eligibility restrictions for certain resident aliens.

(a) *Restriction.* Certain newly legalized aliens, as described in 24 CFR part 49, are not eligible to apply for benefits under covered activities funded by the programs listed in paragraph (e) of this section. "Benefits" under this section means financial assistance,

public services, jobs and access to new or rehabilitated housing and other facilities made available under covered activities funded by programs listed in paragraph (e) of this section. "Benefits" do not include relocation services and payments to which displacees are entitled by law.

(b) *Covered activities.* "Covered activities" under this section means activities meeting the requirements of §570.208(a) that either:

(1) Have income eligibility requirements limiting the benefits exclusively to low and moderate income persons; or

(2) Are targeted geographically or otherwise to primarily benefit low and moderate income persons (excluding activities serving the public at large, such as sewers, roads, sidewalks, and parks), and that provide benefits to persons on the basis of an application.

(c) *Limitation on coverage.* The restrictions under this section apply only to applicants for new benefits not being received by covered resident aliens as of the effective date of this section.

(d) *Compliance.* Compliance can be accomplished by obtaining certification as provided in 24 CFR 49.20.

(e) *Programs affected.* (1) The Community Development Block Grant program for small cities, administered under subpart F of part 570 of this title until closeout of the recipient's grant.

(2) The Community Development Block Grant program for entitlement grants, administered under subpart D of part 570 of this title.

(3) The Community Development Block Grant program for States, administered under subpart I of part 570 of this title until closeout of the unit of general local government's grant by the State.

(4) The Urban Development Action Grants program administered under subpart G of part 570 of this title until closeout of the recipient's grant.

[55 FR 18494, May 2, 1990]

§570.614 Architectural Barriers Act and the Americans with Disabilities Act.

(a) The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall

comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

(b) The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

[60 FR 56917, Nov. 9, 1995]

APPENDIX F

PROPOSAL

INSTRUCTIONS/CHECKLIST

This checklist will aid applicant in submitting all the appropriate forms required for a complete project proposal. Please complete the checklist by placing a checkmark next to each item and attach Exhibits 1 to 17 along with required forms and documents as requested for each exhibit in a bounded format.

Exhibits should be typewritten, or computer generated. Narratives should be straightforward and limited to facts, solutions to problems and proposed plans of action. Limit responses to no more than two (2) pages.

All proposals should be bound to secure your document (NO SPIRAL BINDING), labeled as original and copies and signed with original authorizing signature. Incomplete proposals or those presented in a different format may be rejected.

- ☐ 1. Letter of transmittal
 - ☐ 2. General Information Proposal Form
- Answer all questions. If a question does not apply, mark it N/A (not applicable).**
- ☐ 3. Exhibit 1 - Project Information
 - ☐ Form
 - ☐ Narrative
 - ☐ 4. Exhibit 2 - National Objectives
 - ☐ Form
 - ☐ Benefit to low and moderate income
 - ☐ Slum and blight
 - ☐ Community development needs
 - ☐ Documentation
 - ☐ 5. Exhibit 3 - County General Plan
 - ☐ Narrative
 - ☐ 6. Exhibit 4 - Project Schedule
 - ☐ Schedule
 - ☐ 7. Exhibit 5 - Consolidated Plan Priorities
 - ☐ Narrative
 - ☐ 8. Exhibit 6 - Displacement and Relocation
 - ☐ Narrative
 - ☐ Plan
 - ☐ 9. Exhibit 7 - Environmental
 - ☐ Form
 - ☐ Narrative

- ☐ 10. Exhibit 8 - Site Selection Standards Information
☐ Form
☐ Narrative
- ☐ 11. Exhibit 9 - Budget and Funding
☐ Form
☐ Narrative
- ☐ 12. Exhibit 10 - Need for CDBG Funds
☐ Narrative
- ☐ 13. Exhibit 11 - Outcomes/Number of Beneficiaries/Nature of the Benefit
☐ Form
☐ Narrative
- ☐ 14. Exhibit 12 - Additional Actions
☐ Narrative
- ☐ 15. Exhibit 13 - Compliance with Federal Overlay Statutes
☐ Form
☐ Narrative
- ☐ 16. Exhibit 14 - Project Management
☐ Narrative
☐ Organization Chart
- ☐ 17. Exhibit 15 - Past Performance
☐ Narrative
- ☐ 18. Exhibit 16 - Application Information
☐ Documentation
☐ Articles of Incorporation
☐ By-laws
☐ IRS Exemption under Section 501(c)
☐ List of Current Board of Directors
☐ Most Current Financial Audit
☐ Board of Director Composition
☐ Duns and Bradstreet and Central Contractor
Registration Documentation
☐ CBDO Form
- ☐ 19. Exhibit 17 - Certification and Authorization
☐ Form
☐ Resolution authorizing filing and submittal



20. Submit the original signed bound proposal (NO SPIRAL BINDING) and two (2) copies to:

Office of Housing and Community Development
1990 Kino'ole Street, Suite 102
Hilo, Hawai'i 96720
Phone No. (808)961-82379

Or

Kona Office of Housing and Community Development
West Hawai'i Civic Center
74-5044 Ane Keohokalole Highway
Kailua-Kona, Hawai'i 96740
Phone No. (808)323-4300

Project Proposals delivered and/or submitted by e-mail or fax will not be accepted. An Original project proposal and two complete copies must be received and time stamp by the OHCD by 4:30p.m.on November 15, 2022.

Any Proposal submitted after the date and not time stamp by deadline date or insufficient copies of the proposal will not be accepted.

Project Proposal Deadline: November 15, 2022, @ 4:30 p.m.

2023 PROPOSAL FORM

COUNTY OF HAWAI'I **COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT (OHCD)
1990 Kino'ole Street, Suite 102, Hilo, Hawai'i 96720
Phone: (808) 961-8379

I. GENERAL INFORMATION

A. PROJECT INFORMATION

Project Name: _____
Amount of CDBG Funds Requested: _____
Project Address: _____

Census Tract: _____ TMK: _____
Volcanic Zone: _____

B. INFORMATION ON THE APPLICANT

Name of Applicant: _____
Address: _____
Mailing Address: _____
Phone Number: _____
Fax Number: _____
Cell Number: _____
Contact Person and Title: _____
Email: _____
Unique Entity Identifier (UEI): _____

C. TYPE OF ORGANIZATION (CHECK ONE)

- ☐ 1. Public agency (governmental agency)
- ☐ 2. Private Non-Profit (must be duly organized to undertake community development activities on a not-for-profit basis.)
Type ☐ 501(c)(3) ☐ Other (describe): _____
- ☐ 3. A Community-Based Development Organization, a private for profit or non-profit organization organized under State or local law as described in 570.204(c)(2)(3) undertake community development activities (which may include housing and economic development activities). §§ 570.203 and 570.204(a) and (b).
- ☐ 4. Private for profit organization undertaking Special Economic Development Activities
§§ 570.203(a) and (b).
☐ Individual ☐ Partnership ☐ Corporation

Except for "Government Agency" all applicants are required to submit certified copies of the following documents.

- * Article of Incorporation
- * By-Laws
- * IRS Tax Exemption Letter
- * UEI and System of Award Management (Sam.gov) Registration forms

EXHIBIT 1

PROJECT INFORMATION

THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED

1. Activity Category

Check or indicate in the narrative the activity category that most approximately describes your proposed use of CDBG funds. More than one category may be indicated. Please refer to Appendix C, Eligible Activities, Entities and Ineligible Activities, 24 CFR 570.200 - 570.205 & 570.207 to verify project eligibility and to determine the special requirement.

☐	570.201(a)	Acquisition of real property
☐	570.201(b)	Disposition
☐	570.201(c)	Public facilities & improvements
☐	570.201(d)	Clearance activities
☐	570.201(e)	Public services (New or Increase in service)
☐	570.201(f)	Interim assistance
☐	570.201(g)	Payment of non-federal share
☐	570.201(h)	Urban Renewal Completion
☐	570.201(i)	Relocation
☐	570.201(j)	Loss of rental income
☐	570.201(k)	Housing services
☐	570.201(l)	Privately owned utilities
☐	570.201(m)	Construction of housing
☐	570.201(n)	Homeownership assistance
☐	570.201(o)	Micro enterprise assistance
☐	570.201(p)	Technical assistance
☐	570.201(q)	Assistance to institutions of higher education
☐	570.202(a)	Eligible rehabilitation and preservation activities
☐	570.202(c)	Code Enforcement
☐	570.202(d)	Historic Preservation
☐	570.202(e)	Renovation of closed buildings
☐	570.202(f)	Lead-based paint hazard evaluation and reduction
☐	570.203	Special economic development
☐	570.204	Special activities by Community-Based Development Organizations (CBDO)
☐	570.205	Planning and policy capacity building activities

2. **Summary of the Project:** In narrative form, please describe your proposed project and the proposed outcomes. Attach all appropriate information that will explain and clarify the specifics of the project. For example, this section should include a project map to show the project location(s) of facility or service area; quantify the activity (i.e., lineal feet of waterlines; number of rooms to rehabilitate, number of persons to be served). In addition, if the activity is real property acquisition, construction or rehabilitation, explain what is being acquired, ownership of the property and specify the

property improvements. If applicable, discuss whether the project could be implemented at a lower level or smaller scale with or without the CDBG award.

Based on the 24 CFR 570.200 - 570.205 & 570.207 - Appendix C, regarding eligible and ineligible activities, state how the project will comply with the special provisions or requirements of each eligible activity. For example, under Public Service 570.201(e), the regulations state that the activity must be either a new service or a quantifiable increase in the level of a service. Therefore, the applicant should indicate if the service is new or document and justify that the activity is a quantifiable increase in the level of service.

3. **County Facilities and Priorities:** It is required that applicants with project proposals that contain an activity that falls within the various County Department's realm of jurisdiction such as community/senior centers and facilities, parks, waterlines, economic development activities, housing, emergency fire and rescue vehicles, police or fire stations, sewer lines, etc., should contact and meet with the appropriate County Departments (i.e., Parks and Recreation, Department of Water Supply, Office of Aging, Fire, Police, Research and Development, Public Works, etc.) to discuss your proposed project.

Read Important Note:

The appropriate County departments will need to either submit the applications on behalf of your project, sign as a co-applicant or provide a signed letter of recommendation submitted with the original project proposal stating that the project meets the Department's priorities and objectives.

Please note: The OHCD will not recommend funds for projects that have not met this condition.

EXHIBIT 2
NATIONAL OBJECTIVES
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED

1. The proposed project is required to meet one of the following National Objectives:

- a) Benefit to low- and moderate-income persons;
- b) Aid in the prevention or elimination of slums or blight;
- c) Community development needs having a particular urgency.

Please determine which national objective is appropriate for your project and complete the appropriate forms and submit the indicated documentation.

2. In meeting the Low- and Moderate-Income Persons National Objective, please check below which income definition will be used to determine a low- and moderate-income household. Please refer to Appendix A, HUD Income Limits, for income definitions.

- ☐ Annual income as defined under Section 8 Housing Assistance Program.
- ☐ Annual income under the Census long-form.
- ☐ Adjusted gross income as defined under the Internal Revenue Service Form 1040.

3. Please describe how your organization will ensure the project will meet the selected CDBG National Objective and eligibility requirements of benefitting low- and moderate- income persons/households. (Please attach all low and moderate income documentation forms for review and compliance verification).

Note: All CDBG eligible activities will trigger a national objective requirement and must be attained and reported for 10 years, 20 years, or in perpetuity. CDBG funds utilized for acquisition of real property or new construction must meet the national objective requirements for 20 years. CDBG funds utilized for real property acquisition, construction or improvements of County-owned facilities must meet this requirement in perpetuity.

BENEFIT TO LOW AND MODERATE INCOME PERSONS

Benefit to low and moderate income (L/M) persons or families under 24 CFR 570.208 (see Appendix C). Check or indicate the category that most appropriately describes the National Objective to be achieved and submit the necessary documentation.

☐

Area benefit activity. Your activity meets the identified needs of L/M income persons residing in an area where at least 51% of the residents are L/M income persons.

Reference: 570.208(a)(1)

1. Identify and specifically describe the projects service area by geographic boundaries, site map or street by street narrative delineating the area served by the project. The area shall include census tracts and block groups;
2. Identify and submit documentation/statistics of the income characteristics of families and unrelated individuals in the service area. **(Indicate whether the information is from an approved HUD survey or current census data; please contact the OHCD for required documentation to be included);** and
3. If the percent of L/M persons in the service area is less than 51%, data showing that the area qualifies under the exception criteria set forth at 24 CFR 570.208(a)(1)(ii).

☐

Limited clientele activity. Your activity benefits a specific group of people (rather than all the residents in a particular area), at least 51% of whom are L/M persons.

Reference: 570.208(a)(2)

1. Show documentation that the facility or service will be designed for the particular needs of or used exclusively by senior citizens, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," persons living with AIDS, victims of domestic violence, abused children, the homeless, illiterate adults or migrant farm workers; or
2. Provide documentation showing the size and annual income of the family of each person receiving the benefit or indicate how this information will be documented and collected.
3. Please indicate which above method your calculations are derived from and submit documentation to support your calculations for the following:
 - a) Total number of persons to benefit from the proposed project ☐
 - b) Total number of L/M persons benefiting from the proposed project.
(See Appendix A for the income limits). ☐

- c) Percentage of L/M persons benefiting from the proposed project.
[Divide b by c] ☐

Disabled persons are considered to be of low- and moderate income in the absence of substantial evidence to the contrary. Disabled persons are so defined if they have physical impairments which (1) are expected to be long, continued and indefinite duration; (2) substantially impedes the persons abilities to live independently; (3) are of such a nature that such abilities could be improved by providing more suitable working conditions.

☐

Low and moderate housing activities. Describe how your activity adds or improves permanent, residential structures which will be occupied by L/M income households upon completion. The housing can be either owner or renter occupied units in either one family or multi-family structures. Reference: 570.208(a)(3). Please answer the following and submit documentation that supports and verifies income eligibility.

1. Provide a copy of a draft or final written agreement with each landlord or developer who will be receiving CDBG assistance indicating the total number of dwelling units in each multi-family structure assisted and the number of those units which will be occupied by low and moderate income households after assistance;
2. The total cost of the activity, including both CDBG and non-CDBG funds;
3. For each unit occupied by L/M households, the size and income of the households or indicate how the information will be documented and collected;
4. For each property acquired on which there are no structures, evidence of commitments ensuring that the criteria in 570.208(a)(3) will be met when the structures are built;
5. For any homebuyer assistance activity qualifying under 570.201(e), 570.201(n) or 570.204, identification of the applicable eligibility paragraph and evidence that the activity meets the eligibility criteria for that provision; for any such activity qualifying under 570.208(a), the size and income of each homebuyer's household; and
6. For a 570.201(k) housing services activity, identification of the HOME project(s) or assistance that the housing services activity supports, and evidence that project(s) or assistance meet the HOME program income targeting requirements at 24 CFR 92.252 or 92.254.
7. If your proposed project will involve housing-related activities, please estimate and indicate below the number

and type of families that will benefit from CDBG assistance.

Number of households assisted	TOTAL	CDBG
At or below 30% of median income	_____	_____
Very low income 31-50% of median income	_____	_____
Moderate income 51-80% of median income	_____	_____
Middle income 81-95% of median income	_____	_____

Only for rental housing Project:

8. The rent charged (or to be charged) after assistance for each dwelling unit in each structure assisted; and
9. Such information as necessary to ensure the affordability of units occupied (or to be occupied) by L/M households pursuant to criteria established and made public by the recipient.

☐

Low- and moderate-income jobs. Describe how your activity will create or retain permanent full-time jobs, where at least 51% will be taken by L/M persons or considered to be available to L/M persons. Reference: 570.208(a)(4).

1. Where the applicant chooses to document that at least 51% of the jobs will be available to L/M persons, documentation for each assisted business shall include:
 - a) A copy of a draft or final written agreement containing:
 - (i) A commitment by the business that it will make at least 51% of the jobs available to L/M persons and will provide training for any of those jobs requiring special skills or education;
 - (ii) A listing by job title of the permanent jobs to be created indicating which jobs will be available to L/M persons, which jobs require special skills or education and which jobs are part-time, if any; and
 - (iii) A description of actions to be taken by the recipient and business to ensure that L/M persons receive first consideration for those jobs; and

- (b) A listing by job title of the permanent jobs to be filled, and which jobs of those will be available to L/M persons, and a description of how first considerations will be given to such persons for those jobs. The description shall include the hiring process to be used; which L/M persons will be interviewed for a particular job; and which L/M persons will be hired.
- 2. Where the recipient chooses to document that at least 51% of the jobs will be held by L/M persons, documentation for each assisted business shall include:
 - a) A copy of a draft written agreement containing:
 - (i) A commitment by the business that at least 51% of the jobs, on a full-time equivalent basis, will be held by L/M persons;
 - (ii) A listing by job title of the permanent jobs to be created, identifying which are part-time, if any;
 - (iii) A listing by job title of the permanent jobs to be filled and which jobs will be initially held by L/M persons; and
 - (iv) For each such L/M person hired, the size and annual income of the person's family prior to the person being hired for the job or how this information will be documented and collected.
- 3. For each activity determined to benefit L/M persons based on the retention of jobs:
 - a) Evidence that in the absence of CDBG assistance jobs will be lost;
 - b) For each business assisted, a listing by job title of permanent jobs to be retained, indicating which of those jobs will be part-time and (where it is known) which will be held by L/M persons at the time the CDBG assistance is provided. Where applicable, identification of any of the retained jobs (other than those known to be held by L/M persons) which are projected to become available to L/M persons through job turnover within two years of the time CDBG assistance is provided. Information upon which the job turnover projections will be based shall also be included in the record;
 - c) For each retained job claimed to be held by a L/M person, information on the size and annual income of the person's family or indicate how this information will be documented and collected;

- d) For jobs claimed to be available to L/M persons based on job turnover, a description covering the items required for "available to" jobs in paragraph (b) (5) of this section; and
 - e) Where jobs were claimed to be available to L/M persons through turnover, a listing of each job will be turned over to date, indicating which of those jobs will be taken by, or available to, L/M persons. For jobs made available, a description of how first consideration will be given to such persons for those jobs shall also be included in the record.
4. For eligible economic development activities, under either 24 CFR 570.203 or 570.204, the following public benefit standards are required to be adhered to, to ensure a minimum level of public benefit is obtained when using CDBG funds. The applicant should submit written documentation demonstrating its project compliance with the public benefit standards. There are two public benefit standards: Standards for Individual Activities and Aggregate Standards. Refer to Appendix D, Criteria for National Objectives, 24 CFR 570.209, and Public Benefit Standards for guidance in evaluating and selecting economic development projects.
- a) Standards for Individual's Activities:
 - (i) For an activity that creates or retains jobs, the use of CDBG funds cannot exceed \$50,000 per full-time equivalent job; or
 - (ii) For an activity that provides goods or services to residents of an area, the amount of CDBG funds provided for the activity cannot exceed \$1,000 per L/M person served.
 - b) Aggregate Standards:
 - (i) Create or retain at least one full-time equivalent, permanent job per \$35,000 of CDBG funds used; or
 - (ii) Provide goods and services to an area where the number of L/M persons served by the assisted business amounts to at least one L/M person per \$350 of CDBG funds used.
 - c) Certain activities can be excluded from the aggregate standards. Refer to Appendix D, Public Benefit Standards, for guidance in submitting your written documentation.

5. In addition to the public benefit standards, the OHCD will also review all economic development projects for its financial viability. The following underwriting objectives will be utilized and should be addressed in your submitted project proposal.

- a) Are project costs reasonable;
- b) All sources of project financing are committed;
- c) CDBG funds are not a substitute for non-federal financial support;
- d) Is the project financially feasible;
- e) The return on the owner's equity investment will not be unreasonably high; and
- f) CDBG funds are disbursed on a pro rata basis with other finances provided to the project.
- g) Estimate the total number of persons or households to be served. Calculate the public benefit by dividing the total funding by total number of persons served.

Aid in the Prevention or Elimination of Slums and Blight

☐

For each activity determined to aid in the prevention or elimination of slums or blight in a slum or blighted area:

- 1) The boundaries of the area; and
- 2) A description of the conditions which qualified the area at the time of its designation in sufficient detail to demonstrate how the area met the criteria in § 570.208(b)(1).

☐

For each residential rehabilitation activity determined to aid in the prevention or elimination of slums or blight in a slum or blighted area:

- 1) Describe how the area meets the local or state definition of "substandard"; there must be a substantial number of deteriorated buildings based on area documentation;
- 2) A pre-rehabilitation inspection report describing the deficiencies in each structure to be rehabilitated; and
- 3) Details and scope of CDBG assisted rehabilitation, by structure.

☐

For each activity determined to aid in the prevention or elimination of slums or blight based on the elimination of specific conditions of blight or physical decay not located in a slum or blighted area:

- 1) A description of the specific condition of blight or physical decay treated; and
- 2) For rehabilitation carried out under this category, a description of the specific conditions detrimental to public health and safety, which were identified, and the details and scope of the CDBG assisted rehabilitation by structure.

Community Development Needs Having a Particular Urgency

NOTE: Projects under this objective must be certified by the County through the Office of Housing and Community Development (OHCD) prior to submitting the proposal.

Particular urgency conditions are existing conditions that pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs. Existing conditions must have occurred within the last 18 months prior to the proposal.

1. If you are claiming this National Objective, please submit the following information, two (2) weeks prior to the proposal deadline.
 - a) Documentation concerning the nature and degree of seriousness of the condition requiring assistance;
 - b) Information on the timing of the development of the serious condition; and
 - c) Evidence confirming that other financial resources to alleviate the need was not available.
 - d) Copy of a declaration by the Mayor of the County of Hawai'i that states an emergency exists which the proposed project is designed to alleviate.

EXHIBIT 3
COUNTY GENERAL PLAN
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED

The proposed project must address and comply with at least one of the following elements of the County General Plan.

1. Below are subjects listed in the County General Plan. Please indicate which items are applicable and briefly describe how the proposed project complies with the goals, policies and courses of action of the County General Plan. (The County's General Plan is available for review at the County Planning Department or at www.planning.hawaiicounty.gov.)

☐ Housing	☐ Land Use
☐ Economic	☐ Natural Resources & Shoreline
☐ Public Utilities	☐ Recreation
☐ Public Facilities	☐ Transportation
☐ Historic Sites	☐ Energy

2. Describe known public and private projects that address a similar need in your area and explain how this project differs from each of the others.

EXHIBIT 4
PROJECT SCHEDULE
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED

The applicant must be able to expend the CDBG funds in a timely manner. In order to comply and meet the federal requirements, all activities funded with the CDBG funds shall be expended and completed within a **twelve (12) month period.** **This period begins from July 1, 2023 and ends on June 30, 2024. Project funds unencumbered beyond the twelve-month period may and will be reprogrammed to other projects.**

1. Please accurately describe what the CDBG funds will be spent on, the date you expect this expenditure to occur and who will perform these tasks within the twelve-month period.
2. Please provide the OHCD with a detailed schedule of the proposed project's monthly activities and drawdown of CDBG funds. Indicate the milestones (i.e., design, bid, construction, advertisement for positions, order equipment, zoning changes, acquisition process, etc.) and anticipated start and completion dates of each milestone.

Example:

Milestones Objectives/Tasks	Start Date	Completed Date	Projected Expenditure	Performed By
Environmental Review Procurement Policy Project Design Bid/Advertisement Contract Construction				

EXHIBIT 5
CONSOLIDATED PLAN PRIORITIES
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED

The proposed project must address and comply with the County priorities as contained in the County's current approved 2020-2024 Consolidated Plan (CP). Briefly describe which priority(ies) your proposed project complies with and describe how your project's outcome will address the priority(ies).

The County's CP Priorities will be used to allocate CDBG funds in accordance with project eligibility requirements and program rules. (Higher points will be awarded to project proposals that address high priority activities in accordance with the County's Request for Project Proposal System.)

The following are the County's CP Priorities:

HIGH PRIORITIES:

- Housing: Housing for households earning less than 80% of median income [i.e. rental, homeownership, special needs, homeless and activities which will produce new housing (i.e. water, streets, environmental activities, planning, etc.)]
- Public Health and Safety: Activities that protect the health and safety of the residents in Hawai'i County. (i.e. fire, police, environment, etc.)
- Federal Mandates: Activities to meet legal obligations or federal mandates. (i.e. ADA, cesspool conversion)
- Public Facilities: Childcare, youth, and/or senior centers; facilities for the disabled; homeless facilities; health facilities; neighborhood facilities; and/or parks & recreation facilities.
- Infrastructure: (other than housing related) Water/sewer/street improvements; solid waste disposal; and/or flood drainage improvements.
- Public Services: Senior, persons with a disability, youth, childcare, transportation, substance abuse, employment, health, lead hazards, crime, including activities that prevent, prepare for address and/or respond to disaster related events such as flooding, lava flow, hurricane, tsunami, infectious diseases, etc.
- Disaster Relief: Activities to address designated Disaster Relief Areas (i.e. Infrastructure, Economic Development, Health Facilities)

- Economic Development: Activities which create jobs for low- and moderate-income persons.

LOW PRIORITIES:

- Public Facilities: Parking facilities and non-residential historic preservation.
- Infrastructure: Sidewalks

EXHIBIT 6
DISPLACEMENT/RELOCATION/ACQUISITION
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED

1. If your project will entail permanent or temporary displacement or relocation of families and businesses:
 - a. Your project will be required to comply and meet the relocation requirements of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, under 49 CFR Part 24 and as required under Section 104(d) of the Housing and Community Development Act of 1974, as amended. **Contact the OHCD for a copy of these federal regulations.**
 - b. Please submit a copy of a draft or final relocation plan that describe in detail your procedures to minimize involuntary relocation, the availability of comparable replacement units within the project area and how and with what source these activities will be funded as required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
 - c. Should your project be selected for funding, documentation indicating compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, will be required to be submitted.
2. If your project will involve the acquisition of real property, the property is subject to the Uniform Relocation Act and its requirements of 49 CFR Part 24. **Contact the OHCD for a copy of these federal regulations.**
 - a. Explain the procedures that will be undertaken to acquire the proposed site and when the acquisition process will begin and be completed.
 - b. Please submit documentation on the value of the property to be acquired and explain how the value was determined.
 - c. Should your project be selected for funding, documentation indicating compliance with the Uniform Relocation Act and its requirements of 49 CFR Part 24 will be required to be submitted.

EXHIBIT 7
ENVIRONMENTAL
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED
(100 maximum points)

A federal environmental review that complies with 24 CFR Part 58 - Environmental Review Procedures for Entities assuming HUD Environmental Responsibilities is required if your proposal is accepted to be funded. However, information relating to environmental concerns at the selection stage can have a significant impact on your proposal.

The extent to which an applicant has considered and acted upon potential environmental concerns is important. Therefore, indicate which of the following environmental concerns are applicable to your project by checking "yes" or "no". In addition, provide and submit information and documentation, if any, on environmental concerns. Explain if your proposed project has a completed final Environmental Assessment (EA) that complies with 24 CFR Part 58 and whether any permits or clearances related to the aforementioned environmental concerns have been obtained. Projects having completed a state and federal environmental assessment will rate higher in the selection process.

Important Note Please Read: Non-submittal of documentation to substantiate compliance with environmental statutes or failure to address environmental matters that will possibly affect timely project implementation will result in a lower score or a non-passing Threshold Factor rating, thus making the project ineligible to receive CDBG funding.

	<u>Yes</u>	<u>No</u>
The project will affect a property that is 50 years or older and therefore eligible or designated as a historic site on the State or National Registers of Historic Places. (If yes, submit photographs of the property, the affected areas and correspondences with State Historic Preservation Office on compliance requirements)	☐	☐

Year Facility/Building Originally Built

The project site is located within a flood plain and requires flood insurance and compliance with flood plain management decision making (8-step) process. (If yes, submit copy of flood insurance certificate)	☐	☐
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The project site is located within a wetland which requires consistency review from the U.S. Dept. of Army Corp. of Engineers. (If yes, submit compliance documentation)	☐	☐
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	<u>Yes</u>	<u>No</u>
The project site will increase density in volcanic hazard zone 1 and/or 2.	☐	☐
The project will require a major Shoreline Management Permit (SMA). (If yes, submit a copy of the application)	☐	☐
Will the project be in a previously Designated Formally Used Defense Site.	☐	☐
Has the project site received clearance for unexploded ordnance (UXO). (Please submit compliance documentation)	☐	☐
The project has received an SMA approval. (If yes, submit compliance documentation)	☐	☐
The project will affect endangered species and their critical habitats.	☐	☐
Is your project located on a site currently or previously exposed/contaminated by hazardous material? If yes, has an Appropriate Inquire been initiated or a Phase One Study been conducted on the project site? Please attach the report and findings to your proposal. If the possibility exists of hazardous material, what action is being proposed to identify and remove this material and will this affect the project schedule and project implementation?	☐	☐
Will your proposed project trigger compliance with Chapter 343 of the Hawai'i Revised Statutes? (Environmental Impact Statement) (If yes, provide documentation that Chapter 343/State Environmental Requirements has been met or completed)	☐	☐
Are there any known environmental issues with the site?	☐	☐
Airport clear zone	☐	☐
Known prior industrial use	☐	☐
Sole source Aquifer, Air Quality, Wild and Scenic Rivers, Farmland Protection	☐	☐
Other known environmental concerns	☐	☐
Are there any neighborhood factors which negatively impact the site?	☐	☐
Crime, drugs, other safety concerns	☐	☐
Traffic, noise, other environmental factors	☐	☐
Incompatible non-residential uses nearby	☐	☐

If any answer to the above questions is "yes," then:

	<u>Yes</u>	<u>No</u>
Has a final Federal Environmental Assessment (EA) under 24 CFR Part 58 been completed for the Project? If yes, submit a copy of the EA and a copy of the Finding of No Significant Impact (FONSI).	☐	☐
Have any of the permits or clearances related to the aforementioned environmental concerns been obtained? If yes, submit copies of approval or compliance.	☐	☐
If "no," identify and describe any actions taken toward obtaining these permits and/or clearances.	☐	☐

EXHIBIT 8
SITE SELECTION STANDARDS INFORMATION
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED
(100 maximum points)

1. Are you in control of the project site? If not, where are you in obtaining site control and when do you anticipate having site control? (Please provide a lease or agreement indicating Site Control)

2. Is the community aware of the proposed project? ☐ Yes ☐ No
 If yes, describe the process of how the community was informed and the community's position to the proposed project? If no, do you anticipate opposition? Please describe and explain plan of action to resolve these issues.

3 Identify the legal owner of the property, all existing facilities, existing county zone, and land area. (Provide necessary documentation to substantiate the submitted information)

4. If applicable, indicate if any of the following conditions apply to the infrastructure servicing the project site by checking the appropriate category.

	Yes	No	Not Applicable
Road access to the site is adequate.	☐	☐	☐
Sewer capacity is adequate.	☐	☐	☐
Electrical service is adequate.	☐	☐	☐
Water service is adequate.	☐	☐	☐

5. If any answer to the above questions is "no," describe and document any actions being taken to resolve any potential problems associated with the particular infrastructure deficiency.

6. Attach location map(s). Include schematics and/or preliminary drawings, if available.

7. Will you have to obtain changes to, or exemptions from, the following land use designations and code requirements in order to carry out your project? Indicate by checking "yes" or "no" for each item.

	Yes	No		Yes	No
State Land Use District Boundary	☐	☐	Building Code	☐	☐
General Plan Designation	☐	☐	Zoning Code	☐	☐

Development Plan Designation	☐	☐	Housing Code	☐	☐
Subdivision Code Requirements	☐	☐	Other _____	☐	☐

8. If any answer to the above questions is "yes," identify the kinds of changes, which are required as well as any actions taken toward obtaining the necessary clearances.
9. Will your project involve rehabilitation of a facility prior to 1978? If yes, your facility will need to be tested for lead base paint and abatement. **(Submit the test results and plan to remediate and abate the lead hazard areas).**
10. Please describe all building(s) to be rehabilitated or renovated utilizing CDBG funds. Include initial building constructed dates, permit dates and occupancy completion dates.
11. Is there a likely presence of hazardous material:

	Yes	No
Lead based paint	☐	☐
Asbestos	☐	☐
Unexploded Ordinances	☐	☐
Other _____	☐	☐

If yes, submit test results and the plan to remediate and abate these identified hazards.

12. If the project site does not have the appropriate infrastructure/utility services, describe and document any actions being taken to resolve any potential problems associated with the particular infrastructure deficiency. Describe the improvements required and the estimated costs.
13. If the project site is or will be on leasehold property, provide details on the steps taken or will be taken to secure the project site. Submit a copy of the lease. If the lease is not available at this time, describe the terms of the lease, the duration, etc., and what steps have been taken to secure the lease.

Important Note:

The U.S. Dept. of Housing and Urban Development (HUD) prohibits the use of HUD funds for physical development involving new construction, resale, refinancing, acquisition, conversion of non-residential uses to residential uses, and major and minor rehabilitation in HUD non-participation areas identified as Volcanic Hazard Zones 1 and 2. Please utilize USGS Survey Map to verify if your project is not located in these zones and contact the OHCD for additional information.

In addition, HUD also has a policy that all property proposed for use in HUD programs be free of hazardous material, contamination, toxic chemicals and gases and radioactive substance, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property. HUD relies on a State or Federal environmental remediation regulatory oversight agency site closure letter, called a "No Further Action" remedial letter to document NEPA compliance on the safety of a property for its intended use.

EXHIBIT 9
BUDGET AND FUNDING
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED
(Budget 100 maximum points)
(Funding 100 maximum points)

1. State the total amount of CDBG funds being requested and the activities being funded with CDBG funds.
2. Provide a detailed budget that includes other sources of funds of the proposed project and its activities as shown in the example below.
3. Provide detailed cost estimates and ascertain how these estimates were established, are current and realistic. Provide documentation to support estimates without inferring any commitment of funds or future conflict of interest. (Quotes, proposals, etc.)
4. If other sources of funds will be used (i.e., County, State, private donations, etc.), state the amount, the source, the date of expected availability and expiration and submit documentation (letters) to verify that these funds are secured.
5. Explain your organization's ability to access other funds and the overall attempts to obtain additional resources if necessary.
6. If you are requesting a loan, identify repayment source, terms and describe and justify your proposed terms. If your project will generate project income, state the projected amount and the expected date to receive this program income. All project income should be included and incorporated into the budget along with other funding sources.

Be sure your submitted budget identifies specifically what the CDBG funds and other sources of funds will be used for.

1. Type of funding assistance requested: (check one)

Grant ☐

Loan ☐

Other ☐

NOTE: If project is funded, letters of commitment from all sources of funding must be submitted.

Example:

Milestones	Total Cost	CDBG	Other funds	Status
Environmental Review				
Procurement Policy				
Project Design				
Bid/Advertisement				
Contract				
Construction				
TOTAL				

EXHIBIT 10
NEED FOR CDBG FUNDS
(100 maximum points)

1. State and describe the problem/need you are trying to address. Be clear and specific in identifying who it affects, why it is a problem, what the causes are and how the project will benefit low- and moderate-income persons. Use current data, trends, studies and testimony in analyzing the problem/need as it relates to the outcome you are trying to accomplish.
2. Explain the seriousness and why CDBG funds are necessary to address this problem/need. Describe why the proposed project cannot occur without the CDBG award. Fully describe the activities in the project which will address the problem, including all appropriate quantifiable information.
3. Will the project need CDBG funds in the future? ☐ Yes ☐ No
If yes, (1) how much? (2) When will the funds be needed? (3) Why is continued funding needed? (4) How will your project continue after CDBG funding has ended?

EXHIBIT 11
OUTCOMES/NUMBER OF BENEFICIARIES (100 maximum points)

1. Submit a completed logic model that includes the following information:
 - a. List the County's Consolidated Plan's priority your project is proposing to accomplish. (See Exhibit 5)
 - b. State your problem/need that provides the rationale for the proposed service or activity.
 - c. List all activities or services to address the problem statement or need.
 - d. List outputs that the project will accomplish during the project time period or activity completion. This output should be the actual results that are measurable in terms of evaluating the project's performance.
 - e. Quantify the project outcome(s) with respect to how project will affect and benefit persons of low and moderate income, aid in prevention or elimination of slums or blight and/or community development needs having a particular urgency.
2. Select one of the CDBG programs outcome objectives and measurements listed below. Explain how the proposed project will accomplish the program objective for low- and moderate-income person or households.
 - a. Suitable Living objectives:
(This objective is for projects that are designed to benefit communities, families, or individuals by addressing issues in their living environment)

☐	Enhanced Suitable Living Environment through New/Improved Affordability;
☐	Enhanced Suitable Living Environment through New/Improved Accessibility;
☐	Enhanced Suitable Living Environment through New/Improved Sustainability;
 - b. Decent Housing objectives:
(This objective is for projects that focus on housing activities)

☐	Created Decent Housing with New/Improved Affordability;
☐	Created Decent Housing with New/Improved Accessibility;
☐	Created Decent Housing with New/Improved Sustainability;
 - c. Economic Opportunity objectives:
(This objective is for project activities that relate to economic development, commercial revitalization or job creation)

☐	Provided Economic Opportunity through New/Improved Affordability;
☐	Provided Economic Opportunity through New/Improved Accessibility;
☐	Provided Economic Opportunity through New/Improved Sustainability;

3. Please describe and enumerate the number of household or persons that will benefit from the activities of the proposed project in terms of income, age, employment, status, communities/neighborhood, etc.

	HOUSEHOLD	PERSONS
Family	_____	_____
Elderly	_____	_____
Persons with Disabilities	_____	_____
Severely Mentally Ill	_____	_____
Other: _____	_____	_____
TOTALS	_____	_____

4. Out of the total number of beneficiaries, indicate the total number of female head-of-household beneficiaries for the proposed project. (Submit documentation to verify the statistics.)

Female Head of Households _____

5. Out of the total number of beneficiaries, indicate the total number of minority households who will benefit from the proposed project. (Submit documentation to verify the statistics.)

_____ White	_____ American Indian/Alaskan Native
_____ Hispanic	_____ Black, African American
_____ Hawaiian/Part-Hawaiian	_____ Native Hawaiian/Other Pacific Islander
_____ Asian	_____ American Indian/Alaskan Native & White
_____ Asian & White	_____ Black/African American & White
_____ Other Multi-Racial	

6. Submit documentation to verify the above statistics.
(i.e., census data)

COMMUNITY DEVELOPMENT BLOCK GRANT

LOGIC MODEL

PROJECT NAME:

CONSOLIDATED PLAN PRIORITY	PROBLEM STATEMENT/ NEED	FUNDING SOURCE AND AMOUNT	ACTIVITIES OR SERVICES	OUTPUT YEAR	OUTPUT	OUTCOMES/ RESULTS
				2023 2024 2025 2026 2027 TOTAL		
				2023 2024 2025 2026 2027 TOTAL		
				2023 2024 2025 2026 2027 TOTAL		
				2023 2024 2025 2026 2027 TOTAL		

EXHIBIT 12
ADDITIONAL ACTIONS
(50 maximum points)

If the project does not fully address the identified need, describe further actions that may be appropriate or necessary to resolve the problem. Supporting information and documentation should be provided. Describe and provide documentation, where necessary, to indicate what other resources or activities are needed to ensure a complete program will be available. If such support is not documented, or if the need is evident but not addressed, the outcome of the proposal may be diminished. Discuss the magnitude and duration of the problem and its outcome on the target population and the community-at-large. Give detail and documentation to show community outreach or support for your project.

EXHIBIT 13
COMPLIANCE WITH FEDERAL OVERLAY STATUTES
(50 maximum points)

Below is a list of federal overlay statutes that may apply to your particular project. Please review the statutes and if you check yes to any of the following, please describe your procedures on a separate sheet of paper for complying with the following federal rules. Refer to Appendix E and page 79, Compliance with Applicable Federal/State Regulations, for a brief description of the rules.

Please note: Should your project be selected for funding, the OHCD will request additional information and documentation to show compliance. Failure to comply with the applicable statutes will be reasons for non-compliance and termination of any agreement to utilize the CDBG funds and which will be required to be recaptured.

COMPLIANCE REQUIRED	YES	NO
a. Equal Employment Opportunity	☐	☐
b. Fair Housing	☐	☐
c. Section 504 of the Rehab Act	☐	☐
d. Section 3	☐	☐
e. Section 109	☐	☐
f. Environmental Review	☐	☐
g. Displacement/Relocation/Acquisition	☐	☐
h. Federal Labor Standards (Davis-Bacon)	☐	☐
i. Lead-based Paint	☐	☐
j. Conflict of Interest	☐	☐
k. Debarred and Suspension	☐	☐
l. Flood Insurance	☐	☐
m. 2 CFR Part 200, Uniform Administrative Requirements and Cost Principles	☐	☐
n. 2 CFR Part 200, Subpart F, Audit Requirements for federal funds in excess of \$750,000	☐	☐
o. Drug-free Workplace	☐	☐
p. Minority/Women Business Enterprise	☐	☐
q. Anti-lobbying Provisions	☐	☐

EXHIBIT 14
PROJECT MANAGEMENT
(100 maximum points)

1. Name and address of agency or person who will manage, coordinate, and implement the proposed project:

2. Contact person and staff primarily responsible to oversee and implement project. Please provide their background and experience in implementing projects utilizing Federal or State grants/loans:

3. Phone and fax numbers: _____
4. Years in business or operations. _____
5. Describe your organization's management ability. Describe the mission, management structure and staffing capacity of your organization. Provide a detailed description of your organization's experience and ability in implementing and managing projects. Provide an organizational chart showing the staffing and lines of authority for the key personnel to be used in the project.
6. Explain any past or current experience with federal or state award or loan programs.
7. Describe your organization's fiscal management, including financial reporting, record keeping, accounting systems, payment procedures, and audit requirements. Indicate whether it complies with Federal Regulations 2 CFR 200 governing cost principles, financial management and audit requirements for federal awards.
8. Give a brief job description of the overall duties of the staff assigned or management team assigned to manage the program during each phase, a description of related experience and how the project will be implemented and structured. If staff has not been hired, provide a job description for each vacant position. If a third party (consultants) will be involved in management, describe their roles in implementing the project.
9. Describe how you will monitor progress in implementing the project. Attach copies of all data collection tools that will be used to verify achievement of project goals and objectives.

EXHIBIT 15
PAST PERFORMANCE
(100 maximum points)

Indicate if you received other CDBG grants or other Federal, State, local or private financial assistance in the past. If yes, briefly describe the program and project(s) and include:

1. Project Title

2. Project Amount

3. Project Status

4. Project achievement and if there were any problems encountered.

5. Explain any delays encountered and the reasons for the delays.

6. Identify any federal audit finding(s) and sanction(s) from your previous federal audit and explain the status of the finding(s). Also, explain what your organization is doing to eliminate or reconcile the finding(s).

EXHIBIT 16
APPLICANT INFORMATION
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED

In order to receive CDBG grants or loans, the applicant must be an eligible entity under HUD regulations, Section 570.204 (see Appendix C). For all non-government agencies, applicants are required to have a Unique Entity Identifier (UEI) and be actively registered with current information in the System for Award Management (SAM.gov) prior to applying for CDBG funds. The following official documents must be attached to this exhibit.

- ☐ Articles of Incorporation
- ☐ By-Laws
- ☐ IRS Exemption under Section 501(c)
- ☐ List of current Board of Directors and evidence that the board members are volunteers
- ☐ Unique Entity Identifier and System for Award Management Registration Documentation
- ☐ Most current financial and program audit
- ☐ Board of Director composition
- ☐ FOR CBDO'S ONLY: CBDO Eligibility Form which is attached to this exhibit.

COMMUNITY BASED DEVELOPMENT ORGANIZATIONS (CBDO's)
(Optional only for CBDO Entities)
ELIGIBILITY FORM

CBDO Eligibility

An applicant must meet the following criteria in order to qualify as a CBDO and receive CDBG funds. Check the appropriate "yes" or "no" blank for each item. Documentation is required to be submitted.

Yes

No

☐☐

Is an association or corporation organized under state or local laws to engage in community activities. (Attach copy of Articles of Incorporation).

☐☐

Has, as its primary purpose, the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more critical problems of the area for persons of L/M.

☐☐

Either be a non-profit or for profit, provided any monetary profits is only incidental to its operations and not inuring to the benefit of any member, founder, contributor or individual.

☐☐

Has a tax exemption ruling from the Internal Revenue Service under Section 501(c) of the Internal Revenue Code of 1986. (Attach copy of ruling from IRS).

☐☐

Maintains at least 51 percent (51%) of its governing body's membership for L/M residents of its geographic area of operation.

☐☐

Has a primary purpose or capacity to carry out neighborhood revitalization, community economic development or energy conservation project that address one or more critical needs of persons of L/M.

☐☐

Is not a public body (including the County of Hawai'i) or an instrumentality of a public body and does not permit more than 1/3 of its governing body to be appointed by, or to consist of, elected or other public officials or employees of an ineligible entity. (Attach copy of organization's by-laws or charter which shall include provisions prohibiting conflict of interest by its governing board, officers, employees and agents).

☐☐

Requires that members of its governing body be nominated and approved by the general membership of organizational. (Attach a current list of Board of Director's including address, telephone number, term of office and occupation).

☐☐

Has standards of financial accountability that conforms to OMB Circular No. A-110 (Rev.) "Standards for Financial Management Systems." (Attach current financial audit report).

☐☐

Is not subject to requirements under which its assets revert to the recipient upon dissolution.

☐☐

Is free to contract for goods and services from vendors of its own choosing.

☐☐

Is an entity organized pursuant to Section 301(d) of the Small Business Investment Act of 1958.

☐☐

Is an SBA approved Section 501 State Development Company or Section 502 Local Development Company, or an SBA Certified Section 503 Company under the Small Business Investment Act of 1958, as amended.

☐☐

Is a Community Housing Development Organization (CHDO), under 24 CFR 92.2, Designated as a CHDO by the HOME Investment Partnership program.

EXHIBIT 17
CERTIFICATION AND AUTHORIZATION
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED

1. To the best of my knowledge, the statements in this proposal are true and correct. **(Proposal is not complete without an authorized signature)**
2. I hereby authorize the Office of Housing and Community Development to obtain further information and to verify any statements made as it deems necessary.
3. The applicant will comply with and certify all CDBG program regulations, policies, guidelines and requirements as set forth in this application.
4. The applicant certifies that they have read and understand that compliance with all aspects of Exhibit 13 (Compliance with Federal Overlay Statutes), is required if the project is selected.
5. The applicant assures the county that it will provide sufficient funds to cover any cost overrun to complete the project and where required by its by-laws, the Board of Directors have duly passed a resolution authorizing its authorized official to file this application and provide further information to the County.
6. I certify that the applicant has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
7. I certify that the applicant will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
8. I certify that the applicant will give the County and the Comptroller General of the United States, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
9. I certify that the applicant will comply with the conflict of interest provisions at 2CFR 200.112 and 24 CFR Part 570.611 related to the establishment of safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

10. I certify that the applicant will comply with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," implementing guidance formerly found in Office of Management and Budget ("OMB") circulars A-110, A-112, and A-133.
11. I certify that the applicant will maintain all reports and records required to be maintained in accordance with other applicable laws and regulations set forth in Subpart K of 24 CFR Part 570.
12. I certify that the applicant will cause to be performed the required financial and compliance audits in accordance with 2 CFR Part 200, Subpart F, Audit Requirements.
13. I certify that the applicant will comply with all Federal statutes, related amendments, and implementing regulations relating to nondiscrimination, fair housing and equal opportunity including, but not limited to: (a) Title VI of the Civil Rights Act of 1964, as amended; (b) Fair Housing Act; (c) Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259); (d) Section 109 of Title I of the Housing and Community Development Act of 1974, as amended; (e) Age Discrimination Act of 1975, as amended; (f) any other nondiscrimination provisions in the specific statute under which application for Federal assistance is being made; and (g) the requirements of any other nondiscrimination statute which may apply.
14. I certify that the applicant will comply with all Federal statutes, related amendments, and implementing regulations relating to handicapped accessibility including, but not limited to: (a) Architectural Barriers Act of 1968, as amended; and (b) Americans with Disabilities Act; Section 504 of the Rehabilitation Act of 1973.
15. I certify that the applicant will comply with all Federal statutes, related amendments, and implementing regulations relating to employment and contracting including, but not limited to: (a) Equal Employment Opportunity, Executive Order 11246, as amended; and (b) Section 3 of the Housing and Urban Development Act of 1968 and 24 CFR Part 75.
16. I certify that the applicant will comply, if applicable, with flood insurance requirements of Section 202 of the Flood Disaster Protection Act of 1973.
17. I certify that the applicant will comply, as applicable, with the provisions of the (a) Davis-Bacon Act; (b) the Contract Work Hours and Safety Standards Act; (c) the Copeland (Anti-Kickback) Act; and (d) Fair Labor Standards Act of 1938, as amended regarding labor standards for federally assisted construction subagreements.

18. I certify that the applicant will comply with the requirements found at 24 CFR Part 5 regarding debarred, suspended and ineligible contractors and subrecipients.
19. I certify that the applicant will comply, or has already complied, with the requirements of the Uniform Relocation Assistance Act, Section 104(d) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs.
20. I certify that the applicant will comply with environmental standard which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environment Policy Act of 1969 and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972; (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended; (g) protection of underground sources of drinking water under the Safe Drinking Water act of 1975, as amended; and (h) protection of endangered species under the Endangered Species Act of 1973, as amended.
21. I certify that the applicant will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1968, EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974.
22. I certify that the applicant will comply with the Lead-Based Paint Poisoning Prevention Act which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
23. I certify that the applicant will comply, as applicable, with the provisions of the Hatch Act which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
24. I certify that the applicant will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program. In cases where County, State, and/or Federal laws, rules and regulations address certain issues, the most stringent ruling shall apply.

25. I certify that I am authorized on behalf of _____
(name of applicant) to submit this proposal; to carry out the
proposed project/activity pursuant to its charter and by-laws;
and comply with the standards for private non-profit entities
established by HUD and the County of Hawai'i. **(Please submit
resolution authorizing filing and submittal).**

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

