



Monday
June 1, 1998

Part VI

**Department of
Housing and Urban
Development**

**Community Development Block Grant
Program for Indian Tribes and Alaska
Native Villages Fiscal Year 1998 Notice of
Funding Availability; Notice**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

[Docket No. FR-4344-N-01]

**Community Development Block Grant
Program for Indian Tribes and Alaska
Native Villages Fiscal Year 1998 Notice
of Funding Availability**

AGENCY: Office of the Assistant
Secretary for Public and Indian
Housing, HUD.

ACTION: Notice of Funding Availability
for Fiscal Year 1998.

SUMMARY: This notice announces the availability of \$67,003,105 for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (ICDBG Program). The primary objective of this program is the development of viable Indian and Alaska Native communities, including decent housing, a suitable living environment, and economic opportunities, principally for persons of low and moderate income. In the body of this Notice of Funding Availability (NOFA) is information concerning the following: (a) The purpose of the NOFA and information regarding eligibility and available amounts; (b) A list of steps involved and a checklist of the exhibits required in the application process, including where and how to apply and what to submit; and (c) A description of application processing, including the selection process and the selection criteria.

Application Due Date

Completed applications must be submitted no later than 6 pm, local time, on September 1, 1998 to the addresses shown below. See below for specific procedures governing the form of application submissions (e.g., mailed applications, express mail, overnight delivery, or hand carried).

Mailed Applications

Applications will be considered timely filed if postmarked on or before 12 midnight on the application due date and received by the appropriate Area ONAP on or within ten (10) days of the application due date.

**Applications Sent By Overnight/Express
Delivery**

Applications sent by overnight delivery or express mail will be considered timely filed if received before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

Hand Carried Applications

Hand carried applications to the appropriate Area ONAP will be accepted during normal business hours before the application due date. On the application due date, business hours will be extended to 6:00 pm.

Addresses for Submitting Applications

Applicants in the following geographic locations should submit their applications to the identified Area ONAP:

All States East of the Mississippi River, Plus Iowa and Minnesota: Eastern/Woodlands Office of Native American Programs, Community Development and Tribal Relations (CD & TR) Staff, 77 West Jackson Blvd., Chicago, IL 60604-3507; Telephone: (312) 886-4532, Ext. 2815.

Louisiana, Kansas, Oklahoma, and Texas, except West Texas: Southern Plains Office of Native American Programs, CD & TR Staff, Suite 400, 500 W. Main Street, Oklahoma City, OK 73102-3202; Telephone: (405) 553-7525.

Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming: Northern Plains Office of Native American Programs, CD & TR Staff, First Interstate Tower North, 633 17th Street, Denver, CO 80202-3607; Telephone: (303) 672-5457.

Arizona, California, and Nevada: Southwest Office of Native American Programs, CD & TR Staff, Two Arizona Center, Suite 1650, 400 N. Fifth Street, Phoenix, AZ 85004-2361; Telephone: (602) 379-4197.

New Mexico and West Texas: Southwest Office of Native American Programs, CD & TR Specialist, Albuquerque Plaza, 201 3rd Street NW, Suite 1830, Albuquerque, NM 87102-3368; Telephone: (505) 766-1372.

Idaho, Oregon, Washington: Northwest Office of Native American Programs, CD & TR Staff, Federal Office Building, 909 First Avenue, Suite 200, Seattle, WA 98104-1000; Telephone: (206) 220-5271.

Alaska: Alaska Office of Native American Programs, CD & TR Staff, 949 E. 36th Avenue, Suite 401, Anchorage, AK 99508-4135; Telephone: (907) 271-4603.

**FOR FURTHER INFORMATION, APPLICATION
KITS, AND TECHNICAL ASSISTANCE
CONTACT:**

For Further Information. General program questions may be directed to the Area ONAP serving your area or to Robert Barth, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, P.O. Box 36003,

450 Golden Gate Ave., San Francisco, CA 94102; telephone (415) 436-8122. The TTY number is (415) 436-6594. (These are not toll-free numbers.)

For Application Kits. Application kits may be obtained from the Area ONAPs identified above. Requests for application kits should be made immediately to ensure sufficient time for application preparation. HUD will distribute application kits as soon as they become available.

For Technical Assistance. Prior to the application deadline, staff will be available to provide general guidance, but not guidance in actually preparing the application. If applicable, following selection, but prior to award, HUD staff will be available to assist in clarifying or confirming information that is required to address a pre-award requirement or condition.

SUPPLEMENTARY INFORMATION:

Changes From FY 1997 NOFA

1. *Due Date for Application Submission.* The Area ONAP will take into consideration circumstances beyond an applicant's control when determining if the due date has been met by applicants which choose to submit applications via the mail or an overnight delivery service. If mailed, an application will be determined to have met the submission timing requirements if it was postmarked by 6 p.m. on September 1, 1998 and received in the Area ONAP within ten days of that date. If sent via an overnight delivery service, an application will be determined to have met the submission timing requirements if the applicant provides documentation that it was placed in transit with such a service by no later than 6 p.m. on September 1, 1998 and received by the Area ONAP within five days of that date.

2. *Grant Ceilings.* Grant ceilings have been changed for applicants in the following Area ONAP jurisdictions.

Eastern/Woodlands—The ceiling for all applicants has been raised from \$300,000 to \$400,000.

Southwest—The ceiling for the applicants with the smallest populations (0-1,500) has been raised from \$450,000 to \$550,000. In addition, the total number of applicant population categories has been reduced from nine to six.

Northwest—The ceiling for all applicants has been raised from \$320,000 to \$335,000.

3. *Proposed Biennial Funding for Applicants in the Jurisdiction of the Alaska Area ONAP.* A single application process under the provisions and requirements set forth in this NOFA is proposed to be used for

both the FY 1998 and the FY 1999 funding allocations to the Alaska Area ONAP. The basis for this proposal and the procedures which would be followed if it is implemented are set forth in section I(C) of this NOFA.

4. *Application Requirements—Certificate Regarding Lobbying.* The need to include a certificate regarding lobbying and a SF-LLL (if applicable) has been explicitly referenced as an application component. In FY 1997, these requirements were stated in section XII., Findings and Certifications, but were not specifically mentioned in section IV., Application Process and Submission Requirements.

5. *Number of Copies of an Application to be Submitted.* In FY 1997, the requirement that an applicant submit one originally signed and two copies of an application was stated in the application kit but not the NOFA. This year this requirement is stated in the NOFA as well as the kit.

6. *Documentation Required for Point Award for Leveraged Resources.* It has been made explicit that neither the contribution of indirect administrative costs nor resources to pay for the costs of operation and maintenance of a proposed project will be considered leveraged resources for purpose of point award.

7. *Corrections to Technically Deficient Applications and Provision of Supplemental Information.* The processes to be used by the Area ONAPs to allow applicants to provide corrections to deficient applications and to request supplemental or additional information from an applicant have been more fully detailed and explained. However, the circumstances or situations under which these processes will be used have not been changed: the definition of a correctable technical deficiency remains the same as does the provision that nothing submitted by an applicant after the deadline date can enhance the rating of a project.

8. *Applicant Specific Thresholds.* (i) *Community Development.* The benchmarks and process to be used to assess whether or not an applicant is making satisfactory progress in completing previously approved ICDBG projects have been clarified. This has been done by establishing a specific link between compliance with an approved project implementation schedule and performance.

(ii) *Housing Assistance.* The process and procedures to be used to assess applicant performance in the provision of housing assistance to low and moderate income tribal members have been modified to reflect the requirements and characteristics of

assistance provided under the Native American Housing and Self Determination Act of 1996 (25 U.S.C. 4101, *et seq.*) also known as NAHASDA.

9. *New Threshold for Housing Category Projects.* A new threshold requirement for housing category projects has been established. This threshold will require an applicant to provide an assurance that the project proposed is consistent with, and to the extent possible, identified in, the Indian Housing Plan (IHP) submitted by or on behalf of the applicant under the provisions of NAHASDA. If the IHP has not been submitted, the applicant shall provide an assurance that if an IHP is submitted, it will specifically reference the proposed project.

10. *Housing Rehabilitation Grant Limits.* The grant limits set forth for applicants in the following Area ONAP jurisdictions have been changed.

| | FY 1998 | FY 1997 |
|-----------------------|----------|------------------------------------|
| Eastern/Woodlands ... | \$20,000 | \$15,000. |
| Southern Plains | \$15,000 | \$20,000. |
| Southwest | \$40,000 | \$35,000. |
| Alaska | \$50,000 | Lesser of \$45/sq.ft. or \$35,000. |

11. *Housing Rehabilitation Projects—Adopted Rehabilitation Standards.* The selection criterion regarding adopted housing rehabilitation standards has been increased in maximum value from 5 to 10 points. The additional 5 points would be awarded to projects if the applicant's adopted and submitted standards include specific requirements which address child safety measures. This revision reflects the Healthy Homes initiative being implemented by HUD.

12. *Housing Rehabilitation Projects—Priority to Neediest Households.* The selection criterion regarding the proposed provision of assistance by the applicant to the neediest households as defined in the NOFA has been reduced to 5 points from 10 points.

13. *Land Acquisition to Support New Housing Projects—Commitment and Availability of Housing Resources Selection Criterion.* This selection criterion has been modified to reflect situations in which these resources are committed under the provisions of NAHASDA.

14. *Threshold for New Housing Construction.* Since the Indian Housing Block Grant Program was not in existence in FY 1997, the threshold which addresses the availability of other resources to meet the needs of the households to be assisted has been modified so that an applicant must now

demonstrate that an Indian Housing Block Grant would not be available to meet the needs of these households.

15. *New Housing Construction Projects—Adopted Housing Construction Policies and Plan.* The maximum possible point award under this selection criterion has been increased from 20 to 25 points. The additional 5 points would be awarded to projects if the applicant's policy and plan specifically address the incorporation of child safety measures in the housing to be constructed. This revision reflects the Healthy Homes initiative being implemented by HUD.

16. *New Housing Construction Projects—Beneficiary Identification.* The maximum point award for this selection criterion has been reduced to 5 points from 10 points.

17. *Community Facilities—Buildings—Benefits the Neediest.* The maximum points available under this criterion has been increased from 10 to 15 points and values of intermediate point awards have also been changed to be consistent with the similar factor under Community Facilities—Infrastructure.

18. *Community Facilities—Buildings—Multi-use/multi-benefit.* This selection criterion has been eliminated and the 5 points available under it in FY 1997 have been reassigned to the Benefits the Neediest criterion.

19. *Editorial and Formatting Revisions.* In addition to the changes discussed above, this notice makes a number of non-substantive technical changes to the FY 1997 NOFA. These editorial and formatting changes should make the NOFA easier to understand.

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting and supporting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, as noted above, a new threshold has been included for all housing category projects. Specifically, applicants will be required to demonstrate that such projects are consistent with, and where possible, are identified in, the Indian Housing Plan (IHP) submitted on, or on behalf of, the applicant under the provisions of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*). If the IHP has not been

submitted by the ICDBG application due date, the applicant must submit an assurance that if an IHP is submitted, it will specifically reference the proposed housing category project.

Table of Contents

- I. Authority; Purpose; Amounts Allocated; and Eligibility.
 - (A) Authority.
 - (B) Purpose.
 - (C) Amounts Allocated.
 - (D) Eligible Applicants.
 - (E) Eligible Activities.
- II. Program Requirements.
 - (A) Statutory and Regulatory Requirements.
 - (B) Nondiscrimination and Compliance with Civil Rights Laws.
 - (C) Relocation.
 - (D) Debarred and Suspended Contractors.
 - (E) Indian Preference.
 - (F) Conflict of Interest.
 - (G) Certifications and Assurances.
 - (H) Economic Opportunities for Low and Very Low Income Persons.
- III. Application Selection Process.
 - (A) Rating and Ranking.
 - (B) Factors for Award Used to Evaluate and Rate Applications.
- IV. Application Submission Requirements and Checklist.
 - (A) General.
 - (B) Demographic data.
 - (C) Publication of Community Development Statement.
 - (D) Application Submission.
 - (E) Documentation requirements for point award for leveraged resources.

- V. Corrections to Deficient Applications and Supplemental Information.
- VI. Findings and Certifications.
 - (A) Paperwork Reduction Act Statement.
 - (B) Environmental Impact.
 - (C) Recipient Compliance with Environmental Requirements.
 - (D) Federalism, Executive Order 12612.
 - (E) Prohibition Against Lobbying Activities.
 - (F) Section 102 of the HUD Reform Act—Documentation, Access and Disclosure.
 - (G) Section 103 of the HUD Reform Act—Prohibition of Advance Disclosure of Funding Decisions.
 - (H) Catalog of Federal Domestic Assistance Number.

Additional Information

I. Authority; Purpose; Amounts Allocated; and Eligibility

(A) *Authority.* Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301, *et seq.*); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); 24 CFR part 1003.

(B) *Purpose.* This notice announces the availability of \$67,003,105 for the ICDBG Program.

(C) *Amount Allocated.*

(1) *General.* Amendments to title I of the Housing and Community Development Act of 1974 have required that the allocation for Indian Tribes be awarded on a competitive basis in accordance with selection criteria

contained in a regulation promulgated by the Secretary after notice and public comment. All grant funds awarded in accordance with this NOFA are subject to the requirements of 24 CFR part 1003. Applicants within an Area ONAP's geographic jurisdiction compete only against each other for that Area ONAP's allocation of funds.

(2) *Allocations.* The requirements for allocating funds to Area ONAPs responsible for program administration are found at 24 CFR 1003.101.

Following these requirements, the allocations for FY 1998 are as follows:

| | |
|-------------------------|-------------|
| Eastern/Woodlands | \$5,103,221 |
| Southern Plains | 12,076,948 |
| Northern Plains | 10,186,349 |
| Southwest | 27,790,427 |
| Northwest | 3,891,943 |
| Alaska | 5,454,217 |
| Total | 64,503,105 |

The total allocation includes \$3,105 in unused funds from the amount reserved by the Assistant Secretary in Fiscal Year 1997 for imminent threat grants. As indicated in section I.(a)(4) below, \$2,500,000 will be retained to fund imminent threat grants.

(3) *Grant Ceilings.* The authority to establish grant ceilings is found at 24 CFR 1003.100(b)(1). Grant ceilings are established for FY 1998 funding at the following levels:

| Area ONAPs | Population | Ceiling |
|-------------------------|---------------------|-----------|
| Eastern/Woodlands | ALL | \$400,000 |
| Southern Plains: | ALL | 750,000 |
| Northern Plains: | ALL | 800,000 |
| Southwest: | 50,001+ | 5,000,000 |
| | 10,501–50,000 | 2,500,000 |
| | 7,501–10,500 | 2,000,000 |
| | 6,001–7,500 | 1,000,000 |
| | 1,501–6,000 | 750,000 |
| | 0–1,500 | 550,000 |
| Northwest | ALL | 335,000 |
| Alaska | ALL | 500,000 |

For the Southwest Area ONAP jurisdiction, the population used to determine ceiling amounts is the Native American population which resides on a reservation or rancheria.

(4) *Proposed biennial funding for applicants in the jurisdiction of the Alaska Area ONAP.* This NOFA provides a single application process for the FY 1998 funds allocated to the Alaska Area ONAP and, subject to appropriation for FY 1999, that may be allocated to the Alaska Area ONAP in FY 1999.

The jurisdiction of the Alaska Area ONAP includes the largest number of potentially eligible applicants. Given

the fact that the vast majority of these entities have small population bases, however, the total amount allocated to the Alaska Area ONAP under the requirements of § 1003.101 is the third smallest amount allocated to any of the Area ONAPs. In recent years, given the relationship between potentially eligible applicants and the funds available and the very competitive nature of the program, fewer than one in four of the applications submitted have been funded in the annual competition. A score in excess of 90 (out of a potential 100 points) has typically been required for any project to be successful. Many applicants have expended considerable

amounts of time and resources year after year in an unsuccessful pursuit of funding and many worthy projects are returned unfunded each year. It is the opinion of HUD that having one process would reduce the administrative burden to the applicants of preparing and submitting applications repeatedly and would potentially provide that more applicants which have not been funded in the past could be funded.

Under this process, if implemented, applicants would prepare and submit applications under the provisions and requirements of the NOFA. All applications would be screened, reviewed, and rated under the

provisions and requirements of the NOFA. After rating is completed and a ranked list of projects developed, grant awards would be made using FY 1998 allocated funds until these funds are exhausted. Applications not funded would be retained by the Alaska Area ONAP.

Subject to appropriations, any FY 1999 funds allocated to the Alaska Area ONAP are expected to be used for grant offers to those applicants with the highest ranking retained applications until these funds are exhausted. In FY 1998, HUD will only announce those ICDBG grant offers made in FY 1998. FY 1999 ICDBG program grant offers will not be made or announced until the enactment of FY 1999 appropriations. The FY 1999 grant offers would also be contingent upon the applicant confirming in writing and providing such supporting documentation as is required to the Alaska Area ONAP within 30 days of the offer that:

(a) The applicant continues to meet performance threshold requirements;

(b) The project still meets all community development appropriateness and project specific threshold requirements; and

(c) No changes have occurred since the submission of the application which would affect the rating or viability of the project.

Potential applicants and other interested parties are encouraged to submit their comments on this proposal directly to the Alaska Area ONAP at the address identified in this NOFA. To be considered, these comments must be received July 2, 1998. A final determination on this proposal will be made within 35 calendar days of this NOFA. If, based on an evaluation of the comments received, it is determined to implement the proposal, an amendment to this NOFA will be published. The proposed biennial funding process is one method of responding to the unique situation existing in the Alaska Area ONAP. HUD may, in the future, propose other methods for addressing these distinctive Alaskan issues. HUD intends to award FY 2000 funds through the issuance of a separate competitive funding notice.

(5) *Imminent Threats.* (a) The criteria for grants to alleviate or remove imminent threats to health or safety that require an immediate solution are described at 24 CFR part 1003, subpart E. Please note that the problem to be addressed must be such that an emergency situation exists or would exist if it were not addressed. In addition, funds provided under the provisions of that subpart may only be used to address imminent threats which

are not of a recurring nature and which represent a unique and unusual circumstance that impact an entire service area. In accordance with the provisions of 24 CFR part 1003, subpart E, \$2,500,000 will be retained to meet the funding needs of imminent threat applications submitted to any of the Area ONAPs. The grant ceiling for imminent threat applications for FY 1998 is \$350,000. This ceiling is established pursuant to the provisions of § 1003.400(c).

(b) Requests for assistance under the imminent threat set-aside (24 CFR part 1003, subpart E) do not have to be submitted by the deadline established in this NOFA; the deadline applies to applications submitted for assistance under 24 CFR part 1003, subpart D, Single purpose grants.

(c) If, in response to a request for assistance, an Area ONAP issues a letter to proceed under the authority of § 1003.401(a), an application must be submitted to and approved by the Area ONAP before a grant agreement may be executed. This application must consist of the following components:

(i) Standard Form 424, Application for Federal Assistance;

(ii) Brief description of the proposed project;

(iii) Form HUD-4123, Cost Summary;

(iv) Form HUD-4125, Implementation Schedule;

(v) Form HUD-2880, Applicant/Recipient Disclosure/Update Report;

(vi) Form HUD-4126, Certifications;

(vii) Drug-free workplace certification (24 CFR part 24, subpart F); and

(viii) Certification regarding lobbying activities (24 CFR part 87) and SF-LLL (if applicable).

(D) *Eligible Applicants.*—(1) *General.* To apply for funding in a given fiscal year, an applicant must be eligible as an Indian Tribe or Alaska Native Village (or as a tribal organization) by the application submission date.

(2) *Tribal Organizations.* Tribal organizations are permitted to submit applications under 24 CFR 1003.5(b) on behalf of eligible tribes or villages when one or more eligible tribe(s) or village(s) authorize the organization to do so under concurring resolutions. As is stated in this regulatory section, the tribal organization must itself be eligible under title I of the Indian Self-Determination and Education Assistance Act.

(3) *Successors to Eligible Entities.* If a tribe or tribal organization claims that it is a successor to an eligible entity, the Area ONAP must review the documentation to determine whether it is in fact the successor entity.

(4) *Alaskan Tribal Entities.* (a) Due to the unique structure of tribal entities eligible to submit ICDBG applications in Alaska, and as only one ICDBG application may be submitted for each area within the jurisdiction of an entity eligible under 24 CFR 1003.5, a Tribal Organization which submits an application for activities in the jurisdiction of one or more eligible tribes or villages must include a concurring resolution from each such tribe or village authorizing the submittal of the application. Each such resolution must also indicate that the tribe or village does not itself intend to submit an ICDBG application for that funding round. The hierarchy for funding priority continues to be the IRA Council, the Traditional Village Council, the Village Corporation and the Regional Corporation.

(b) On October 23, 1997 (62 FR 205), the Bureau of Indian Affairs (BIA) published a **Federal Register** Notice entitled "Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs." This notice provides a listing of Indian Tribal Entities in Alaska found to be Indian Tribes as the term is defined and used in 25 CFR part 83. Additionally, pursuant to title I of the Indian Self Determination and Education Assistance Act, ANCSA Village Corporations and Regional Corporations are also considered tribes and therefore eligible applicants for the ICDBG program.

(c) Any questions regarding eligibility determinations and related documentation requirements for entities in Alaska should be referred to the Alaska Area ONAP prior to the deadline for submitting an application. (See 24 CFR 1003.5 for a complete description of eligible applicants.)

Please note: when used in this NOFA the word "tribe" means an Indian Tribe, band, group or nation, including Alaska Indians, Aleuts, Eskimos, Alaska Native Villages, ANCSA Village Corporations and Regional Corporations.

(E) *Eligible Activities.* Activities that are eligible for ICDBG funds are identified at 24 CFR part 1003, subpart C.

II. Program Requirements

(A) *Statutory and Regulatory Requirements.* All applicants must meet and comply with all statutory and regulatory requirements. Applicable program specific statutory requirements for this program are found in title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*). Applicable program specific regulatory

requirements are found at 24 CFR part 1003. Copies of the regulations are available from HUD Community Connections Information Clearinghouse.

(B) *Nondiscrimination and Compliance with Civil Rights Laws.* Under the authority of section 107(e)(2) of the Housing and Community Development Act of 1974, as amended, the Secretary has waived the requirement that recipients comply with the antidiscrimination provisions in section 109 of the Act with respect to race, color and national origin. Recipients must comply with the other prohibitions against discrimination found in Section 109; the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968, 24 U.S.C. 1001-1303); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and, Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). Recipients must comply with the substantial rehabilitation and new construction requirements, in addition to the other requirements of 24 CFR part 8.

(C) *Relocation.* If an applicant's proposed activities involve the relocation or displacement of persons, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the government-wide implementing regulations at 49 CFR part 24 apply to funding under this NOFA.

(D) *Debarred or Suspended Contractors.* The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, subgrants, or funding of any recipients, or contractors or subcontractors, during any period of debarment, suspension, or placement in ineligibility status.

(E) *Indian Preference.* HUD has determined that programs funded under this NOFA are subject to section 7 (b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b). The provisions and requirements for implementing this section are set forth in 24 CFR 1003.510.

(F) *Conflict of Interest.* In addition to the conflict of interest requirements with respect to procurement transactions found in 24 CFR 85.36 and 84.42, as applicable, the provisions of 24 CFR 1003.606 apply to such activities as the provision of assistance by the recipient or by its subrecipients to businesses, individuals, and other private entities under eligible activities which authorize such assistance.

(G) *Certifications and Assurances.* The specific certifications and assurances which must be provided by an applicant are included under section IV. of this NOFA,

(H) *Economic Opportunities for Low and Very Low Income Persons.* Recipients must comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects) and its implementing regulations at 24 CFR part 135. Recipients must ensure that training, employment and other economic opportunities are directed, to the greatest extent feasible, toward low and very low income persons, particularly those who are recipients of government assistance for housing and to business concerns that provide economic opportunities to low and very low income persons. Recipients must comply with the reporting and recordkeeping requirements found at 24 CFR part 135, subpart E. Tribes that receive HUD assistance described in this part shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

III. Application Selection Process

(A) Rating and Ranking

(1) *Screening for Acceptance.* Each Area ONAP will screen applications for single purpose grants. Applications failing this screening shall be rejected and returned to the applicants unrated. Area ONAPs will accept applications if all the criteria listed below as items (a) through (f) are met:

(a) The application is received or submitted in accordance with the requirements set forth under APPLICATION DUE DATE in this NOFA;

(b) The applicant is eligible;

(c) The proposed activities are eligible. Activities assisted with ICDBG funds are subject to the requirements of section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8;

(d) The application contains substantially all the components specified in section IV. (D) of this notice;

(e) At least 70% of the grant funds are to be used for activities that benefit low and moderate income persons, in accordance with the requirements of § 1003.208; and

(f) The application is for an amount which does not exceed the grant ceilings that are established by the NOFA.

(2) Application Review Process.

Threshold review. The Area ONAP will review each application that passes the screening process to ensure that each applicant and each proposed

project meets the applicable threshold requirements set forth in 24 CFR 1003.301(a) and 1003.302, as implemented by this NOFA. *If an applicant fails to meet any of the applicant-specific thresholds, its application cannot be accepted for rating and ranking. Project(s) that do not meet the community development appropriateness or applicable project-specific thresholds will not be considered for funding.*

(b) *Rating Team.* All projects that meet the acceptance criteria and threshold requirements will be reviewed and rated by an Area ONAP rating team of at least three voting members. The Area ONAP rating team will examine each project to determine in which one of the rating categories set forth in 24 CFR 1003.303(a) the project most appropriately belongs. The project will be rated on the basis of the criteria identified in the rating category component to which the project has been assigned. The total points for a rating component are 100, which is the maximum any project can receive.

(c) *Public service projects.* Due to the statutory 15 percent cap on public services activities, applicants may not receive single purpose grants solely to fund public services activities. However, any application may contain a public services component for up to 15 percent of the total grant. This component may be unrelated to the other project(s) included in the application. If an application does not receive full funding, the public services allocation will be proportionately reduced to comprise no more than 15 percent of the total grant award.

(d) *Final ranking.* (i) All projects will be ranked against each other according to the point totals they receive, regardless of the rating category or component under which the points were awarded. Projects will be selected for funding based on this final ranking, to the extent that funds are available. Individual grant amounts will be determined in a manner consistent with the considerations set forth in 24 CFR 1003.100(b)(2). Specifically, an Area ONAP may approve a grant amount less than the amount requested. In doing so, the Area ONAP may take into account the size of the applicant, the level of demand, the scale of the activity proposed relative to need and operational capacity, the number of persons to be served, the amount of funds required to achieve project objectives, and the administrative capacity of the applicant to complete the activities in a timely manner.

(ii) If the Area ONAP determines that an insufficient amount of money is

available to adequately fund a project, it may decline to fund that project and fund the next highest ranking project or projects for which adequate funds are available. The Area ONAP may select, in rank order, additional projects for funding if one of the higher ranking projects is not funded, or if additional funds become available.

(e) *Tiebreakers.* When rating results in a tie among projects and insufficient resources remain to fund all tied projects, Area ONAPs shall approve projects that can be fully funded over those that cannot be fully funded. When that does not resolve the tie, the following factors will be used in the order listed to resolve the tie:

(i) *Eastern/Woodlands Office.*

(1) The applicant with the fewest active grants.

(2) The applicant that has not received an ICDBG grant over the longest period of time.

(3) The project that would benefit the highest percentage of low and moderate income persons.

(ii) *Southern Plains Office.*

(1) The applicant that has not received an ICDBG grant over the longest period of time over the last 8 years.

(2) The applicant with the fewest active grants.

(3) The project that would benefit the highest percentage of low and moderate income persons.

(iii) *Northern Plains and Southwest Offices.*

(1) The applicant that has not received an ICDBG grant over the longest period of time.

(2) The applicant with the fewest active grants.

(3) The project that would benefit the highest percentage of low and moderate income persons.

(iv) *Northwest Office.*

(1) The applicant that has not received an ICDBG grant over the longest period of time.

(2) The applicant that has received the fewest ICDBG dollars since the inception of the program.

(3) The project that would benefit the highest percentage of low and moderate income persons.

(v) *Alaska Office.*

(1) The applicant that has not received an ICDBG grant over the longest period of time.

(2) The project that would benefit the highest percentage of low and moderate income persons.

(3) The project that would benefit the most low and moderate income persons.

(f) *Pre-award requirements.*

(i) Successful applicants may be required to provide supporting

documentation concerning the management, maintenance, operation, or financing of proposed projects before a grant agreement can be executed. Applicants will normally be given no less than thirty (30) calendar days to respond to such requirements. In the event that no response or an insufficient response is made within the prescribed time period, the Area ONAP may determine that the applicant has not met the requirements and the grant offer may be withdrawn. The Area ONAPs shall require supporting documentation in those instances where:

(1) Specific questions remain concerning the scope, magnitude, timing, or method of implementing the project; or

(2) The applicant has not provided information verifying the commitment of other resources required to complete, operate, or maintain the proposed project.

(ii) New projects may not be substituted for those originally proposed in the application.

(iii) Grant amounts allocated for applicants unable to meet pre-award requirements will be awarded in accordance with the provisions of this NOFA.

(3) *General threshold requirements.*

(a) General. Two types of general thresholds are set forth in 24 CFR 1003.301(a): those that relate to applicants, and those that address the overall community development appropriateness of the project(s) included in the application. Project-specific thresholds are set forth in 24 CFR 1003.302.

(b) *Applicant Thresholds.* (i) *General.* Applicant thresholds focus on the administrative capacity of the applicant to undertake the proposed project, on its past performance in the ICDBG program, and on its provision of housing assistance to low and moderate income tribal members.

(ii) *Applicant-Specific Thresholds: Capacity.* The Area ONAP will assume, absent evidence to the contrary, that the applicant possesses, or can obtain the managerial, technical, or administrative capability necessary to carry out the proposed project. The application should address who will administer the project and how the applicant plans to handle the technical aspects of executing the project. If the Area ONAP determines, based on substantial evidence (which could include information provided by the most recent risk analysis conducted by the Area ONAP), that the applicant does not have or cannot obtain the capacity to undertake the proposed project, the

application will not receive further consideration.

(iii) *Applicant-Specific Thresholds: Performance—(1) Community Development.*

(a) If an applicant has previously participated in the ICDBG Program, the Area ONAP shall determine whether the applicant has performed adequately in grant administration and management. This determination will include an evaluation of the most recent RADAR (Risk Analysis and Determination for Allocation of Resources) conducted by the Area ONAP for the applicant. The applicant is presumed to be performing adequately unless the Area ONAP makes a performance determination to the contrary during periodic evaluations.

(b) To assess whether or not a recipient is making satisfactory progress in completing previously approved programs, actual progress will be measured against the most recent implementation schedule(s) for the recipient's program(s). This assessment will be done in conjunction with the evaluation of the RADAR and other relevant information, e.g., monitoring reports, which document or reflect a recipient's performance. A recipient which is more than *sixty days* behind schedule will be determined to be performing inadequately with respect to this aspect of grant administration.

(c) Where an applicant was found to be performing inadequately, the Area ONAP shall determine whether the applicant has corrected the deficiency or is following a schedule to correct performance to which the applicant and the Area ONAP have agreed. In cases of previously documented deficient performance, the Area ONAP must determine that the applicant has taken appropriate corrective action to improve its performance prior to the application due date.

(d) *The Area ONAP will inform in writing any potential applicant which has been determined not to meet this performance threshold no later than 30 days prior to the application due date.* If the performance threshold is not met as of the application submission deadline, an application will not be accepted for rating and ranking.

(2) *Housing assistance.* (a) The applicant is presumed not to have taken actions to impede the provision of housing assistance for low and moderate income members of the tribe or village. Any action taken by the applicant to prevent or obstruct the provision or operation of assisted housing for low and moderate income persons shall be evaluated in terms of whether it constitutes inadequate performance by

the applicant. If an applicant has established or joined an Indian Housing Authority (IHA), and this IHA has obtained housing assistance from HUD, the performance of the applicant in meeting its obligations and responsibilities to the IHA in the development and operation of housing units assisted under the United States Housing Act of 1937 will be taken into consideration in evaluating its housing assistance performance. This evaluation will include a review of the applicant's compliance with the provisions of the documents which created its relationship with the IHA and the requirements of the Native American Housing and Self-Determination Act of 1996 (42 U.S.C. 4101 *et seq.*). In addition, if the applicant has designated another entity (a tribally designated housing entity (TDHE)) to be the recipient of Indian Housing Block Grant Assistance on its behalf, compliance of the applicant with its agreement with the TDHE will also be a consideration in HUD's evaluation.

(b) An applicant will not be held accountable for the poor performance of its IHA (or TDHE) unless this inadequate performance is found to be a direct result of the applicant's action or inaction. Applicants which are members of multi-tribal IHAs or associated with multi-tribal TDHEs will be judged only on their individual performance and will not be held accountable for the poor performance of other tribes that are members of the IHA or which are also associated with the TDHE.

(c) If an applicant has received ICDBG funds for the provision of new housing through a Community Based Development Organization (CBDO), the Area ONAP will consider the following in making its determination regarding housing assistance performance:

- (i) Whether the proposed units were constructed;
 - (ii) Whether housing assistance was provided to the beneficiaries identified in the funded application, and if not, why not;
 - (iii) Whether the provisions of the applicant's housing plan and procedures have been followed; and
 - (iv) Whether there were sustained complaints from tribal members regarding provision and/or distribution of ICDBG housing assistance.
- (d) *The Area ONAP will inform in writing any potential applicant which has been determined not to meet the housing assistance performance threshold no later than 30 days prior to the application deadline.*
- (iv) *Audits.* The thresholds described in paragraphs (3)(b)(ii) and (3)(b)(iii) of

this section III.(A) require the applicant to meet the following performance criteria:

(1) The applicant cannot have an outstanding ICDBG obligation to HUD or to an ICDBG program that is in arrears, or it must have agreed to a repayment schedule. An applicant that has an outstanding ICDBG obligation that is in arrears, or one that has not agreed to a repayment schedule, will be disqualified from the current competition and from subsequent competitions until the obligations are current. If a grantee that was current at the time of application submission becomes delinquent during the review period, the application may be rejected.

(2) The applicant cannot have an overdue or unsatisfactory response to an audit finding. If there is an overdue or unsatisfactory response to an audit finding, the applicant will be disqualified from the current and subsequent competitions until the applicant has taken final action necessary to close the audit finding. The Area ONAP administrator may provide exceptions to this disqualification in cases where the applicant has made a good faith effort to clear the audit finding. An exception may be granted when funds are due HUD or an ICDBG program as a result of a finding only when a satisfactory arrangement for repayment of the debt has been made and payments are current.

(c) *Community Development Appropriateness.* In order to rate and rank a project contained in an application that has passed the screening tests outlined in section III.(A) of this NOFA, Area ONAPs must determine that the proposed project meets the community development appropriateness thresholds set forth below:

- (i) *Costs are reasonable.* The project must be described in sufficient detail so that the Area ONAP can determine:
 - (1) That costs are reasonable; and
 - (2) That the funds requested from the ICDBG program and all other sources are adequate to complete the proposed activity(ies) described in the application.
- (ii) *Project is Appropriate.* The project is appropriate for the intended use.
- (iii) *Project is Usable or Achievable.* The project is usable or achievable in a timely manner, generally within a two year period. The timetable for project implementation and completion must be set forth on the form HUD 4125, Implementation Schedule, included in the application. A period of more than two years is acceptable in certain circumstances, if it is established that

such circumstances are beyond the applicant's control.

(B) Factors for Award Used To Evaluate and Rate Applications.

The factors for rating and ranking applications and the points for each factor are provided below. The maximum number of points for a rating component is 100, which is the maximum any project can receive.

(1) Summary of Rating Factors and Point Awards.

| Housing | | Maximum points |
|--|-----|----------------|
| Sec. III.(B)(3) | | |
| (c) Rehabilitation | | |
| (i) Project Need and Design | | |
| (1) % of funds for standard rehab | 20 | |
| (2) Applicant's selection criteria | 5 | |
| (3) Housing survey | 15 | |
| (ii) Planning and Implementation | | |
| (1) Rehabilitation policies | | |
| (a) Rehabilitation standards | 10 | |
| (b) Selection policies and procedures | 10 | |
| (c) Project implementation policies and procedures | 10 | |
| (2) Post rehab maintenance | 5 | |
| (3) Cost estimates | 15 | |
| (4) Cost effectiveness | 5 | |
| (iii) Leveraging | 5 | |
| Total points | 100 | |
| (e) Land to Support New Housing | | |
| (i) Project Need | 40 | |
| (ii) Planning and Implementation | | |
| (1) Suitability of the land | 20 | |
| (2) Housing resources | 10 | |
| (3) Supportive services | 5 | |
| (4) Commitment of households | 5 | |
| (5) Land to trust status | 5 | |
| (6) Infrastructure commitment | 10 | |
| (7) Land meets need and is reasonably priced | 5 | |
| Total points | 100 | |
| (g) New Housing Construction | | |
| (i) Project Need and Design | | |
| (1) IHA member/assistance | 15 | |
| (2) Housing policies and plan | 25 | |
| (3) Beneficiary identification | 5 | |
| (ii) Planning and Implementation | | |
| (1) Occupancy standards | 10 | |
| (2) Site acceptability | 15 | |
| (3) Energy conservation design | 5 | |
| (4) Housing survey | 10 | |
| (5) Cost effectiveness | 5 | |
| (iii) Leveraging | 10 | |
| Total points | 100 | |
| Community Facilities | | |
| Sec. III.(B)(4) | | |
| (a) Infrastructure | | |
| (i) Project Need and Design | | |
| (1) Meets an essential need | 20 | |
| (2) Benefits the neediest | 15 | |
| (3) Provides infrastructure/health and safety | 25 | |
| (ii) Planning and Implementation | | |

| | |
|---|----------------|
| | Maximum points |
| (1) Maintenance and operation plan | 15 |
| (2) Appropriate and effective design scale and cost | 15 |
| (iii) Leveraging | 10 |
| Total Points | 100 |
| (c) Buildings | |
| (i) Project Need and Design | |
| (1) Meets an essential need | 20 |
| (2) Benefits the neediest | 15 |
| (3) Provides building/health and safety | 25 |
| (ii) Planning and Implementation | |
| (1) Maintenance and operation plan | 15 |
| (2) Appropriate and effective design scale and cost | 15 |
| (iii) Leveraging | 10 |
| Total points | 100 |

Economic Development

| | |
|-------------------------------------|-----|
| Sec. III.(B)(5) | |
| (b) Economic Development | |
| (i) Organization | 8 |
| (ii) Project Success | |
| (1) Market analysis | 15 |
| (2) Management capacity | 15 |
| (3) Financial analysis | 15 |
| (iii) Leveraging | 12 |
| (iv) Jobs | |
| (2) ICDBG cost/job | 15 |
| (3) Quality of jobs/training | 5 |
| (v) Additional considerations | 15 |
| Total points | 100 |

(2) Definitions.

Adopt means to approve by formal tribal resolution.

Assure means to comply with a specific NOFA requirement. The applicant should state its compliance or its intent to comply in its application.

Document means to supply supporting written information and/or data in the application which satisfies the NOFA requirement.

Leverage means resources the grantee will use in conjunction with ICDBG funds to achieve the objectives of the project. Resources include, but are not limited to:

- (1) Tribal trust funds;
- (2) Loans from individuals or organizations;
- (3) State or Federal loans or guarantees;
- (4) Other grants; and
- (5) Noncash contributions and donated services.

(See section IV.(E) of this NOFA for documentation requirements for point award for leveraged resources.)

Project Cost means the total cost to implement the project. Project cost includes both ICDBG and non ICDBG funds and resources.

Section 8 standards means housing quality standards contained in 24 CFR 982.401 (Section 8 Tenant-Based Assistance: Unified Rule for Tenant-Based Assistance Under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program).

Standard Housing/Standard Condition means housing which meets the housing quality standards (HQS) adopted by the applicant.

(1) The HQS adopted by the applicant must be at least as stringent as the Section 8 standards unless the Area ONAP approves less stringent standards based on a determination that local conditions make the use of Section 8 standards infeasible.

(2) Applicants may submit their request for the approval of standards less stringent than Section 8 standards prior to the application due date. If the request is submitted with the application, applicants should not assume automatic approval by the Area ONAP.

(3) The adopted standards must provide for the following:

- (i) That the house is safe, in a physically sound condition with all systems performing their intended design functions;
- (ii) A livable home environment;
- (iii) An energy efficient building and systems which incorporate energy conservation measures; and
- (iv) Adequate space and privacy for all intended household members.

Housing

(3) Project Specific Thresholds and Rating Factors for Housing.

(a) *Specific thresholds for housing category projects.* (i) The applicant shall provide an assurance that households that have been evicted from HUD assisted housing within the past five years will not be assisted by the proposed project except in emergency situations. The Area ONAP Administrator will review each emergency situation proposed by an applicant on a case-by-case basis to determine whether an exception is warranted.

(ii) *Consistency with Indian Housing Plan (IHP).* The applicant shall provide an assurance that the housing category project proposed is consistent with, and to the extent possible, identified in, the Indian Housing Plan (IHP) submitted by or on behalf of the applicant under the provisions of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*). (If the IHP has not been submitted, the applicant shall provide an assurance that if submitted, the IHP will specifically

reference the proposed housing category project.)

(b) *Rehabilitation Thresholds and Grant Limits.—(i) Thresholds.* All applicants for housing rehabilitation grants shall adopt rehabilitation standards and rehabilitation policies prior to submitting an application. *These standards and policies must be submitted with the application.* The applicant shall provide an assurance that:

(1) Any house to be rehabilitated will be the permanent non-seasonal residence of the occupants; the residents will live in the unit at least nine months per year.

(2) Houses designated for eventual replacement will only receive repairs essential for the health and safety of the occupants.

(3) Project funds will be used to rehabilitate HUD assisted houses only when the tenant/homeowner's payments are current or the tenant/homeowner is current in a repayment agreement that is subject to approval by the Area ONAP. In emergency situations the Area ONAP administrator may grant exceptions to this requirement on a case-by-case basis.

(4) Houses that have received comprehensive rehabilitation assistance from any ICDBG or other Federal grant program within the past 8 years will not be assisted with ICDBG funds to make the same repairs if the repairs are needed as a result of abuse or neglect.

(ii) *Grant limits.* Rehabilitation grant limits for each Area ONAP jurisdiction are as follows:

| | |
|-----------------------------|----------|
| (1) Eastern/Woodlands | \$20,000 |
| (2) Southern Plains | 15,000 |
| (3) Northern Plains | 33,500 |
| (4) Southwest | 40,000 |
| (5) Northwest | 25,000 |
| (6) Alaska | 50,000 |

(c) *Rating Factors for Rehabilitation Projects.*

(i) *Rating Factor 1: Project Need and Design.* (40 points)

(1) The percentage of ICDBG funds committed to bring the houses to be assisted up to a standard condition as defined by the applicant. Administrative, planning, and technical assistance expenditures are excluded in computing the percentage of ICDBG funds committed to bring the houses up to a standard condition. The percentage of ICDBG funds not used to bring the houses up to a standard condition must be used for emergency repairs, demolition of substandard units or another purpose closely related to the housing rehabilitation project.

Percentage of ICDBG funds committed to bring houses to be assisted up to a standard condition:

91-100%—20 points

81-90.9%—15 points

80.9 and less—0 points

(2) The applicant's selection criteria which are included in the application give first priority to the neediest households. *Neediest* is defined as households whose houses are in the greatest disrepair (but still suitable for rehabilitation treatment) in the project area, or very low-income households.

YES—5 points

NO—0 points

(3)(a) Documentation of project need with a housing survey of all of the houses to be rehabilitated with ICDBG funds. This survey should include standard housing data on each house surveyed (e.g., age, size, type, number of rooms, number of habitable rooms, number of bedrooms/sleeping rooms, type of heating). The survey should indicate the deficiencies for each house. *A definition of "suitable for rehabilitation" must be included.* At a minimum, this definition must not include houses that need only minor repairs, or houses that need such major repairs that rehabilitation is structurally or financially infeasible.

(b) The application contains all the required survey data and the required definition of "suitable for rehabilitation." (15 points)

(c) The application does not contain the required definition of "suitable for rehabilitation" and/or all the survey data, but does contain sufficient data to enable the project to proceed effectively. (10 points)

(d) The application does not contain survey data or the survey data it does contain is not sufficient to enable the project to proceed effectively. (0 points)

(ii) *Rating Factor 2: Planning and Implementation.* (55 points)

(1) *Rehabilitation Policies and Procedures including:*

(a) *Adopted rehabilitation standards.* The rehabilitation standards adopted by the applicant will ensure that after rehabilitation the houses assisted will be in a standard condition as defined in this NOFA. In addition, these standards include specific requirements which address child safety measures to be incorporated in all appropriate rehabilitation work. Such measures may include, but are not limited to, child safety latches on cabinets, hot water protection devices, and window guards to prevent children from falling.

The standards adopted by the applicant will ensure that after rehabilitation the houses assisted will

be in a standard condition as defined in this NOFA and that, where applicable, a safer living environment for children has been created. (10 points)

The standards adopted by the applicant will ensure that after rehabilitation the houses assisted will be in a standard condition as defined in this NOFA but they do not address applicable specific child safety measures. (5 points)

The standards do not meet requirements for point award. (0 points)

(b) *Rehabilitation selection policies and procedures.* (i) The rehabilitation selection policies and procedures contained in the application include:

(A) Property selection standards;

(B) Cost limits;

(C) Type of financing (e.g., loan or grant);

(D) Homeowner costs and responsibilities;

(E) Procedures for selecting households to be assisted; and,

(F) Income verification procedures.

(ii) The application contains all the rehabilitation selection policies and procedures listed above. (10 points)

(iii) The application does not contain all the rehabilitation selection policies and procedures listed above, but contains sufficient data to enable the project to proceed effectively or the application contains all the rehabilitation selection policies and procedures listed above, but in insufficient detail. (5 points)

(iv) The application does not contain the rehabilitation selection policies and procedures listed above or if it does contain policies and procedures, they are not sufficient to enable the project to proceed effectively. (0 points)

(c) *Project implementation policies and procedures.* (i) These policies and procedures must include a description of the following items:

(A) The qualifications which will be required of the inspector;

(B) The inspection procedures to be used;

(C) The procedures to be used to select the contractor or contractors;

(D) The manner in which the households to be assisted will be involved in the rehabilitation process;

(E) How disputes between the households to be assisted, the contractors and the applicant will be resolved; and, if applicable;

(i) The repayment provisions which will be required if sale of the assisted house occurs prior to 5 years after the rehabilitation work has been completed.

(ii) The application contains all the policies and procedures listed above, and they will enable the project to be effectively implemented. (10 points)

(iii) The application contains some but not all of the policies and procedures listed above and these policies and procedures are sufficient for the project to proceed effectively. (5 points)

(iv) The application does not contain the policies and procedures listed above. (0 points)

(2) *Post rehabilitation maintenance policies that address counseling and training assisted households on maintenance.* (a) The policies included in the application contain a well-planned counseling and training program. Training will be provided for assisted households, and provision is made for households unable to do their own maintenance (e.g., elderly and persons with disabilities).

(b) The policies include follow-up inspections after rehabilitation is completed to ensure the house is being maintained. (5 points)

(c) The policies contain a well-planned home maintenance training and counseling program but fail to adequately address all of the items listed above. (3 points)

(d) The application does not contain a well-planned home maintenance training and counseling program. (0 points)

(3) *Quality of cost estimates.* (a) Cost estimates have been prepared by a qualified individual. (Qualifications of the estimator must be included in the application). Costs of rehabilitation are documented on a per house basis and are supported by a work write-up for each house to be assisted. The work write-ups are based upon making those repairs necessary to bring the houses to a standard condition in a manner consistent with adopted construction codes and requirements. The write-ups must be submitted with the application. If national standards (e.g., the Uniform Building Code) have been locally adopted as the construction codes and requirements, they must be referenced. If locally developed and adopted codes and requirements are used, they must be submitted. (15 points)

(b) Cost estimates have been prepared for each house to be rehabilitated to determine the total rehabilitation cost. The cost estimates are included in the application. Costs to rehabilitate each house are documented by a deficiency list. (12 points)

(c) Cost estimates have been prepared and are included in the application but the estimates are based on surveys and not on individual house deficiency lists. (5 points)

(d) Cost estimates are not included in the application or the basis for the cost

estimates included is inappropriate or not provided. (0 points)

(4) *Cost effectiveness of the rehabilitation program.* (a) This is a measure of how efficiently and effectively funds will be used under the proposed program. Applicants must demonstrate how the proposed rehabilitation will bring the houses to be assisted to a standard condition in an efficient and cost effective manner.

(b) Rehabilitation project is cost effective. (5 points)

(c) Rehabilitation project is not cost effective. (0 points)

(iii) *Rating Factor 3: Leveraging.* (5 points)

Points under this component will be awarded in a manner consistent with the definition of "Leverage" included in this NOFA and the following breakdown:

| Non-ICDBG percent of project cost | Points |
|-----------------------------------|--------|
| 25 and over | 5 |
| 20-24.9 | 4 |
| 15-19.9 | 3 |
| 10-14.9 | 2 |
| 5-9.9 | 1 |
| 0-4.9 | 0 |

(d) *Thresholds for Land to Support New Housing.* (i) The application contains information and documentation which establishes that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low and moderate income households with documented housing needs.

(ii) Housing assistance needs must be clearly demonstrated and documented with either a survey that identifies the households to be served, their size, income levels and the condition of current housing or an IHA, or if applicable, TDHE approved waiting list. *The survey or waiting list must be submitted with the application.*

(e) *Rating Factors for Land to Support New Housing.*

(i) *Rating Factor 1: Project Need and Design.* (40 Points)

Information included in the application establishes that:

(1) The applicant has no suitable land for the construction of new housing and the necessary infrastructure and amenities for this housing. (40 points); or

(2) The applicant has land suitable for housing construction and needed infrastructure and amenities, but the land is officially dedicated to another purpose. (30 points); or

(3) The applicant will be acquiring land for housing construction and the construction of needed infrastructure

and amenities for both new and existing housing. (25 points); or

(4) The applicant will be acquiring land for the construction of amenities for existing housing. (15 points); or

(5) The reason for the land acquisition does not meet any of the criteria listed above. (0 points)

(ii) *Planning and Implementation.* (60 points)

(1) *Suitability of land to be acquired.*

A preliminary investigation has been conducted by a qualified entity independent of the applicant. Based on this investigation (*which must be submitted with the application*), the land appears to meet all applicable requirements:

(a) Soil conditions appear to be suitable for individual and/or community septic systems or other acceptable methods for waste water collection and treatment have been identified.

(b) The land has adequate:

(i) Availability of drinking water;

(ii) Access to utilities;

(iii) Vehicular access;

(iv) Drainage.

(e) The land appears to comply with environmental requirements. Future development costs are expected to be consistent with other subdivision development costs in the area (subdivision development costs include the costs of the land, housing construction, water and sewer, electrical service, roads, and drainage facilities if required).

YES—20 points

NO—0 points

(2) Commitment and availability of housing resources.

(a) The application includes evidence of a commitment and an ability to construct at least 25 percent of the housing units to be built on the land proposed for acquisition. This evidence consists of one (or more) of the following:

(i) a firm or conditional commitment to construct (or to finance the construction of) the units; or

(ii) documentation that an approvable application for the construction of these units has been submitted to a funding source or entity; or

(iii) documentation that these units are specifically identified in the Indian Housing Plan submitted on or on behalf of the applicant as an affordable housing resource with a commensurate commitment of Indian Housing Block Grant (IHBG) resources. (10 points)

(b) The evidence required for the award of 10 points has not been included in the application. (0 points)

(3) *Availability/accessibility of supportive services and employment*

opportunities. Documentation is provided in the application to indicate that upon completion of construction of the housing to be built on the land to be acquired, fire and police protection will be available to the site and medical and social services, schools, shopping, and employment opportunities will be accessible from the site according to the community's established norms.

YES—5 points

NO—0 points

(4) *Commitment that households will move into the new housing.*

Documented commitment from households that they will move into the new housing to be built on the land to be acquired is included in the application.

YES—5 points

NO—0 points

(5) *Land to trust status.* (a) Land can be taken into trust or provisions have been made for taxes and fees. There must be a written assurance from the BIA that the land will be taken into trust or the applicant must demonstrate the financial capability and commitment to pay the property taxes and fees on the land for any period of time during which it anticipates it will own the property in fee. This commitment must be in the form of a resolution by the governing body of the applicant which indicates that the applicant will pay or guarantee that all taxes and fees on the land will be paid.

(b) Documentation from the BIA that land can be taken into trust or the required governing body resolution is included in the application. (5 points)

(c) Either the assurance or the resolution are missing from the application or they are inadequate. (0 points)

(6) *Infrastructure commitment.* (a) A plan or commitment for any infrastructure needed to support the housing to be built on the land to be acquired has been included in the application. The plan or commitment must address water, waste water collection and treatment, electricity, roads, and drainage facilities necessary to support the housing to be developed.

(b) Financial commitments for all necessary infrastructure have been included in the application or documentation is included which demonstrates that all necessary infrastructure is in place. (10 points)

(c) A plan for the provision of all necessary infrastructure is included in the application but all financial commitments required to implement the plan have not been submitted. (5 points)

(d) Neither a financial commitment or plan are included in the application. (0 points)

(7) *The extent to which the site proposed for acquisition meets the housing needs of the applicant and is reasonably priced.* The application includes documentation which indicates that the applicant has examined and assessed the appropriateness of alternative sites and which demonstrates that the site proposed for acquisition best meets the documented housing needs of tribal households. The application must include comparable sales data which shows that the cost of the land proposed for acquisition is reasonable.

Yes—5 points

No—0 points

(f) *Thresholds for New Housing Construction.* The following thresholds and the rating factors set forth in paragraph (g) of this section apply to new housing construction to be implemented through a Community-Based Development Organization (CBDO) as provided for under 24 CFR 1003.204. *Please note that all households to be assisted under a new housing construction project must be of low or moderate income status.*

(i) New housing construction can only be implemented through a Community-Based Development Organization (CBDO). Eligible CBDOs are described in 24 CFR 1003.204(c). The applicant must provide an assurance that it understands this requirement.

(ii) *Documentation which supports the following determinations must be included in the application:*

(1) No other housing is available in the immediate reservation area that is suitable for the households to be assisted;

(2) No other funding sources including an Indian Housing Block Grant can meet the needs of the household(s) to be served.

(3) The house occupied by the household to be assisted is not in standard condition and rehabilitation is not economically feasible, or the household is currently in an overcrowded house (sharing house with another household(s)), or the household to be assisted has no current residence.

(iii) All applicants for new housing construction projects shall adopt construction standards and construction policies prior to submitting an application. Applicants must identify the building code to be used when constructing the houses and must document that this code has been adopted. The building code may be a tribal building code or a nationally recognized model code. If it is a tribal code it must regulate all of the areas and sub-areas identified in 24 CFR 200.925b,

and it must be reviewed and approved by the Area ONAP. If the code is recognized nationally, it must be the latest edition of one of the codes incorporated by reference in 24 CFR 200.925c.

(iv) The applicant must provide an assurance that any house to be constructed will be the permanent non-seasonal residence of the household to be assisted; this household must live in the house at least nine months per year.

(g) *Rating Factors for New Housing Construction.*

(i) *Rating Factor 1: Project Need and Design.* (45 points)

(1) *IHA member/assistance.* (a) The application includes documentation which establishes that the applicant was not served by an Indian Housing Authority (IHA), or if it was a member of an umbrella IHA, this IHA had not provided assistance to the applicant in a substantial period of time, or the IHA which served the applicant had not received HUD Public and Indian Housing new construction assistance in a substantial period of time due to limited HUD appropriations. The period of time during which the IHA serving the applicant had not received funding for inadequate or poor performance by the applicant does not count towards the period of time that no assistance has been provided by HUD.

(b) No assistance from IHA for 10 years or longer. (15 points)

(c) No assistance from IHA for 6–9 years, 11 months. (10 points)

(d) No assistance from IHA for 0–5 years, 11 months. (0 points)

(2) *Adopted housing construction policies and plan.* (a) The plan must include a description of the proposed CBDO and its relationship (or proposed relationship) to the applicant. In addition, the policies and plan must include:

(i) A selection system that gives priority to the neediest households. Neediest shall be defined as households whose current residences are in the greatest disrepair, or very low-income households, or households without permanent housing.

(ii) A system effectively addressing long-term maintenance of the constructed houses.

(iii) Estimated costs and identification of the entity responsible for paying utilities, fire hazard insurance and other normal maintenance costs.

(iv) Policies governing ownership of the houses, including the status of the land.

(v) Description of a comprehensive plan or approach being implemented by the tribe to meet the housing needs of its members.

(vi) Policies governing disposition or conversion to non-dwelling uses of standard houses that will be vacated when a replacement house is provided.

(b) The policies and plan include all of the information listed above and, in addition, they specifically address the incorporation of child safety measures in the housing to be constructed. Such measures may include, but are not limited to, child safety latches on cabinets, hot water protection devices, and window guards to prevent children from falling. (25 points)

(c) The policies and plan include all of the information listed above but do not specifically address the incorporation of child safety measures. (20 points)

(d) The policies and plan do not include all of the information listed above, but do include sufficient information to allow the project to proceed effectively or, all of the information is included, but in insufficient detail. (10 points)

(e) The information included in the application is not sufficient to meet the requirements for the award of 10 points. (0 points)

(3) *Beneficiary identification.* (a) Households to be assisted are identified in the application and their income eligibility and household size are documented. (5 points)

(b) Households to be assisted are not identified or, if identified, their income eligibility and household size are not documented. (0 points)

(ii) *Rating Factor 2: Planning and Implementation.* (45 points)

(1) *Occupancy Standards.* (a) The proposed housing will be designed and built according to adopted reasonable standards that govern the size of the housing in relation to the size of the occupying household (minimum and maximum number of persons allowed for the number of sleeping rooms); the minimum and maximum square footage allowed for major living spaces (bedrooms, living room, kitchen and dining room). *The standards must be submitted with the application.*

(b) Applicant has adopted reasonable occupancy standards which are included in the application. (10 points)

(c) Applicant has not adopted reasonable occupancy standards or the standards were not included in the application. (0 points)

(2) *Site Acceptability.* (a) The applicant (or the proposed beneficiary household) has control of the land upon which the houses will be built. The application includes documentation that all housing sites are in trust or documentation from the BIA that the sites will be taken into trust within one

year of the date of the ICDBG approval notification. If the sites are not in trust by the date of ICDBG approval notification, documentation that they are in trust must be provided to the Area ONAP before ICDBG funds may be obligated for construction.

(b) A preliminary investigation of the site(s) has been conducted by a qualified entity independent of the applicant. Based on this investigation (*which must be included in the application*) the site(s) appear to meet all applicable requirements:

Soil conditions appear to be suitable for individual or community septic systems or other acceptable methods for waste water collection and treatment have been identified.

- (i) Each site has adequate;
- (ii) Availability of drinking water;
- (iii) Access to utilities;
- (iv) Vehicular access;
- (v) Drainage;
- (vi) Each site appears to comply with environmental requirements.

YES—15 points
NO—0 points

(3) *Energy Conservation Design.* The application includes documentation which demonstrates that the proposed houses have been designed in a manner which will ensure that energy use will be no greater than that for comparable houses in the same general geographic area that have been constructed in accordance with applicable state energy conservation standards for residential construction. Any special design features, materials, or construction techniques which enhance energy conservation must be described.

YES—5 points
NO—0 points

(4) *Housing Survey.* (a) The applicant has completed a survey of housing conditions and housing needs of its tribal members. This survey was completed within the twelve month period prior to the application submission deadline (or if an earlier survey, it was updated during this time period).

The survey must be submitted with the application. The following descriptive data is included for each household surveyed:

- (i) Size of the household, including age and gender of any children.
- (ii) Is the household occupying permanent housing or is it homeless?
- (iii) Annual household income.
- (iv) Owner or renter.
- (v) Number of habitable rooms and number of sleeping rooms.
- (vi) Physical condition of the house—standard/substandard. If substandard, is it suitable for rehabilitation? A

definition of "suitable for rehabilitation" must be included.

(vii) Number of distinct households occupying the house/degree of overcrowding.

(viii) If there is a need for a replacement house, what are the housing preferences of the household, e.g. ownership or rental; location; manufactured or stick-built.

(b) An acceptable survey was submitted. (10 points)

(c) The survey submitted was not acceptable or no survey was submitted. (0 points)

(5) *Cost effectiveness of new housing construction.* (a) This is a measure of how efficiently and effectively funds will be used under the proposed program. Applicants must demonstrate how the proposed housing activities will be accomplished in an efficient and cost effective manner.

(b) The applicant has demonstrated that the proposed activities are cost effective. (5 points)

(c) The applicant has not demonstrated that the proposed activities are cost effective. (0 points)

(iii) *Rating Factor 3: Leveraging.* (10 points)

Points under this component will be awarded in a manner consistent with the definition of "Leverage" included in this NOFA and the following breakdown:

| Non-ICDBG percent of project cost | Points |
|-----------------------------------|--------|
| 25 and over | 10 |
| 20–24.9 | 8 |
| 15–19.9 | 16 |
| 10–14.9 | 4 |
| 5–9.9 | 2 |
| 0–4.9 | 0 |

Community Facilities

(4) *Project Specific Thresholds and Rating Factors for Community Facilities.*

(a) *Rating Factors for Infrastructure.*

(i) *Rating Factor 1: Project Need and Design.* (60 points)

(1) *Meets an essential need.* (a) The application includes documentation which demonstrates that the proposed project meets an essential community development need by fulfilling a function that is critical to the continued existence or orderly development of the community.

(b) The proposed project will fulfill a function which is critical to the continued existence or orderly development of the community. (20 points)

(c) The proposed project will fulfill a function which is not critical to the continued existence or orderly

development of the community. (0 points)

(2) *Benefits the neediest.* (a) The proposed project benefits the neediest segment of the population, as identified below. Applications must include information which demonstrates that income data was collected in a statistically reliable and independently verifiable manner and that:

(b) 85 percent or more of the beneficiaries are low and moderate income. (15 points)

(c) Between 75–84.9 percent of the beneficiaries are low and moderate income. (10 points)

(d) Between 55–74.9 percent of the beneficiaries are low and moderate income. (5 points)

(e) Less than 55 percent of the beneficiaries are low and moderate income. (0 points)

(3) *Provides infrastructure/health and safety.*

(a) The application includes documentation which demonstrates that the proposed project will provide infrastructure that does not currently exist for the area to be served or it will eliminate or substantially reduce a health or safety threat or problem or it will replace existing infrastructure that no longer functions adequately to meet current needs.

(b) The infrastructure does not exist or the existing infrastructure no longer functions or the existing infrastructure does not contribute to the elimination of, or causes, a verified health or safety threat or problem. (25 points)

(c) The existing infrastructure no longer functions adequately to meet current needs or is unreliable. (20 points)

(d) The proposed project will replace or supplement existing infrastructure which is adequate for current needs but which will not meet acknowledged future needs. (12 points)

(e) The proposed project will replace or supplement existing infrastructure which is adequate to meet current needs and future needs have not been acknowledged or documented. (0 points)

(f) If the project is intended to address a health or safety threat or problem, the applicant must provide documentation consisting of a signed study or letter from a qualified independent authority which verifies that:

(i) A threat to health or safety (or a health or safety problem) exists which has caused or has the potential to cause serious illness, injury, disease, or death; and

(ii) The threat or problem can be completely or substantially eliminated if the proposed project is undertaken.

(ii) *Rating Factor 2: Planning and Implementation.* (30 points)

(1) *A viable plan for maintenance and operation.* (a) If the applicant is to assume responsibility for maintenance and operation of the proposed facility, the applicant must adopt a maintenance and operation plan which addresses maintenance, repair and replacement of items not covered by insurance, and which clearly identifies operating responsibilities and resources. *This plan and the adopting resolution must be included in the application.* The plan must identify a funding source to ensure that the facility will be properly maintained and operated. The resolution adopting the plan must identify the total annual dollar amount the applicant will commit.

(b) If an entity other than the applicant commits to pay for maintenance and operation, a letter of commitment which identifies the responsibilities the entity will assume and which documents its financial ability to assume these responsibilities must be included in the application; submission of a maintenance and operation plan is not required. Points will only be awarded if the Area ONAP is able to determine that the entity is financially able to assume the costs of maintenance and operation.

(c) An acceptable maintenance and operation plan and adopting resolution (or letter of commitment) are included in the application. (15 points)

(d) The plan, resolution or the commitment letter have not been included in the application or if included they are not acceptable. (0 points)

(2) *An appropriate and effective design, scale and cost.* (a) The application includes information which demonstrates that the proposed project is the most appropriate and cost effective approach to address the identified need. This information demonstrates that the use of existing facilities and resources, and alternatives, including method of implementation and cost, have been considered. If only one approach is feasible (there are no alternatives to the proposed project), the application must include an explanation.

(b) The required information is included in the application. (15 points)

(c) The required information is not included in the application or, if included, it is unacceptable. (0 points)

(iii) *Rating Factor 3: Leveraging.* (10 points)

Points under this component will be awarded in a manner consistent with the definition of "Leverage" included in

this NOFA and the following breakdown:

| Non-ICDBG percent of project cost | Points |
|-----------------------------------|--------|
| 25 and over | 10 |
| 20-24.9 | 8 |
| 15-19.9 | 6 |
| 10-14.9 | 4 |
| 5-9.9 | 2 |
| 0-4.9 | 0 |

(b) *Threshold for Buildings.* An applicant proposing a facility which would provide health care services funded by the Indian Health Service (IHS) must assure that the facility meets all applicable IHS facility requirements. It is recognized that tribes that are contracting services from the IHS may establish other facility standards. These tribes must assure that these standards at least compare to nationally accepted minimum standards.

(c) *Rating Factors for Buildings.*

(i) *Rating Factor 1: Project Need and Design.* (60 points)

(1) *Meets an essential need.* (a) The application includes documentation that the proposed building meets an essential community development need by providing space so that a service or function which is critical to the continued existence or orderly development of the community can be provided.

(b) The proposed building will provide space for a service or function which is essential to the continued existence or orderly development of the community. (20 points)

(c) The proposed building will provide space for a service or function which is not critical to the continued existence or orderly development of the community. (0 points)

(2) *Benefits the neediest.* The proposed project benefits the neediest segment of the population, as identified below. Applications must include information which demonstrates that income data was collected in a statistically reliable and independently verifiable manner and that:

(a) 85 percent or more of the beneficiaries are low and moderate income. (15 points)

(b) Between 75-84.9 percent of the beneficiaries are low and moderate income. (10 points)

(c) Between 55-74.9 percent of the beneficiaries are low and moderate income. (5 points)

(d) Less than 55 percent of the beneficiaries are low and moderate income. (0 points)

(3) *Provides building/health and safety.* (a) The application includes documentation which demonstrates that

the proposed building will be used to provide services or functions which are not currently being provided to service area beneficiaries or it will replace a building which does not meet health or safety standards which is currently being used to provide the service or function or it will replace a building which is no longer able to provide the space or amenities to meet the current need for the services or functions.

(b) The services or functions to be provided in the proposed building do not exist for the service area population or the building currently being used does not meet health or safety standards. (25 points)

(c) The building to be replaced by the proposed building is not able to provide the space or amenities for the services or functions so that current needs cannot be entirely met. (20 points)

(d) The building to be replaced is able to provide adequate space and current needs are being met but it cannot provide space for acknowledged future needs. (10 points)

(e) The proposed building is not necessary since current needs and acknowledged future needs can be met through the use of existing facilities. (0 points)

(f) If the proposed building is intended to replace an existing building which does not meet health or safety standards, the application must include documentation consisting of a signed letter from a qualified independent authority which specifically identifies the standard or standards which are not being met by the existing building.

(ii) *Rating Factor 2: Planning and Implementation.* (30 points)

(1) *A viable plan for maintenance and operation.* (a) If the applicant is to assume responsibility for the maintenance and operation of the proposed building, the applicant must adopt a maintenance and operation plan which addresses maintenance, repair and replacement of items not covered by insurance, and which clearly identifies operating responsibilities and resources. *This plan and the adopting resolution must be included in the application.* The plan must identify a funding source to ensure that the building will be properly maintained and operated. The resolution adopting the plan must identify the total annual dollar amount the applicant will commit.

(b) If an entity other than the applicant commits to pay for maintenance and operation, a letter of commitment which identifies the responsibilities the entity will assume and which documents its financial ability to meet these responsibilities must be included in the application;

submission of a maintenance and operation plan is not required. Points will only be awarded if the Area ONAP is able to determine that the entity is financially able to assume the costs of maintenance and operation.

(c) An acceptable maintenance and operation plan and adopting resolution (or letter of commitment) are included in the application. (15 points)

(d) The plan, resolution or the commitment letter have not been included in the application, or if included, they are not acceptable. (0 points)

(2) *An appropriate and effective design, scale and cost.* (a) The application includes information which demonstrates that the proposed building is the most appropriate and cost effective approach to address the identified need(s). This information demonstrates that the use of existing facilities and resources and alternatives, including method of implementation and cost, have been considered. If only one approach is feasible (there are no alternatives to the proposed building), the application must include an explanation.

(b) The required information is included in the application. (15 points)

(c) The required information is not included in the application or, if included, it is unacceptable. (0 points)

(iii) *Rating Factor 3: Leveraging.* (10 points)

Points under this component will be awarded based on the definition of "Leverage" included in this NOFA and the following breakdown:

| Non-ICDBG percent of project cost | Points |
|-----------------------------------|--------|
| 25 or more | 10 |
| 20-24.9 | 8 |
| 15-19.9 | 6 |
| 10-14.9 | 4 |
| 5-9.9 | 2 |
| 0-4.9 | 0 |

Economic Development

(5) *Project Specific Thresholds and Rating Factors for Economic Development.*

(a) *Thresholds for Economic Development.* (i) Economic development assistance may be provided only when a financial analysis is provided which shows public benefit commensurate with the assistance to the business can reasonably be expected to result from the assisted project.

(ii) The analysis should also establish that to the extent practicable: Reasonable financial support will be committed from non-Federal sources prior to disbursement of Federal funds;

any grant amount provided will not substantially reduce the amount of non-Federal financial support for the activity; not more than a reasonable rate of return on investment is provided to the owner; and, that grant funds used for the project will be disbursed on a pro-rata basis with amounts from other sources. In addition, it must be established that the project is financially feasible and has a reasonable chance of success.

(b) *Rating Factors for Economic Development.*

(i) *Rating Factor 1: Organization.* (8 points)

(1) The application contains information and documentation which addresses all of the following three elements (Maximum: 8 points):

(a) The applicant (or entity to be assisted) has an established organization system for operation of a business, (e.g., adopted tribal ordinances, articles of incorporation, Board of Directors in place, tribal department).

(b) Formal provisions exist for separation of government functions from business operating decisions. An operating plan has been established and is submitted.

(c) The Board of Directors consists of persons who have prior business experience. A staffing plan has been developed and is submitted.

(2) The application contains all of the first element listed above, and some of the items in the second and third elements *OR*, the application contains all of the elements listed above, but in insufficient detail. The business should be able to operate effectively. (Moderate: 5 Points)

(3) The application does not meet the criteria for the award of moderate points. (Unsatisfactory: 0 Points)

(ii) *Rating Factor 2: Project Success.* (45 points)

The project will be rated on the adequacy and quality of the information included in the application which addresses the following criteria: **ANY PROJECT NOT RECEIVING AT LEAST MODERATE POINTS IN EACH OF THE FOLLOWING THREE RATING FACTORS WILL NOT BE CONSIDERED FOR FUNDING.**

(1) *Market analysis.* (a) A feasibility/market analysis, generally not older than two years, which identifies the market and demonstrates that the proposed activities are highly likely to capture a fair share of the market. *The analysis must be submitted with the application.* (Maximum: 15 points)

(b) A feasibility/market analysis which identifies the market and demonstrates that the proposed activities are reasonably likely to

capture a fair share of the market. *The analysis must be submitted with the application.* (Moderate: 10 points)

(c) The submission does not meet the criteria for the award of moderate points. (Unsatisfactory: 0 points)

(2) *Management capacity.* (a) A management team with qualifying specialized training or technical/managerial experience in the operation of a similar business has been identified. *Job descriptions of key management positions as well as résumés showing qualifying specialized technical/managerial training or experience of the identified management team must be submitted with the application.* (Maximum: 15 points)

(b) A management team with qualifying general business training or experience will be hired if the grant is approved. *Job descriptions of key management positions must be submitted with the application.* (Moderate: 12 points)

(c) The submission does not meet the criteria for the award of 12 points. (Unsatisfactory: 0 points)

(3) *Financial Analysis of the Business.*

(a) The financial viability of a project will be determined by an analysis of financial and other project related information. *For all proposed projects, the following must be submitted:*

(i) A detailed cost summary for the project;

(ii) Evidence of funding sources;

(iii) Five year operating or cash flow financial projections. If the project involves the expansion of an existing business, financial statements for the most recent three year period for the business must also be submitted with the application (financial statements include the balance sheet, income statement and statement of retained earnings). For start-up businesses that will not be owned by the grantee, current financial or net worth statements of principal business owners or officers must also be submitted with the application.

(b) The information derived from the analysis will be reviewed and compared to local or national industry standards to assess reasonableness of development costs, financial need, profitability, and risk as factors in determining overall financial viability. In determining whether a project is financially viable, the Area ONAP will also consider current and projected market conditions and profitability measures such as cash flow return on equity, cash flow return on total assets and the ratio of net profit before taxes to total assets. Sources of industry standards include Marshall and Swift Publication Company, Robert

Morris Associates, Dun and Bradstreet, the Chamber of Commerce, etc. Local standards may also be used. *If one of these standards is cited by the applicant, the appropriate data must be submitted with the application.*

(c) Based on the analysis:
 (i) The project has an excellent chance of achieving financial success. (Maximum: 15 points)

(ii) The project has an average chance of achieving financial success. (Moderate: 8 points)

(iii) The project has a minimal prospect of achieving financial success. (Unsatisfactory: 0 points)

(iii) *Rating Factor 3: Leveraging.* Points under this component will be awarded in a manner consistent with the definition of "Leverage" included in this NOFA and the following breakdown:

| Non-ICDBG percent of project cost | Points |
|-----------------------------------|--------|
| 30% or more | 12 |
| 20-29.9% | 8 |
| 10-19.9% | 4 |
| Less than 10% | 0 |

(iv) *Rating Factor 4: Permanent Full-Time Equivalent Job Creation and Training.* (20 points). (1) The total number of permanent full-time equivalent jobs expected to be created and/or retained as a result of the project as well as a summary of job descriptions must be identified or included in the application. Retained jobs will not be counted unless clear evidence is provided that these jobs would be lost without the project. The number and kind(s) of jobs expected to be available to low and moderate income persons must be identified.

(2) *ICDBG cost per job:*
 \$30,000 or less 15 points.
 \$30,001-40,000 12 points.
 \$40,001-45,000 8 points.
 \$45,001+ 0 points.

(3) *Quality of jobs and/or training targeted to low and moderate income persons:*

(a) The jobs offer wages and benefits comparable to area wages and benefits for similar jobs, provide opportunity for advancement, and teach a transferable skill; *OR*

(b) The employer commits to provide training opportunities. *A description of the planned training program must be submitted with the application.*
 YES—5 points
 NO—0 points

(v) *Rating Factor 5: Additional Considerations.* (15 points)

A project must meet three of the following factors to receive 15 points. (Maximum: 15 points)

(1) Use, improve or expand members' special skills. Special skills are those that members have developed through education, training or traditional cultural experiences.
 YES—5 points
 NO—0 points

(2) Provide spin-off benefits beyond the initial economic development benefits to employees or to the community.
 YES—5 points
 NO—0 points

(3) Provide special opportunities for residents of federally-assisted housing.
 YES—5 points
 NO—0 points

(4) Provide benefits to other businesses owned by Indians or Alaska natives.
 YES—5 points
 NO—0 points

(5) Loan Repayment/Reuse of ICDBG funds. If the business is not tribally owned, at least 50% of the ICDBG assistance to the business will be repaid to the grantee within a 10 year period. If the business is tribally owned, the tribe agrees (by submission of a tribal resolution) within a 10 year period to use funds equal to 50% of the ICDBG assistance for eligible activities that meet a national objective. These funds should come from the profits of the tribally owned business.
 YES—5 points
 NO—0 points

IV. Application Submission Requirements and Checklist

(A) *General.* Completed applications (one originally signed and two copies) must be submitted to the appropriate Area ONAP listed above. All telephone numbers listed may be accessed via TTY by calling the Federal Information Relay Service at 1-800-877-8339. To be eligible for consideration, applications must be received by or be submitted to the appropriate Area ONAP in accordance with the requirements set forth under APPLICATION DUE DATE above. An applicant shall submit only one application. The ICDBG grant amount requested shall not total more than the grant ceiling. An application may include an unlimited number of eligible projects (e.g., housing or public facilities). Each project within an application will be rated separately.

(B) *Demographic data.* Applicants may submit data that are unpublished and not generally available in order to meet the requirements of this section. The applicant must certify that:

(1) Generally available, published data are substantially inaccurate or incomplete;

(2) Data provided have been collected systematically and are statistically reliable;

(3) Data are, to the greatest extent feasible, independently verifiable; and

(4) Data differentiate between reservation and BIA service area populations, when applicable.

(C) *Publication of Community Development Statement.* Applicants shall prepare and publish or post the community development statement portion of their application according to the citizen participation requirements of § 1003.604.

(D) *Application Submission.* The application shall include:

(1) Standard Form 424—Application for Federal Assistance;

(2) Community Development Statement which includes:

(a) Components that address the relevant selection criteria;

(b) A brief description or an updated description of community development needs;

(c) A brief description of projects proposed to address needs, including scope, magnitude, and method of implementing the project;

(d) A schedule for implementing the project (form HUD-4125, Implementation Schedule); and

(e) Cost information for each separate project, including specific activity costs, administration, planning, and technical assistance, total HUD share (form HUD-4123, Cost Summary);

(3) Certifications—form HUD 4126;

(4) Drug-free Workplace Certification (24 CFR part 24, subpart F);

(5) Certification regarding lobbying (24 CFR part 87) and SF-LLL (if applicable);

(6) Applicant/Recipient Disclosure/Update Report—form HUD 2880, as required under subpart A of 24 CFR part 4, Accountability in the Provision of HUD Assistance;

(7) A map showing project location, if appropriate;

(8) If the proposed project will result in displacement or temporary relocation, a statement that identifies:

(a) The number of persons (families, individuals, businesses and nonprofit organizations) occupying the property on the date of the submission of the application (or date of initial site control, if later);

(b) The number to be displaced or temporarily relocated;

(c) The estimated cost of relocation payments and other services;

(d) The source of funds for relocation; and

(e) The organization that will carry out the relocation activities;

(9) If applicable, evidence of the disclosure required by 24 CFR 1003.606(e) regarding conflict of interest.

(E) Documentation requirements for point award for leveraged resources.

(1) *General.* For the applicant's own resources, a council resolution (or legal equivalent) which identifies and commits the resources must be included in the application. For resources to be provided by another entity, written verification of an application or request for the leveraged resources must be included in the application.

(2) *Resources contributed by a public agency, foundation, or other private party.* (a) In addition to the requirement described in above in this section, for grants or other contributed resources from a public agency, foundation, or other private party, a *written commitment* which may be contingent on approval of the ICDBG award must be *received* by the Area ONAP no later than 30 days after the application deadline. This commitment must specifically identify or indicate:

(i) The dollar amount committed (or dollar value of the noncash resource and the basis for the valuation);

(ii) That the resources are currently available or will be available when necessary for successful project implementation; and

(iii) The project.

(b) If the nature of the funding cycle of the contributing entity precludes the entity from making a firm funding commitment in the 30 days, such resources will be considered in the award of points if the entity provides a written statement indicating that the application or request for assistance has been received from the ICDBG applicant and stating the date by which its funding determination will be made. This date cannot be more than six months from the anticipated date of grant approval notification by HUD.

(c) If the proposed project rates high enough for funding consideration, a special condition will be established in the grant agreement for the project. This condition will indicate that if a firm funding commitment for the leveraged resources is not provided within six months of the date of grant approval, the grant funds approved will be recaptured by HUD and will be used in accordance with the requirements of § 1003.102.

(d) The statement described in paragraph (c)(2)(ii) of this section must be received by the Area ONAP no later than 30 days after the application deadline. If the commitment or

statement is not received in the required timeframe or if the required information is not included, points will not be awarded for the proposed contribution.

(e) If the proposed project still rates high enough to be approved, a pre-award condition will be established which will require the applicant to provide evidence of firmly committed resources to cover the entire non-ICDBG project cost. If this condition is not met, the grant will not be awarded.

(3) *Contributions of goods and services.* In addition to the above requirements for point award, special documentation must be included in the application for certain contributions. The contribution of goods and services will be considered for point award if the applicable requirements listed above are met; if the items or services are demonstrated and determined necessary to the actual development of the project; and comparable cost and/or time estimates are submitted which support the donation.

(4) *Contributions of land.* Land to be contributed will only be considered for point award when its use and area are integral to the development of the project. In addition, the value of the land must be verified by any of the following means or methods and this documentation must be included in the application:

(a) A site specific appraisal no more than two years old;

(b) An appraisal of a nearby comparable site also no more than two years old; and

(c) A reasonable extrapolation of land value based on current area realtors value guides.

(5) *Indirect costs.* The contribution of indirect administrative costs as identified in OMB Circular A-87, attachment A, section F, will not be considered as a leveraged resource for purposes of point award.

(6) *Operations and maintenance expenditures.* The contribution of resources to pay for the anticipated operations and maintenance costs of any proposed project will not be considered leveraged resources for purposes of point award.

V. Corrections to Deficient Applications and Supplemental Information

After the application due date, Area ONAP may not, consistent with 24 CFR part 4, subpart B, consider unsolicited information from an applicant. The Area ONAP may contact an applicant, however, to clarify an item in the application or to correct technical deficiencies. Applicants should note, however, that the Area ONAP may not seek clarification of items or responses

that improve the substantive quality of the applicant's response to any eligibility or selection criterion.

Examples of curable technical deficiencies include failure to submit the proper certifications or failure to submit an application containing an original signature by an authorized official. In each case, the Area ONAP will notify the applicant in writing by describing the clarification or technical deficiency. The Area ONAP will notify applicants by facsimile or by return receipt requested. Applicants must submit clarifications or corrections of technical deficiencies in accordance with the information provided by the Area ONAP within 14 calendar days of the date of receipt of the Area ONAP notification. If the deficiency is not corrected within this time period, the Area ONAP will reject the application as incomplete.

VI. Error and Appeals

Rating panel judgments made within the provisions of this NOFA and the program regulations (24 CFR part 1003) are not subject to claims of error. Applicants may bring arithmetic errors in the rating and ranking of applications to the attention of an Area ONAP within 30 days of being informed of their score. If an Area ONAP makes an arithmetic error in the application review and rating process which, when corrected, would result in the award of sufficient points to warrant the funding of an otherwise approvable project, the Area ONAP may fund that project in the next funding round without further competition.

VII. Findings and Certifications

(A) *Paperwork Reduction Act Statement.* The information collection requirements contained in this Notice have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), and assigned OMB control number 2577-0191. *An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.*

(B) *Environmental Impact.* This NOFA provides funding under, and does not alter environmental requirements of regulations in 24 CFR part 1003. Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

(C) *Recipient Compliance with Environmental Requirements.* In accordance with 24 CFR 1003.605, a

recipient must comply with the environmental review requirements of 24 CFR part 58, including limitations on the commitment of project funds before submission of a request for release of funds.

(D) *Federalism, Executive Order 12612*. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this NOFA will not have substantial, direct effects on states, on their political subdivisions, or on their relationship with the Federal Government, or on the distribution of power and responsibilities between them and other levels of government. While the NOFA will provide financial assistance to Indian tribes and Alaska native villages, none of its provisions will have an effect on the relationship between the Federal Government and the states or their political subdivisions.

(E) *Prohibition Against Lobbying Activities*. Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), which prohibits recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Applicants are required to certify, using the certification found at Appendix A to 24 CFR part 87, that they will not, and have not, used appropriated funds for any prohibited lobbying activities. In addition, applicants must disclose, using Standard Form LLL, "Disclosure of Lobbying Activities," any funds, other than Federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, and congressional staff regarding specific grants or contracts.

IHAs established by an Indian tribe as a result of the exercise of the tribe's

sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

(F) *Section 102 of the HUD Reform Act; Documentation and Public Access Requirements*. Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 apply to assistance awarded under this NOFA as follows:

(1) *Documentation and public access requirements*. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations in 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) *Disclosures*. HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the

applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(G) *Section 103—HUD Reform Act*. HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a), codified in 24 CFR part 4, apply to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by the regulations from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact HUD's Ethics Law Division (202) 708-3815. (This is not a toll-free number.) For HUD employees who have specific program questions, the employee should contact the appropriate Area ONAP or Headquarters counsel.

(H) *Catalog of Federal Domestic Assistance Number*. The Catalog of Federal Domestic Assistance Number for the ICDBG Program is 14.862.

Dated: May 20, 1998.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

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