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Special Attention of:

All CPD Division Directors  
All CDBG Grantees

**Notice:** CPD-07-08

Issued: November 21, 2007  
Expires: November 21, 2008

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SUBJECT: Use of Community Development Block Grant (CDBG) Program Funds in Support of Housing

### Introduction

This notice describes ways in which grantees can use the CDBG program to expand the development of decent, accessible, and affordable housing in their communities. Many of these subjects are discussed further in the Guide to National Objectives and Eligible Activities (the "Guide") located on the web at <http://www.hud.gov/offices/cpd/communitydevelopment/library/deskguid.cfm>.

This notice brings together ways to use CDBG funds for housing that are supported in various sections of the CDBG regulations and the Guide. These activities include but are not limited to the following:

- Homeownership Assistance
- Rehabilitation and Reconstruction
- Conversion of Existing Structures for Housing
- New Housing Construction and Related Activities
- Tornado Safe Shelters
- Housing Counseling
- Fair Housing Activities
- Housing Services and HOME Program Support
- In Rem Housing

In all instances, a CDBG-assisted activity must meet one of three national objectives: (1) benefiting low- and moderate-income persons, (2) aiding in the prevention or elimination of slums or blight, or (3) meeting a community development need having a particular urgency that a community is unable to finance on its own. Activities may meet the national objective of benefiting low- and moderate-income persons in one of four ways: area benefit activities; limited clientele activities; housing

activities; and job creation or retention activities. Housing-related activities will most often meet the low- and moderate-income housing national objective at 24 CFR 570.208(a)(3) or 24 CFR 570.483(b)(3). Criteria for meeting a national objective are found at 24 CFR 570.208 and 24 CFR 570.483 of the CDBG regulations. For the purposes of this Notice, 24 CFR 570.208 refers to national objective compliance for entitlement grantees, and 24 CFR 570.483 refers to national objective compliance for the States. The Guide gives a description of national objective requirements for eligible activities.

This Notice outlines eligible housing activities that may be assisted with CDBG funds. Eligible CDBG-assisted activities are specified in Title I of the Housing and Community Development Act (HCDA) of 1974, as amended. Section 105(a) of the HCDA indicates that only those activities described in Section 105(a) are eligible CDBG activities. For the Entitlement program, the statutory language regarding eligibility is implemented in 24 CFR Part 570, Subpart C. The State CDBG program does not have similarly detailed regulations regarding eligible activities (see 24 CFR 570.482), so eligible activities generally are determined by reference to the language of Section 105(a). However, if the Entitlement regulations have interpreted an activity to be eligible under the HCDA, then a State may rely on that interpretation of eligibility in its CDBG program.

In addition to using CDBG funds for the activities described in this Notice, entitlement grantees and States in conjunction with nonentitlement local governments may apply for Section 108 Loan Guarantees to finance certain CDBG-eligible housing activities. The final section of this Notice identifies the housing activities eligible under the Section 108 program.

Grantees are encouraged to contact their field office CPD representative to discuss this Notice in more detail.

### Homeownership Assistance

There are several ways to use CDBG funds for direct homeownership activities.

- **Direct Homeowner Assistance.** Title I of the Housing and Community Development Act (HCDA) of 1974 was amended by the Cranston-Gonzalez National Affordable Housing Act, which became law on November 28, 1990. As a result, direct homeownership assistance was added as an eligible activity under Section 105(a) of the HCDA. Homeownership assistance is referenced at 24 CFR 570.201(n) of the regulations. This provision allows for direct assistance to facilitate and expand homeownership for low- and moderate-income households in accordance with Section 105(a). It is important to note, however, that the homeownership assistance provided under 24 CFR 570.201(n) is limited exclusively to meeting the low- and moderate-income housing national objective at 24 CFR 570.208(a)(3) or 24 CFR 570.483(b)(3). Under this authority, CDBG funds may be used to:

1. Subsidize interest rates and mortgage principal amounts to make loan payments affordable, including the making of grants to reduce the effective interest rates charged on the loans. Low- or no-interest subordinate loans can also be used to reduce overall loan repayment amounts and thereby make the purchase price more affordable.
  2. Finance the cost of acquiring property already occupied by renter households at terms needed to make the purchase affordable.
  3. Pay all or part of the premium on behalf of the homebuyer for mortgage insurance required upfront by a private mortgagee.
  4. Pay any or all of the reasonable closing costs associated with the home purchase on behalf of the homebuyer.
  5. Pay up to 50 percent of the down payment required by the mortgagee for the purchase on behalf of the homebuyer.
- Match Funding for Individual Development Accounts. Another way to assist a low- and moderate-income homebuyer is to use CDBG funds to provide match funding required by a Federal program providing funds to capitalize an Individual Development Account (IDA). IDAs are savings accounts established in the homebuyer's name, held at local financial institutions, and usually managed by a community organization. The homebuyer makes a contribution to their IDA account that is then matched with private and/or public resources. Under 24 CFR 570.201(g), CDBG funds can be used as the required match as long as the homebuyer qualifies as a low- and moderate-income household at the time CDBG assistance is provided. Additional information concerning the use of IDAs may be found in Notice CPD-01-12, Use of Community Development Block Grant Funds to Assist Individual Development Accounts.
  - Homeownership as a Public Service. Homeownership assistance in the form of downpayment assistance may also be eligible as a public service under 24 CFR 570.201(e). Under this provision, an amount greater than 50 percent of the required downpayment may be provided. However, the only low- and moderate-income national objective that homeownership assistance may meet is the housing national objective at 24 CFR 570.208(a)(3) and 24 CFR 570.483(b)(3), which generally provides that a single-unit residential structure must be occupied by a low- and moderate-income household.
  - For downpayment assistance to be provided as a public service to a non low- and moderate-income household, it must be provided by a qualified Community Based Development Organization [CBDO, see 24 CFR 570.204(c)] and located in a Neighborhood Revitalization Strategy Area [NRSA, see 24 CFR 91.215(g)] or a Community Revitalization Strategy Area [CRSA, see 24 CFR 91.315(g)]. This is

because in a NRSA the units for which assistance is obligated during a grantee's program year may be aggregated and treated as a single structure for purposes of determining compliance with the housing national objective; therefore, only 51 percent of the units in a NRSA need to be occupied by low- and moderate-income households to meet a national objective. Such activities by a CBDO can also be excluded from the 15 percent public service cap.

### Rehabilitation and Reconstruction

To support the preservation of affordable housing, CDBG funds may be used to rehabilitate and reconstruct housing.

- Rehabilitation. CDBG funds may be used in a variety of ways to rehabilitate publicly- and privately-owned buildings for residential purposes, including manufactured housing that is part of the community's permanent housing stock [24 CFR 570.202]. With CDBG funds providing a grant or a low-interest loan for rehabilitation, affordable housing can be maintained and improved without appreciably increasing an owner's or renter's housing costs. Assistance may also include refinancing, together with rehabilitation, which may have the effect of reducing monthly housing costs [24 CFR 570.202(b)(3)].
- Use of Lump-Sum Accounts. For the purpose of financing the rehabilitation of residential properties (and subject to certain conditions), a grantee may draw as a single amount (lump sum) from its letter of credit to establish a rehabilitation loan fund with one or more lending institutions. These financial institutions must meet the requirements set forth in 24 CFR 570.513(b)(9) and enter into a lump-sum agreement that sets forth the benefits to the grantee. (See 24 CFR 570.513 or the Guide for details.) The fund may be used along with various financing mechanisms, including the making of grants, but only with the purpose of leveraging non-CDBG funds for rehabilitation of the same property. The lump-sum requirements limit the size of the drawdown and establish a time limit in which lending must take place. The requirements state that the lump-sum deposit must result in appropriate benefits in support of the grantee's rehabilitation program.

Under 24 CFR 570.202(b), the following are included as ways in which CDBG funds may be used for housing rehabilitation:

1. Direct loans and grants. Grantees may provide loans and/or grants to property owners for rehabilitation of residential dwelling units.
2. Loan guarantees. Grantees may use CDBG funds as loan guarantees to encourage lending institutions to make loans available to homeowners for rehabilitation, to encourage them to lend in neighborhoods where they are not currently doing so, and to induce them to lend at more favorable rates. In guaranteeing loans, grantees may not deposit CDBG funds in the lending

institution (unless it can be determined that without such a deposit the loans will not be made). Drawing funds from a letter of credit before such funds are needed to cover actual defaults must be supported by adequate documentation to demonstrate that no financial institutions in the area would participate in the lending program and accept a payment guarantee without having funds on deposit. The idea behind the guarantee provision is for the CDBG funds to be made available to the lender in the event the borrower defaults. If deposits are necessary, amounts must be limited to expected losses that should equal only a small percentage of the overall loan portfolio or amount loaned.

3. Acquisition. CDBG funds may be used to provide assistance to individuals, for-profit entities, and nonprofit organizations to acquire property for the purpose of rehabilitating structures for use or resale for residential purposes.
4. Refinancing. Grantees may make loans to refinance existing indebtedness secured by a property being rehabilitated with CDBG funds if such refinancing is determined by the grantee to be necessary or appropriate to achieve its community development objectives and to make rehabilitation affordable [24 CFR 570.202(b)(3)]. The grantee's determination must be made in writing, as required at 24 CFR 570.200(e).
5. Bonding. Grantees may pay, as part of rehabilitation services, the cost of a rehabilitation contractor's performance and payment bonding, as needed to carry out CDBG-assisted rehabilitation activities.
6. Tools. CDBG funds may be used for the costs of acquiring tools to be lent to owners, tenants, or others who will use such tools to carry out rehabilitation.
7. Water and Sewer. Grantees may pay the costs of connecting existing residential structures to water distribution lines or local sewer collection lines when it is done as part of the rehabilitation of the property. Similarly, the installation or replacement of a well-water system or septic waste-disposal system on private residential property is eligible as part of the rehabilitation cost of the dwelling [24 CFR 570.202(b)(6)].
8. Removal of Architectural Barriers. Grantees may pay the costs to remove material and architectural barriers that restrict the mobility and accessibility of elderly and severely disabled persons to residential buildings and improvements that are eligible for rehabilitation under 24 CFR 570.202(a).
9. Insurance. Grantees may pay for initial homeowner warranty premiums, hazard insurance premiums (except where assistance is provided in the form of a grant), and flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to 24 CFR 570.605.

10. Safe Rooms. CDBG funds may be used to construct a safe room or storm-proof room for use as a tornado-safe shelter in a private home as a rehabilitation activity under 24 CFR 570.202.

- Reconstruction. Reconstruction of housing became more readily eligible for CDBG assistance as a result of a legislative change under section 225 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. This change in Section 105(a)(4) of the Housing and Community Development Act of 1974, as amended, (the “HCDA”) allows grantees to use CDBG funds for the reconstruction of properties. Although the CDBG regulations have not been amended to incorporate this change, it is available for use under the category of rehabilitation.

As discussed in the Guide on page 2-83, reconstruction generally means the rebuilding of a structure on the same site in substantially the same manner. Grantees may reconstruct on the same site housing that is publicly or privately owned. Deviations from the original design are allowed for reasons of safety or if otherwise impractical. The number of dwelling units on a site may not be increased; but, the number of rooms per unit may be increased or decreased. Any decrease in the number of units on a site may require compliance with the one-for-one replacement of low-income dwelling units at 24 CFR 42.375.

Reconstruction of residential structures also permits replacing an existing substandard unit of manufactured housing with a new or standard unit of housing, manufactured or otherwise.

### Conversion of Existing Structures for Housing

A community may increase its supply of housing by converting buildings to housing units. Existing housing units may become more affordable when grantees acquire those units and sell or lease them at reduced prices. Grantees may use CDBG funds to finance conversions in the following ways:

- Renovation of Closed Buildings. The costs of converting existing non-residential structures to residential use is eligible as a rehabilitation activity [24 CFR 570.202(e)].
- Acquisition for Rehabilitation. CDBG funds may be provided to private individuals, nonprofit organizations, and for-profit entities to acquire property for rehabilitation which is then used for residential housing [24 CFR 570.202(b)(1)].
- Acquisition of Housing. Grantees and nonprofits may acquire housing units and either lease or sell them for residential purposes [24 CFR 570.201(a) and (b)]. Manufactured homes may also be acquired for this purpose. As a general rule, newly constructed housing units may be acquired if the units will otherwise be available for rental or sale on the open market and to the extent that a grantee,

prior to completing the construction, had not planned to use CDBG to assist the activity [24 CFR 570.207(b)(3)].

### New Housing Construction and Related Activities

Generally, the use of CDBG funds for new housing construction is prohibited. However, there are two instances in which CDBG funds may be used for new housing construction:

- Construction by eligible Community-Based Development Organizations (CBDOs). The regulation at 24 CFR 570.204(a) allows for qualified CBDOs to use CDBG funds to construct housing. CBDOs are associations or corporations organized under State or local law to engage in community development activities primarily within an identified geographic area of operation. Organizations must meet the provisions of 24 CFR 570.204(c) in order to be an eligible CBDO. Two further requirements are imposed on CBDOs at 24 CFR 570.204(a):
  1. To receive CDBG assistance, eligible CBDOs must be undertaking one of three types of projects: (1) neighborhood revitalization, (2) community economic development, or (3) energy conservation; and
  2. A CBDO must carry out the project in its entirety. Although inexperienced CBDOs may need technical assistance from the grantee, the CBDO must actually conduct the management and implementation of the activity [24 CFR 570.204(a)(4)].
- Last resort housing. Under 24 CFR 42.1(a), grantees may construct housing of last resort (see 49 CFR 24.404). Grantees are limited to constructing housing for displacees of a CDBG-assisted activity, subject to the Uniform Relocation Act, when the project is prevented from proceeding because comparable replacement housing is not otherwise available [24 CFR 570.207(b)(3)(i)].

### Support of New Housing Construction

The use of CDBG funds in support of new housing construction is also eligible under the following circumstances:

- Acquisition. A grantee or nonprofit may acquire property and resell it to an affordable housing developer [24 CFR 570.201(a) and (b)]. A CBDO may also acquire property for housing it will develop itself.
- Clearance. Grantees may clear a site in preparation for housing [24 CFR 570.201(d)].
- Site improvements. Grantees can make public improvements on publicly-owned property [24 CFR 570.201(c)]. As examples, grantees can install water lines,

sewer lines, and utility lines on public property in support of housing. Grantees may also install public improvements on privately-owned land, but only if they obtain an easement on the property before carrying out the improvements. The easement enables the grantee to carry out the improvements on what is considered publicly-owned property.

- Street improvements. The construction or reconstruction of publicly-owned streets, bridges, and alleys is eligible as a public facilities and improvements activity [24 CFR 570.201(c)].

### Tornado-Safe Shelters for Residents of Manufactured Housing

Public Law 108-146, enacted December 3, 2003, otherwise known as the Tornado Shelters Act, amended Title I of the HCDA of 1974 to make CDBG eligible for the construction of tornado shelters in neighborhoods where there are residents of manufactured housing.

Grantees can provide assistance to nonprofit and for-profit entities (as loans or grants) for the purpose of constructing tornado-safe shelters. The construction of tornado shelters may be carried out in neighborhoods that may or may not contain a manufactured housing park, provided such a neighborhood contains not less than 20 manufactured housing units and the shelter is available to the manufactured housing residents. Furthermore, a neighborhood or manufactured housing park that receives assistance under this provision must meet the following criteria:

1. Consist predominantly of low- and moderate-income persons;
2. Be located in a state in which a tornado has occurred within the past three years;
3. Have a warning siren in the neighborhood where the shelter will be located or, if the shelter is located in a manufactured housing park, within 1,500 feet of the park;
4. Ensure the shelter is sufficient in size to accommodate all of the occupants of the manufactured housing units at the same time and be located in the neighborhood in which the shelter will be used; and
5. Comply with the standards for construction as identified by the Federal Emergency Management Agency (FEMA) in Publication FEMA 361, Design and Construction Guidance for Community Shelters. This publication is available on FEMA's website at <http://FEMA.gov/library/prepandprev.shtm#tornados>.

The statute requires that shelter-assisted neighborhoods be comprised of predominantly low- and moderate-income residents. A grantee must be able to document that at least 51 percent of the residents of the tornado shelter service area are low- and



moderate-income persons. Grantees that use an upper quartile percentage for area benefit activities will not be able to do so under the Tornado Shelters Act provision.

Under certain circumstances, CDBG funds may be used to assist tornado shelters under 24 CFR 570.201(c) (public facilities) or 24 CFR 570.202 (rehabilitation). The Tornado Shelters Act does not apply to either of these eligibility categories; therefore such an activity would ordinarily need to meet the national objective of benefiting low- and moderate-income persons. A tornado-shelter public facility, constructed on publicly-owned land that is near or within a neighborhood (or on an easement), would need to meet the low- and moderate-income area benefit national objective. In this instance, an exception grantee could use its upper quartile percentage to meet the national objective.

### Housing Counseling

A community may support its efforts to expand affordable housing opportunities by operating a housing counseling program. Such a program provides information, advice, and assistance to homebuyers, homeowners, and renters with the goal of preventing loan defaults, foreclosures, or non-payment of rents. It is important to track performance against these measures. These programs often complement local “bricks and mortar” programs. If carried out as public services, these activities are subject to the 15 percent (for most grantees) expenditure cap governing public service activities.

The following are examples of housing counseling activities that may be funded with CDBG as public service activities eligible under 24 CFR 570.201(e), provided a national objective is met:

- **Pre-purchase Housing Counseling.** Grantees may fund, as a public service activity, counseling programs for those interested in purchasing a home. The counseling generally consists of information on financial responsibilities, budgeting, housing needs, housing quality, maintenance requirements, and other costs associated with a home purchase.
- **Homeownership Counseling.** In a similar way, grantees may carry out homeownership counseling. Here, the emphasis is on financial management, debt management, and maintenance needs. Included are default counseling, foreclosure prevention counseling, and relocation counseling.
- **Renter Counseling.** Grantees may provide counseling for delinquent renters, for tenants facing eviction, for landlord and tenant responsibilities, including repair and maintenance issues, and the availability of renter assistance.
- **Emergency Housing Counseling.** Housing counseling may be provided for all employees and residents affected, or to be affected, by plant closings and/or acquisitions.

Housing counseling is also eligible as part of homeownership assistance program carried out under 24 CFR 570.201(n). When housing counseling is part of a homeownership program under this part of the regulations, it is not subject to the public service cap.

### Fair Housing Activities

Communities may undertake fair housing activities with CDBG funds, including actions to affirmatively further fair housing. These activities are directed toward increasing housing choice and informing the community about fair housing rights. Fair housing activities are eligible as administrative activities (24 CFR 570.206), subject to the 20 percent planning and administration cap, but as an administrative and planning activity, they do not have to meet a national objective.

The CDBG regulation at 24 CFR 570.904(c) sets out review criteria for assessing a grantee's performance against its affirmatively furthering fair housing responsibilities. The following are examples of fair housing activities and of actions listed at 24 CFR 570.206(c) to affirmatively further fair housing that may be supported by CDBG funds:

- Outreach, Counseling, and Referral. CDBG funds may pay the costs of outreach, counseling, or referral services to assist persons seeking housing outside areas containing a high proportion of low-income persons.
- Fair Housing Counseling. Grantees may fund fair housing counseling programs in the community. Such programs provide information on fair housing rights and on the availability of housing in a wide variety of locations, emphasizing housing choice.
- Modification of Ordinances. CDBG funds may be used to pay the administrative costs of modifying local ordinances and/or land-use measures in the pursuit of housing opportunities.
- Information Programs. Grantees may support training and education programs for real estate agents, housing managers, city officials, and others to increase knowledge of techniques for promoting economically and racially integrated housing. They may also carry out promotional activities to initiate housing proposals in areas outside those with a high proportion of lower-income persons.
- Enforcement. Grantees may undertake efforts to improve the enforcement of fair housing laws and ordinances and in complaint resolution mechanisms.
- Cooperation. As an administrative activity, grantees may enlist the participation of local real estate brokers and mortgage lenders in promoting open housing and in reviewing mortgage credit analysis and underwriting criteria to determine whether they may have an adverse impact on housing opportunities for minorities and women.

- Testing. The use of testing may assist in the enforcement of fair housing laws, and in identifying the existence or extent of discriminatory housing practices in the community. Testing may include the use of testers to ensure that members of protected classes such as minorities, persons with disabilities, or families with children are not victims of housing discrimination and that there is full compliance with fair housing laws.

Fair housing counseling may be funded as an administrative activity under 24 CFR 570.206(c) or also as a public service activity under 24 CFR 570.201(e), provided a national objective is met. Such eligible fair housing activities would be subject to the 15 percent public service cap.

### Housing Services and HOME Program Support

Section 105(a)(20) of the HCDA states that CDBG funds may be used to pay for housing services in connection with activities assisted under Title II of the Cranston-Gonzalez National Affordable Housing Act (the HOME program). This includes housing services such as housing counseling in connection with tenant-based rental assistance and affordable housing programs, energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in housing projects assisted under the HOME program. This provision is promulgated in the CDBG regulations at 570.201(k). (Please note that the regulatory citation is outdated. The HCDA has been amended, and housing services may now be found at Section 105(a)(20) rather than 105(a)(21).)

Section 24 CFR 570.206 also provides that CDBG funds may be used to pay for HOME program administration costs. However, grantees must ensure that HOME administration costs paid with CDBG funds, together with eligible CDBG administrative costs, do not exceed the 20 percent administration cap imposed for the CDBG program.

CDBG funds may also be used to pay for activity delivery costs of an affordable housing project assisted under the HOME program even if it is not otherwise CDBG-assisted. However, the activity must meet all CDBG program requirements (eligibility, environmental review procedures, cost principles outlined in OMB Circulars, and national objective compliance).

### In Rem Housing

Section 105(a)(23) of the HCDA provides a separate category of eligibility under the CDBG program regarding the provision of assistance to housing units acquired through tax foreclosure proceedings (In Rem). (In Rem is Latin for “against the thing” and is a proceeding against the property directly, rather than against a person, and may be used for taking land and property for nonpayment of taxes.) Specifically, this provision authorizes the use of CDBG for essential repairs and payment of operating expenses

needed to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods.

Although the In Rem provision has not been incorporated into the CDBG regulations, it is available to grantees for use. Since these expenses are statutorily limited to housing located in primarily low- and moderate-income neighborhoods, the national objective for In Rem activities may be benefit to low- and moderate-income persons on an area benefit basis or the grantee may claim such activities as qualifying under the slum/blight national objective if the criteria to meet this objective can be met. The In Rem improvements must be in a primarily low- and moderate-income area, even if the slum/blight national objective is used. The In Rem provision covers only those repairs that are “essential.” Activities more extensive than “essential repairs” would need to qualify as “rehabilitation” activities under 24 CFR 570.202.

### National Objectives for Activities in Support of Housing

Homeownership Assistance and IDAs for Homeownership Assistance – Since homeownership assistance and IDA activities involve acquisition for housing, the low- and moderate-income housing national objective applies under these eligibility categories. This is the only national objective that may be used for homeownership assistance and IDA activities [24 CFR 570.208(a)(3); 24 CFR 570.483(b)(3)].

Rehabilitation, Reconstruction, New Housing Construction, Conversion of Existing Structures for Housing – For single unit housing, 100 percent of the units assisted must be occupied by low- and moderate-income households. For a multi-unit structure, 51 percent of the units must be occupied by low- and moderate-income households. (For duplexes, one of the two units must be occupied by low- and moderate-income households.) For rental properties, where two or more rental buildings are located on the same or contiguous properties and the buildings are under common ownership and management, the grouped buildings may be considered a single structure, thus providing that not less than 51 percent of all such units must be occupied by low- and moderate-income households [24 CFR 570.208(a)(3); 24 CFR 570.483(b)(3)]; .

Exceptions – The regulations provide for several exceptions to the requirements noted above. First, if the housing units are located in a Neighborhood Revitalization Strategy Area (NRSA) or Community Revitalization Strategy Area (CRSA), or if the housing activity is carried out by a Community Development Financial Institution (CDFI), units in single- and/or multi-unit buildings for which funds are obligated in a program year may be aggregated and considered a single structure, and thus only 51 percent of the units must be occupied by low- and moderate-income households. [24 CFR 570.208(d)(5)(ii); 24 CFR 570.483(e)(4)(ii) and 570.483(e) (5)(ii).] Second, if the assistance is for an eligible activity to reduce the development costs of new construction of a multifamily, non-elderly rental housing project, less than 51 percent of the units may be occupied by low- and moderate-income households as follows:

- not less than 20 percent of the units will be occupied by low- and moderate-income households at affordable rents, and
- the proportion of the total cost of developing the project to be supported by CDBG funds is no greater than the proportion of units in the project that will be occupied by low- and moderate-income households. [24 CFR 570.208(a)(3)(i); 24 CFR 570.483(b)(3)(i).]

Because the above methodologies are not required by statute, HUD may consider a waiver to permit the use of another methodology to meet the housing national objective of benefiting low- and moderate-income persons. In the case of mixed-income projects needing another methodology, grantees should consult with their field office CPD representatives in preparing a request for a waiver.

Housing Counseling – For housing counseling activities carried out as eligible homeownership assistance activities under 24 CFR 570.201(n), the national objective is the low- and moderate-income housing national objective activities [24 CFR 570.208(a)(3); 24 CFR 570.483(b)(3)]. However, housing counseling may also be carried out as a public service activity in accordance with 24 CFR 570.201(e) or 24 CFR 570.482(d). As a public service activity, the national objective can be benefit to low- and moderate-income persons on an area basis [24 CFR 570.208(a)(1); 570.483(b)(1)] or benefit to low- and moderate-income persons of a limited clientele [24 CFR 570.208(a)(2)(i)(A), (B) or (C); 24 CFR 570.483(b)(2)(ii)(A), (B), or (C)].

Fair Housing Activities – Fair housing activities carried out under the authority of 24 CFR 570.206(c) are not required to meet a national objective [24 CFR 570.200(a)(3)(i)].

Housing Services – For housing services carried out under the authority of 24 CFR 570.201(k), the low- and moderate-income housing national objective categories [24 CFR 570.208(a)(3); 24 CFR 570.483(b)(3)] may be used if the housing units served are HOME-assisted and the affordability requirements of 24 CFR 92.252 or 92.254 under the HOME program are met.

In Rem – For this activity, a national objective of benefit to low- and moderate-income persons on an area basis can be used [24 CFR 570.208(a)(1); 570.483(b)(1)]. In Rem activities may also qualify under the slum/blight national objective in circumstances where it can be demonstrated that the abatement factors meet the criteria for addressing the noted conditions that caused the slums and blight [24 CFR 570.208(b)(1) or (2)]; 24 CFR 570.483(c)(1) or (2).

Tornado Safe Shelters – A tornado safe shelter that is constructed under the authority of Public Law 108-146, enacted December 3, 2003, must meet the low- and moderate-income area benefit national objective [24 CFR 570.208(a)(1); 570.483(b)(1)]. In this instance, an exception grantee cannot use its upper quartile percentage to meet the national objective. A tornado-shelter that is constructed as a public facility under the

authority of 24 CFR 570.201(c) would need to meet the low- and moderate-income area benefit national objective [24 CFR 570.208(a)(1); 570.483(b)(1)]. In this instance, an exception grantee could use its upper quartile percentage to meet the national objective. A tornado safe shelter that is carried out as a rehabilitation activity must meet the low- and moderate-income housing national objective [24 CFR 570.208(a)(3); 24 CFR 570.483(b)(3)].

### Section 108 Loan Guarantee Financing

In addition to using CDBG funds for the activities described above, entitlement grantees and States in conjunction with nonentitlement local governments may apply for Section 108 Loan Guarantees to finance certain CDBG-eligible housing activities. Guaranteed loan funds may be used for any of the housing rehabilitation activities that are eligible under 24 CFR 570.202 [24 CFR 570.703(h)]. Guaranteed loan funds may also be provided to CBDOs to carry out community economic development projects eligible under 24 CFR 570.204 and in that context may, in limited circumstances, be used to fund new housing construction [24 CFR 570.703(i)(2)]. Other eligible uses of guaranteed loan funds to support housing development (rehabilitation or new construction) include, subject to certain limitations: acquisition [24 CFR 570.703(a)]; clearance [24 CFR 570.703(e)]; site preparation, improvements, and utilities [24 CFR 570.703(f)]; and public facilities, public streets, sidewalks, and other site improvements and public utilities [24 CFR 570.703(l)].

For inquiries relating to entitlement grantees, contact the Entitlement Communities Division at (202) 708-1577; for those relating to non-entitlement communities and States, contact the State and Small Cities Division at (202) 708-1322. Section 108 inquiries may be directed to the Financial Management Division at (202) 708-1871. For general information on the Section 108 program or to discuss potential applications for loan guarantee assistance, grantees are encouraged to contact their field office CPD representatives.

### Attachments

## Selected CDBG Funded Activities Related to Housing Entitlement Program

<u>Eligible Activity:</u>	<b>Entitlement Regulations: 24 CFR 570.201-.206</b>
Acquisition of Real Property	570.201(a)
Counseling – Homeowner & Tenant	570.201(e), 570.201(n), 570.201(k)
Homeownership Assistance	570.201(n)
Public Facilities and Improvements	570.201(c)
Renovation of Closed Buildings	570.202(e)
Housing Services/HOME Program Support	570.201(k), 570.206(h)(i)(2)
Acquisition/Disposition of Property for Housing	570.201(a),(b)
Acquisition for Rehabilitation	570.202(b)(1)
Rehabilitation	570.202
Rehab – Loan Guarantee	570.202(b)
Rehab – Subsidies/Reduction of Lead-Based Paint	570.202(f)
Reconstruction	Will be codified under 570.202
Construction	570.204
Match-IDA Homeownership Assistance	570.201(g), 570.201(n)
In Rem	Not in regulations; Section 105(a)(23) of the HCDA
Fair Housing	570.201(e), 570.206(c)
Tornado Safe Shelters	570.201(c), 570.202
Homeownership Activities carried out by Community-Based Development Organizations	570.204(c), 570.201(e)
Site Preparation (Public Improvements and Clearance)	570.201(c)(d)

List of CDBG grantee contacts:

<http://www.hud.gov/offices/cpd/communitydevelopment/programs/contacts/index.cfm>

List of community planning and development office contacts:

<http://www.hud.gov/offices/cpd/about/local/index.cfm>

*List of nationwide housing counseling agencies:*

<http://www.hud.gov/offices/hsg/sfh/hcc/hccprof14.cfm>

*List of homebuying programs by state:*

<http://www.hud.gov/buying/localbuying.cfm>

## Selected CDBG Funded Activities Related to Housing State Program

<u>Eligible Activity:</u>	<b>State Program: HCDA 105(a)</b>
Acquisition of Real Property	105(a)(1)
Homebuyer Counseling	105(a)(8), (20)
Homebuyer Financial Assistance	105(a)(24)*
Public Facilities and Improvements	105(a)(2)
Acquisition for Rehabilitation	105(a)(4) 105(a)(1)(B) 105(a)(14)(A)
Rehabilitation	105(a)(4)
Rehabilitation – Loan Guarantee	105(a)(4), (14)
Rehabilitation – Subsidies/ Reductions	105(a)(4)
Rehabilitation – Lump Sum Accounts	105(a)(4) 24 CFR 570.513, 104(h)
Reconstruction	105(a)(4)
Construction	105(a)(4)
Match-IDA Homeownership Assistance	105(a)(9), (24)
Fair Housing	105(a)(8), (13)
Homeownership Activities carried out by Community-Based Development Organizations	105(a)(15)
In Rem	105(a)(23)
Technical Assistance	105(a)(19)
Tornado Shelter	105(a)(1), (2) 105(a)(24)*
Site Preparation (Public Improvements and Clearance)	105(a)(2), (4)
Lead-Based Paint	105(a)(25)

\*There are two paragraph 104(a)(24)s in the HCDA. The first paragraph (24) concerns homeownership assistance; the second paragraph (24) concerns tornado shelter.

List of CDBG grantee contacts:

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List of homebuying programs by state:

<http://www.hud.gov/buying/localbuying.cfm>