

**DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT**

**BROWNFIELDS ECONOMIC
DEVELOPMENT INITIATIVE (BEDI)**

Billing Code 4210-32-C

Funding Availability for the Brownfields Economic Development Initiative (BEDI)

Program Overview

Purpose of the Program. BEDI funds are used to enhance the security of a loan guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974, as amended, for the same brownfields economic development project, or to improve the viability of a brownfields economic development project financed with the Section 108-guaranteed loan, in order to stimulate economic development by local governments and private sector parties at brownfields sites.

HUD provides BEDI funds (as defined in Section III (A)(1) below) to be used in conjunction with Section 108 loan guarantee funds, to finance projects and activities at brownfields sites that will provide near-term and measurable economic benefits, such as job creation and increases in the local tax base, through the return of brownfields sites to productive economic uses. HUD encourages brownfields economic development projects that propose the redevelopment of a brownfields site through new investments by identified private sector parties and that will result in new business or job creation, increases in the local tax base or other near-term, measurable economic benefits. In FY 2003, HUD seeks to increase economic development opportunity throughout the nation and promote the creation and retention of jobs. All BEDI grants must be used in conjunction with a new Section 108 guaranteed loan commitment.

Available Funds. Approximately \$29.5 million, including \$24.8 million in appropriations from the Consolidated Appropriations Resolution, 2003, Public Law 108-7, approved February 20, 2003 (FY 2003 Consolidated Appropriations) under the "Brownfields Redevelopment" heading; approximately \$2,629,155 of unobligated funds from the Fiscal Year 2002 HUD Appropriations Act under the "Brownfields Redevelopment" heading; and \$2,065,000 of unobligated funds from the Fiscal Year 2001 HUD Appropriations Act under the "Brownfields Redevelopment" heading. The amount of total available funds is further described in Section II below. The maximum amount of any BEDI grant award this year will be \$2 million per project.

Eligible Applicants. Only units of general local government eligible for assistance under the Entitlement, States' Program, or the Small Cities segments of the Community Development Block

Grant (CDBG) program may apply for a BEDI grant and a Section 108 Guaranteed Loan. CDBG-eligible urban counties may also apply for funding, but units of general local government that participate in the Urban County Program may not submit an application independent of the Urban County. (See Section III (B) below for additional information regarding eligible applicants.)

Application Deadline. July 16, 2003.

Additional Information

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

I. Application Due Date and Submission, Further Information, and Technical Assistance

Application Due Date. Please submit your completed applications (one original and three copies) on or before July 16, 2003, to the addresses shown below.

Application Submission Procedures. See the General Section of the SuperNOFA for specific procedures governing the submission and receipt of applications.

Addresses for Submitting Applications to HUD Headquarters. Submit your completed application (an original and two copies) by mail or permitted delivery service to: Processing and Control Unit, Room 7251, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Attention: BEDI.

When submitting the application, please specify BEDI on any label or mailing container, and include the applicant's name, mailing address (including zip code), street address (if different from mailing address) and zip code, and voice and facsimile telephone numbers (including area code), along with the contact person's name and voice and facsimile telephone numbers (including area code).

Applications to HUD Field Offices. At the same time the application and copies are submitted to HUD Headquarters, an additional copy should be submitted to the Community Planning and Development Division of the appropriate HUD Field Office for the applicant's jurisdiction. HUD strongly suggests that applications submitted to HUD Field Offices be mailed via the United States Postal Service, as access by other delivery services cannot be guaranteed.

For Applications. There is no application kit this year. All information

and forms necessary to complete and submit a valid application are contained in the General Section and this program section of the SuperNOFA, and the appendices to the General Section and this program section. Copies of the NOFA and forms are also available on the Internet through the HUD Web site at <http://www.hud.gov>.

For Further Information and Technical Assistance. Contact Lisa Peoples, Economic Development Specialist, Office of Economic Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7140, Washington, DC 20410, telephone (202) 708-0614 ext. 4456 (this is not a toll-free number). Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339. Before the application due date, HUD staff will be available to provide general guidance and technical assistance about this BEDI NOFA. However, HUD staff is not permitted to assist in preparing a BEDI application. Following selection of applicants, but before awards are made, HUD staff are available to assist in clarifying or confirming information that is a prerequisite to the offer of an award by HUD. In addition, the Section 108 Loan Guarantee program is not a competitive program and therefore is not subject to those provisions of the HUD Reform Act pertaining to competitions that do not permit HUD staff to assist in the preparation of applications. HUD staff is available to provide advice and assistance to develop your Section 108 loan application.

Applicant Debriefing. Section XI (A)(4) of the General Section of the SuperNOFA provides information on applicant requests for a debriefing. Applicants requesting to be debriefed must send a written request to the contact person for the BEDI program, Ms. Lisa Peoples, at the address listed in the preceding paragraph.

Satellite Broadcast. HUD will hold an information broadcast via satellite for potential applicants to learn more about the program and preparation of BEDI application(s). For more information about the date and time of the broadcast, you should consult the HUD Web site at <http://www.hud.gov>.

II. Amount Allocated

HUD has available a maximum of \$29,531,655 for grant awards under this program section as of its publication date. This amount consists of \$24,837,500 in appropriations under the "Brownfields Redevelopment" heading in the FY 2003 Consolidated

Appropriations. Funds also include \$2,629,155 of unobligated appropriated funds from the Fiscal Year 2002 HUD Appropriations Act under the "Brownfields Redevelopment" heading, as well as \$2,065,000 of unobligated appropriated funds from the Fiscal Year 2001 HUD Appropriations Act under the "Brownfields Redevelopment" heading. All such funds are authorized by Section 108(q) of the Act (as defined below). The maximum amount of a BEDI award under this competition is \$2 million per project. If any additional funds become available for the BEDI program during Fiscal Year 2003, including through the deobligation and recapture of previous BEDI awards, HUD may either fund additional applicants in accordance with this program section of the SuperNOFA, or may add these funds to funds available for future competitions pursuant to Section 108(q) of the Act.

III. Program Description; Eligible Applicants; Eligible Activities

(A) *Program Description.* BEDI is designed to help local governments redevelop brownfields, defined in this program section as abandoned, idled, or underutilized real property, including industrial and commercial facilities, where expansion or redevelopment is complicated by the presence or potential presence of environmental contamination. BEDI provides funding to local governments to be used in conjunction with Section 108 loan guarantees, to finance redevelopment of brownfields sites. A BEDI grant award will be conditioned upon, and must be used in conjunction with, a new (*i.e.*, not previously approved) Section 108-guaranteed loan commitment. Both Section 108 loan guarantee proceeds and BEDI grant funds are initially made available by HUD to units of general local government eligible for assistance under HUD's Entitlement, States' Program or Small Cities segments of the Community Development Block Grant program. Such public entities may re-loan the Section 108 loan proceeds and provide BEDI funds to a business or other entity eligible to carry out a specific approved brownfields economic development project, or the public entity may carry out the eligible project itself, as provided in the approved application. In either case, BEDI grant funds and the 108 proceeds must be used to support the same eligible BEDI project.

(1) *Definitions.* Unless otherwise defined herein, terms defined in 24 CFR part 570 and used in this program section of this SuperNOFA shall have

the respective meanings given thereto in that part.

Act means Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*).

Application means a single set of documents submitted by an eligible applicant for BEDI grant funds, in accordance with the provisions of this program section of the SuperNOFA to finance a brownfields economic development project. A BEDI application must be accompanied by a Section 108 loan guarantee request, which may consist of either a brief summary of the proposed use of 108 funds, or a full application, which may either be submitted at the same time as the BEDI application or be provided within 60 days of BEDI grant award, as more fully explained in Section IV(D) of this program section. Note that the Section 108 application must be submitted to the appropriate HUD field office concurrently with its submission to Headquarters.

Brownfields means abandoned, idled, or under-used real property (including industrial and commercial facilities) where expansion or redevelopment is complicated by the presence or potential presence of contamination.

Brownfields Economic Development Initiative (BEDI) funds means the appropriated funds made available for the competition under this program section from any available appropriation.

Brownfields Economic Development Initiative (BEDI) project or brownfields economic development project means an activity or activities (including mixed use projects with housing components) that are eligible under Section 108(q) of the Act and under 24 CFR 570.703, and that will increase economic opportunity for persons of low- and moderate-income, stimulate or retain businesses or jobs, or otherwise lead to near-term, measurable economic benefits in connection with brownfields.

CDBG funds means those funds collectively so defined at 24 CFR 570.3, including grant funds received pursuant to Section 108(q) and this program section of this SuperNOFA.

Economic Development Initiative (EDI) grant means the provision of economic development grant assistance under Section 108(q) of the Act, as authorized by Section 232 of the Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103-233, approved April 11, 1994).

EPA means the U.S. Environmental Protection Agency.

Firm Commitment means either a written agreement or letter of

understanding by which an applicant and/or a third party:

(1) Agrees to perform an activity or provide resources as specified in the application, and demonstrates their relationship to the proposed BEDI/Section 108 project;

(2) Specifies the dollar value of the commitment, and demonstrates that it has the financial and organizational capacity to deliver the resources necessary to successfully complete the activity; if the activity is to be self-financed, the third party must evidence its financial capacity through a corporate or personal financial statement or other appropriate means; and

(3) Irrevocably commits the resources to the activity either through cash or in-kind services or contributions; if any portion is to be financed through a grant or loan from another public or private organization, that institution's grant or loan commitment must be firmly committed as well.

Any such agreement or letter of understanding shall be understood as being contingent upon receipt of the BEDI grant. In order for a commitment to be included in the applicant's score under Rating Factor 4 (Leveraging Resources), each commitment—including the donation or purchase of real property or the provision of in-kind services—must be assigned a monetary value by the party making the commitment, accompanied by an indication of the basis for that assigned value.

Each agreement or letter of commitment must include the name of the organization making the commitment, the proposed total level of commitment (including how the value was determined) and the responsibilities of the organization as they relate to the proposed BEDI project. The commitment must be signed by an official of the organization legally authorized to make commitments on behalf of the organization, with a statement confirming that authority, and remain in effect for a period stated in the commitment.

Applicants Committing CDBG Funds: In order for an applicant's commitment of CDBG funds to be accepted by HUD as additional financing for a BEDI project, a resolution from the local governing body (*e.g.*, city/borough council) authorizing the amount and permitted uses of the funds must be provided.

Showcase Community means an applicant chosen by the federal government's Brownfields National Partnership for inclusion in the federal government's Brownfields Showcase

Communities program. A list of the federally designated Brownfield Showcase Communities is provided in Appendix B of this program section of the SuperNOFA and is also available from the SuperNOFA Information Center or through the HUD web site, <http://www.hud.gov>.

Strategic Plan means a strategy or course of action developed and agreed to by the nominating local government(s) and state(s) and submitted in partial fulfillment of the application requirements for an Empowerment Zone, Enterprise Community, or a Renewal Community, designated pursuant to 24 CFR part 597, part 598, or part 599.

(2) *Background*. HUD has multiple programs that are intended to stimulate economic and community development and promote economic revitalization of distressed areas, and which can be effectively employed to address and remedy brownfields conditions. Primary among HUD's resources are the Community Development Block Grant (CDBG) program and the Section 108 loan guarantee program.

(a) The CDBG program provides grant funds by formula to local governments (either directly or through states) to carry out community and economic development activities (\$4.340 billion appropriated in FY 2003). The Section 108 loan guarantee program provides CDBG-recipient communities with a source of financing for economic development, public facilities, and other eligible large-scale physical development projects. HUD is authorized pursuant to Section 108 to guarantee notes issued by CDBG entitlement communities and non-entitlement units of general local government eligible to receive funds under the CDBG States' program, as well as non-entitlement units of general local government in the State of Hawaii. The Section 108 program is subject to the regulations applicable to the CDBG program at 24 CFR part 570 as described in 24 CFR part 570, subpart M. BEDI grants must support Section 108 loan guarantees as generally described in this program section of this SuperNOFA.

(b) For FY 2003, the loan guarantee authority for the Section 108 program is estimated at \$573,000,000 including \$298,000,000 in loan guarantee authority that will continue to be available under the Fiscal Year 2002 appropriation and \$275,000,000 in loan guarantee authority for Fiscal Year 2003. The full faith and credit of the United States is pledged to the payment of all guarantees made under Section 108. Under this program, communities (and states, as applicable) pledge their

continuing CDBG allocations as security for loans guaranteed by HUD. The Section 108 program, however, does *not* require CDBG funds to be escrowed for loan repayment (unless such an arrangement is specifically negotiated as loan security and included in the applicable "Contract for Loan Guarantee Assistance.") This means that a community can ordinarily continue to spend its existing allocation for other CDBG purposes, unless needed for loan repayment.

(3) *EDI Program*. The EDI authorization, Section 108(q) of the Act, was enacted in 1994 and is intended to complement and enhance the Section 108 Loan Guarantee program.

(4) *BEDI Program*. A purpose of BEDI (and EDI) grant funds is to reduce grantees' potential loss of future CDBG allocations:

(a) By strengthening the economic feasibility of a project financed with Section 108 funds (and thereby increasing the probability that the project will generate enough cash to repay the guaranteed loan);

(b) By directly enhancing the security of the Section 108-guaranteed loan; or

(c) Through a combination of these or other risk mitigation techniques.

HUD intends all the funds available pursuant to this program section of the SuperNOFA to be used for purposes of the redevelopment of brownfields sites. Accordingly, BEDI funds shall be used as the stimulus for local governments and private sector parties to commence redevelopment or continue phased redevelopment efforts on brownfields sites where contamination is present or potentially present and a redevelopment plan exists. HUD desires to see BEDI and Section 108 funds used to finance projects and activities that involve investment in the brownfields site by an identified private sector party and that will provide near-term results and measurable economic benefits, such as job creation and increases in the local tax base, through the return of brownfields sites to productive economic use.

(5) *Integration of Other Government Brownfields Programs*. HUD expects and encourages local governments which are designated through (a) the federal government's Brownfields Showcase Community program, (b) other federal brownfields programs (e.g., EPA's Assessment, Tax Incentive, Revolving Loan Fund or Cleanup Grant programs), (c) a state-supported brownfields program, or (d) a state or local related economic development program, to integrate efforts arising from those programs in developing projects for assistance under HUD's BEDI and

Section 108 programs. Applicants should elaborate upon these ties in their response to the rating factors, where appropriate (e.g., "Capacity of the Applicant," "Soundness of Approach," or "Leveraging Resources"—Rating Factors 1, 3, and 4 respectively.)

(6) *Additional Security for Section 108 Loan Guarantee*. Public entities should consider the need to provide additional security for the Section 108 loan guarantee pursuant to 24 CFR 570.705(b)(3). Although a public entity is required by the Act to pledge its current and future CDBG allocations as security for the Section 108 loan guarantee, the public entity will usually be required to furnish additional collateral. In most cases, the additional collateral consists (in whole or in part) of the asset financed with the Section 108 loan funds (e.g., a loan made to a business as part of an economic development project and the related mortgage from the business). Applications proposing uses for BEDI funding that directly enhance the value of the assets securing the Section 108 loan will help ensure that the project-based asset(s) will satisfy the additional collateral requirements.

(7) *Uses of BEDI Funds*. Generally, proposals must be consistent with other CDBG requirements, including meeting National Objectives and activity eligibility requirements under § 570.703 of the Section 108 Loan Guarantee regulations, as described in Section III (C) of this program section. The following examples are offered only to illustrate some of the ways in which BEDI funds may be used to support 108-guaranteed loans:

(a) *Land Writedowns*. Local governments may use a combination of Section 108 and BEDI funds to acquire a brownfields site for purposes of reconveying the site to a private developer at a discount from its purchase price. This approach would provide the developer with an asset of enhanced value that could be used as collateral for other sources of funding and those other sources of financing could then be used to finance environmental remediation or other development costs. In such a circumstance, the level of BEDI assistance could approximate the difference between the original cost of the site and its remediation in comparison to the market value of the remediated property.

(b) *Site Remediation Costs*. Local governments may use BEDI funds in any of several ways to address site remediation costs. If the local government proposes to use Section 108 funds to acquire real property, BEDI

funds could be used to address assessment and site remediation costs as part of eligible demolition, clearance, or site preparation activities. If the local government uses Section 108 funds to make a loan to a developer, BEDI funds could be granted or loaned to the developer for the purpose of addressing remediation costs as part of an economic development activity.

(c) *Funding Reserves.* The cash flow generated by an economic development project may be expected to be relatively "thin" in the early stages of the project, *i.e.*, potentially insufficient to meet operating expenses and debt service obligations. The BEDI grant could be used by the grantee to either establish a debt service reserve to cover interest on the Section 108 loan, or as a grant to a business for working capital. In either case, the BEDI funds enhance the economic feasibility of the project.

(d) *Direct Enhancement of the Security of the Section 108 Loan.* The BEDI grant can be used to pay for the cost of providing credit enhancements for the Section 108 loan. For example, if eligible as part of the cost of an appropriate eligible activity, the BEDI grant can be used to pay for the cost of a standby letter of credit, issued in favor of HUD. This letter of credit will be available to fund amounts due on the Section 108 loan if other sources fail to materialize, and thus will serve to protect the public entity's future CDBG funds.

(e) *Provision of Financing to For-Profit Businesses at a Below Market Interest Rate.*

While the rates on loans guaranteed under Section 108 are only slightly above the rates on comparable U.S. Treasury obligations, they may nonetheless be higher than can be afforded by businesses, non-profit groups or public entities in severely economically distressed neighborhoods. The BEDI grant can be used to make Section 108 financing affordable by serving to "buy down" the interest rate up front, or make full or partial interest payments on the Section 108 loan. This might increase the financial viability of the businesses or other entities in the early start-up period, which might not otherwise be possible with Section 108 alone. This strategy would be particularly useful where a community was undertaking a large commercial or retail project in a brownfields area in order to act as a catalyst for other development in the area.

(f) *Combination of Techniques.* A combination of the above could be employed to implement a BEDI project successfully.

(B) *Eligible Applicants.* Any public entity eligible to apply for Section 108 loan guarantee assistance in accordance with 24 CFR 570.702 may apply for BEDI grant assistance under Section 108(q). Eligible applicants are CDBG entitlement units of general local government and non-entitlement units of general local government eligible to receive loan guarantees under 24 CFR part 570, subpart M. Urban Counties, as defined at 24 CFR 570.3 and 570.307, are eligible applicants for BEDI funds; units of general local government that participate in an Urban County program are not independently eligible applicants. For non-entitlement applicants other than those subject to 24 CFR 570, subpart F (which applies only to the State of Hawaii), applicants will be required to provide evidence in the application from an authorized official of the state agency responsible for administering the State CDBG program stating that it will support the related Section 108 loan with a pledge of its CDBG allocations pursuant to the requirements of 24 CFR 570.705(b)(2). Such evidence shall take the form of the HUD Certification titled "SECTION 108 LOAN GUARANTEES: State Certifications Related to Nonentitlement Public Entities" included in this program section to the SuperNOFA, or which may be obtained by downloading from the Internet at <http://www.hud.gov>. Note that effective January 25, 1995, non-entitlement public entities in the State of Hawaii are authorized to apply to HUD for Section 108 loans (*see* 59 FR 47510, December 27, 1994). Thus non-entitlement public entities in all 50 states and Puerto Rico are eligible to participate in the Section 108 and BEDI programs, with assistance of the state's or commonwealth's pledge of CDBG allocations.

(C) *Eligible Activities and National Objectives.* (1) BEDI grant funds and Section 108 loan guarantee funds may be used for activities listed at 24 CFR 570.703, provided such activities are carried out as part of a BEDI project as described in this program section of the SuperNOFA and meet the CDBG requirements at 24 CFR 570.200. Applicants are required to submit applications that seek funding for BEDI projects that will contribute to the redevelopment and revitalization of brownfields. Applications that fail to meet the threshold requirements found in Section V (B) of the General Section of the SuperNOFA and the program requirements of this section will not be rated, ranked, or otherwise considered by HUD.

(2) Each activity assisted with Section 108 loan guarantee or BEDI funds must

meet a national objective of the CDBG program as described in 24 CFR 570.208. Applicants must clearly identify in their narrative statement (as described in Section V (B) of this program section below) the CDBG national objective to be achieved by the proposed project and provide the appropriate CDBG national objective regulatory citation found at 24 CFR 570.208. Applicants must also address, when applicable, how the proposed activities will comply with the public benefit standards of the CDBG program as reflected in the regulation at 24 CFR 570.209.

(3) A grantee's aggregate use of its CDBG funds, including any Section 108 loan guarantee proceeds and Section 108(q) (BEDI) funds provided pursuant to this program section of the SuperNOFA, must comply with the CDBG primary objective requirements as described in Section 101(c) of the Act and 24 CFR 570.200(a) (3) for entitlement grantees, or 570.484 in the case of a recipient under a state's program.

(4) Applicants are reminded of the Department's Policy Priorities for FY 2003 found in Section II of the General Section of the SuperNOFA, several of which apply to this program section, as described below, under Rating Factor 3 in Section V of this program section.

IV. Program Requirements

(A) *General Requirements.* Applicants for BEDI grant funds must comply with the statutory, regulatory, threshold and public policy requirements listed in Section V of the General Section of the SuperNOFA.

(B) *CDBG Program Regulations.* In addition to 24 CFR 570.701 (Definitions), § 570.702 (Eligible applicants), and § 570.703 (Eligible activities), as explained in Section III (C) of this program section of the SuperNOFA, the CDBG regulatory requirements cited in 24 CFR 570.707, including subparts J (Grant Administration), K (Other Program Requirements), and O (Performance Reviews) govern the use of BEDI funds, as applicable.

(C) *Compliance with Applicable Environmental and Other Laws.* Applicants are advised that an award of BEDI funding does not in any way relieve the applicant or third party users of BEDI funds from compliance with all applicable federal, state and local laws, particularly those addressing the environment. Applicants are further advised that HUD may require evidence that any project involving remediation has been or will be carried out in

accordance with applicable law, including voluntary clean up programs.

(D) *Related Section 108 Loan Guarantee Request.* (1) Each BEDI application must be accompanied by a request for new Section 108 loan guarantee assistance. The request may take any of the four forms defined in paragraphs (a), (b), (c), or (d) below in this Section IV (D). Notwithstanding the form of your request for new Section 108 loan guarantee assistance, the applicant must include citations to the specific regulatory subsection supporting activity eligibility and National Objectives compliance for the Section 108 funds described in the application. (See Section III (C) of this program section of the SuperNOFA.) Both the BEDI and Section 108 funds must be used in conjunction with the same BEDI project. The request for new Section 108 guarantee assistance may be presented through:

(a) A full application for new Section 108 loan guarantee(s), including the documents listed at 24 CFR 570.704(b).

(b) A brief description (not to exceed three pages) of the project to be applied for in a subsequent new Section 108 loan guarantee application(s). Such a 108 application(s) shall be submitted within 60 days of written notice of BEDI selection, with HUD reserving the right to extend such period on a case-by-case basis where HUD determines there is evidence of good cause. BEDI awards will be conditioned on approval of actual Section 108 loan commitments and loan guarantee proceeds in a specific ratio of BEDI funds to Section 108 funds as approved by HUD in the BEDI award. The application description must be sufficient to support the basic eligibility of the proposed project and activities for Section 108 assistance. (See Section III (C) of this program section of the SuperNOFA.)

(c) A copy of a pending, unapproved Section 108 loan guarantee application, and any proposed amendments to the Section 108 application which are related to the BEDI application. The applicant's submission of such a BEDI/Section 108 application shall be deemed by HUD to constitute a request to suspend separate processing of the Section 108 application. The Section 108 application will not be approved until on or after the date of the related BEDI award.

(d) A request for Section 108 loan guarantee assistance (analogous to Section IV (D)(1)(a) or (b) of this BEDI section of the SuperNOFA) that proposes to increase the amount of a previously approved application. However, any amount of Section 108

loan guarantee authority approved before HUD's announcement of a BEDI grant for the same project is not eligible to be used in conjunction with a BEDI grant under this program section.

(2) Further, a Section 108 loan guarantee amount that is required to be used in conjunction with a previously approved BEDI or EDI grant award, whether or not the Section 108 loan guarantee has been approved as of the date of this SuperNOFA, is not eligible for a BEDI award under this SuperNOFA. For example, if a public entity has a previously approved Section 108 loan guarantee commitment of \$12 million, even if none of the funds have been utilized, or if the public entity had previously been awarded a BEDI grant of \$1 million and had agreed to submit a Section 108 loan application for \$10 million in support of that BEDI grant, the public entity's application under this program section of this SuperNOFA must propose to increase the amount of its total Section 108 loan guarantee commitments beyond those amounts to which it has previously agreed. (i.e., the \$12 million or \$10 million Section 108 loan guarantee commitments in this example).

(E) *Prohibitions on Use of BEDI and Section 108 Funds.* Certain restrictions shall apply to the use of BEDI and Section 108 funds:

(1) BEDI grant funds must not be used as a resource to immediately repay the principal of a loan guaranteed under Section 108. Repayment of principal is only permissible with BEDI grant funds as a matter of security if other sources projected for repayment of principal prove to be unavailable.

(2) Section 108 loan obligations may not be subordinated, directly or indirectly, to federally tax exempt obligations. Pursuant to Office of Management and Budget (OMB) Circular A-129 (Rev.) Appendix A, Sections II.2.c. and d., (Policies for Federal Credit Programs and Non-Tax Receivables), Section 108 guaranteed loan funds may not directly or indirectly support federally tax-exempt obligations.

(3) BEDI grant funds shall not be used in any manner by grantees to provide public or private sector entities with funding to remediate conditions caused by their own actions, where the public entity (or other known prospective beneficiary of the proposed BEDI grant) has been determined responsible for causation and remediation by order of a court or a federal, state, or local regulatory agency, or is responsible for the remediation as part of a settlement approved by such a court or agency. Applicants will be required in the BEDI

Narrative Statement described in Section (V)(B) of this program section of the SuperNOFA to indicate that the proposed BEDI project will not be used to provide assistance as prohibited herein.

(4) Applicants may not propose projects on sites which are: (i) Listed or proposed to be listed on EPA's National Priority List (NPL); (ii) subject to unilateral administrative orders, court orders, administrative consent orders or judicial consent decrees issued or entered into by parties under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA); or (iii) subject to the jurisdiction, custody or control of the United States government. Applicants will be required in the BEDI Narrative Statement described in Section (V)(B) of this program section of the SuperNOFA to indicate that the proposed BEDI project will not be undertaken at an ineligible site as provided herein.

(5) BEDI grant assistance cannot be used to leverage a Section 108 loan guarantee approved prior to the date of HUD's announcement of a BEDI grant pursuant to this SuperNOFA. However, the BEDI grant may be awarded before HUD approval of the Section 108 commitment if HUD determines that such award will further the purposes of the Act.

(6) A BEDI award will not be made if the Section 108 request contained in the application (See Section IV(D) of this program section) calls for the use of the Section 108-guaranteed obligation solely as security for other financing on the project.

(F) *Time-frames.* As a condition of any award under this program section, if the related Section 108 application has not been submitted and approved within ten (10) months of written HUD notification of selection for potential funding under this NOFA, HUD may deobligate the BEDI funds. BEDI grant awards will contain conditions requiring grantees to adhere to time-frames mutually agreed on by the applicant/grantee and HUD for implementing proposed projects and drawing Section 108 and BEDI funds. If BEDI grant funds and Section 108 loan proceeds are not disbursed to the applicant within the timeframes specified in the BEDI grant agreement, HUD reserves the right to cancel the award and recapture the BEDI funds.

(G) *Limitations on Grant Amounts.* (1) HUD expects to approve BEDI grant amounts for approvable applications with a range of ratios of BEDI grant funds awarded to new Section 108 loan guarantee commitments but the

minimum ratio will be \$1.00 of Section 108 loan guarantee commitments for every \$1.00 of BEDI grant funds. However, if an applicant proposes a leverage ratio of exactly 1:1, that application, while still meeting the threshold requirement, will not receive any points under the Rating Factor 4, paragraph (1): "Leverage of Section 108 Funds."

To receive points under this Factor, applications will have to exceed the 1:1 minimum ratio, and the higher the ratio the more points will be awarded, to the extent consistent with the points available for Rating Factor 4, paragraph (1). Because the proposed ratio of BEDI funds to Section 108 funds represents an applicant's financial commitment, HUD will condition the BEDI grant award on the grantee's achievement of that specific ratio. Its failure to meet that condition by obtaining timely HUD approval of a commitment for, and issuance of, the required Section 108 guaranteed obligations ratio may result in the cancellation and recapture of all or a proportionate share of the BEDI grant award.

(2) HUD will cap BEDI awards at a maximum of \$2 million per project. An application in excess of \$2 million will be reduced to the extent HUD determines that such a reduction is appropriate.

(3) After selection, but prior to grant award, if HUD determines that an application can be funded at a lesser BEDI grant amount than requested and still be feasible and consistent with the proposed plan and the purposes of the Act, it reserves the right to reduce the amount of the BEDI award and/or increase the required Section 108 loan guarantee commitment.

(4) In the event a BEDI grant is awarded and has been reduced below the original request (e.g., the application contained some activities that were ineligible, exceeded the \$2 million cap, or there were insufficient funds to fund the last competitive application at the full amount requested), the applicant will be required to modify the project plans and application to conform to the terms of HUD approval before HUD will execute a grant agreement.

(5) HUD also may proportionately reduce or deobligate the BEDI award if a grantee does not submit an approvable Section 108 loan guarantee application, issue Section 108-guaranteed obligations and receive loan guarantee proceeds on a timely basis (including any extension authorized by HUD) in the amount required by the BEDI/108 leveraging ratio, which will be approved by HUD as a special condition of the BEDI grant award (see Section IV (F)

above of this program section of the SuperNOFA).

(6) Any modifications or amendments to an application approved pursuant to this SuperNOFA, whether requested by the applicant or by HUD, must be within the scope of the approved original BEDI application in all respects material to rating the application, unless HUD determines that the revised application remains within the competitive range and is otherwise approvable under this SuperNOFA competition.

(7) In the case of a requested increase in guarantee assistance for a project with a previously approved Section 108 loan guarantee commitment (as further discussed in Section IV (D)(1)(d), above), the BEDI assistance approved will be based on the increased amount of Section 108 loan guarantee assistance.

(H) *Timing of Grant Awards and Disbursements.* (1) To the extent a full and complete Section 108 application is submitted with the BEDI grant application, HUD will evaluate the Section 108 application immediately following the competition for BEDI grant funds. Note that the 108 application must be submitted to the appropriate HUD field office concurrently with submission to Headquarters.

(2) Notwithstanding any earlier obligation or award of BEDI funds to a grantee, or execution of a grant agreement, HUD will not permit the grantee to draw down BEDI funds before the issuance of the obligations evidencing the related Section 108 guaranteed loan.

(3) Pursuant to the FY 2003 HUD Appropriations Act (under the "Brownfields Redevelopment" heading) and 31 U.S.C. 1552(a), FY 2003 BEDI funds must be obligated (i.e., awarded) by HUD by September 30, 2004, and must be disbursed by HUD to the grantee by September 30, 2009. FY 2002 BEDI funds must be obligated by September 30, 2003 and must be disbursed by HUD to the grantee by September 30, 2008. FY 2001 BEDI funds are not subject to statutory obligation or disbursement deadlines. In all cases, however, HUD reserves the right to require earlier disbursement under a BEDI grant agreement.

(I) *Obligation to affirmatively further fair housing.* All BEDI grantees are obliged to affirmatively further fair housing, even when the proposed activities do not appear to be directly related to housing. Therefore, applicants that propose to use BEDI funds must include in their applications an explanation of how they propose to

further fair housing opportunities for persons on the basis of race, color, national origin, sex, religion, familial status, or disability. Applicants should respond to this requirement under Rating Factor 2, subfactor (2)(c). Affirmative activities include, but are not limited to: initial and periodic assessments of the extent to which affordable and accessible housing opportunities are provided or denied to persons by race, color, national origin, sex, religion, familial status, or disability; outreach to persons in underserved population groups or advocacy organizations representing such persons; affirmative fair marketing of job or housing opportunities; housing choice; addressing environmental justice concerns; or ensuring that employment, housing and other benefits of the BEDI grant are made available to those individuals and families living at or near the brownfields site prior to its redevelopment.

V. The Application Selection Process

(A) Rating and Ranking

(1) Each rating factor and the maximum number of points are provided below. The maximum number of points to be awarded is 104. To be eligible for funding, a BEDI application must obtain a total score of at least 75 points. All applications meeting BEDI program and threshold requirements will be rated under the selection criteria below. Applications must include citations to the specific regulatory subsections supporting eligibility of activities and compliance with National Objectives. (See Section III (C) of this program section of this SuperNOFA). The applicant must also provide narrative statements in response to each of the rating factors below.

(2) All applications meeting BEDI program and threshold requirements will be rated under the selection criteria below. Applications must include citations to the specific regulatory subsections supporting eligibility of activities and compliance with National Objectives. (See Section III (C) of this program section of the SuperNOFA). The applicant must also provide narrative statements in response to each of the rating factors below.

Applications will be selected for funding as follows:

(3) All BEDI grant applications that meet threshold requirements will be ranked separately in order of points assigned with the applications receiving more points ranked above those receiving fewer points.

(4) In the event two or more applications are given the same score,

but there are insufficient funds to fund all of the tied applications, the application(s) with the highest score(s) on Rating Factor 3 (Soundness of Approach) shall be selected. If there is still a tie, the following Factors will be considered sequentially, with the application having the high score on that Factor taking precedence until the tie is broken: Rating Factor 1 (Capacity and Experience), Rating Factor 2 (Distress/Extent of the Problem), Rating Factor 4 (Leveraging Resources), and Rating Factor 5 (Achieving Results and Program Evaluation).

(5) Fundable BEDI grant applications must meet the threshold requirements stipulated in Section V of the General Section of this SuperNOFA and be complete as required by the submission requirements of this program section of the SuperNOFA or they will not be ranked. Brownfields economic development projects will be funded in rank order until the total aggregate amount of the applications funded is equal to the maximum amount available in the competition (subject to the limitations described in Section IV(G) above).

(B) BEDI Narrative Statement

(1) Applications must contain narrative statements printed in 12 point type, with sequentially numbered pages for the entire application, including forms and exhibits. The BEDI narrative statement must not exceed three (3) 8.5" by 11" pages, doubled-spaced. The BEDI narrative statement should:

(a) Describe the activities that will be carried out with the BEDI grant funds, and explain the nature and extent of the brownfields problem(s) affecting the site and/or structure(s) already on the site;

(b) Describe how the proposed uses of BEDI funds will qualify as eligible activities under 24 CFR 570.703 and meet the National Objectives under 24 CFR 570.208 of the CDBG program. In describing how the proposed uses will meet the National Objectives of the CDBG program and the activity eligibility requirements of the Section 108 program, applications must also include citations to the specific regulatory subsections supporting eligibility of activities and compliance with National Objectives. (See Section III(C) of this program section of this SuperNOFA) and;

(c) Indicate that: (i) the proposed assistance will not be used to provide funding to parties to remediate conditions caused by their own actions for which they have been determined to be legally responsible, as specified in Section IV(E)(3) of this program section; and (ii) that the proposed brownfields

site is not ineligible as provided in Section IV(E)(4) of this program section.

(2) The applicant must also provide in narrative form responses to each of the rating factors below.

(C) *Factors for Award Used to Evaluate and Rate Applications.* HUD will evaluate all applications for funding assistance based on the following factors, the responses to which demonstrate the quality of the proposed project or activities, and the applicant's capacity and commitment to use the BEDI funds in accordance with the purposes of the Act.

(D) *Responses to Rating Factors 1-5.* Responses to Rating Factors 1-5 below shall not exceed fifteen (15) double-spaced pages combined.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 Points Maximum)

This factor addresses the extent to which the applicant has the organizational resources necessary to successfully implement the proposed activities in a timely manner. The rating of the "applicant" or the "applicant's organization and staff" will include any subcontractors, consultants, and sub-recipients that are firmly committed (see definition in Section III(A)(1) above) to participate in the activities described in the application. In responding to subfactors (1) and (2) of this Factor, applications that merely summarize the amount of funds received, spent or managed will receive fewer points than those providing specific measurable information on program activities undertaken, outcomes of these activities and their accomplishments. In rating this factor, HUD will consider the following:

(1) *Applicant Capacity* (Up to 10 points). The applicant should demonstrate that it has the organization, the staff and the financial resources in place to implement the specific steps required to successfully carry out its proposed BEDI/Section 108 project. The applicant should offer evidence of this capacity through a description that includes:

(a) Performance in the administration of its CDBG, HOME or other HUD programs, including a description of successfully completed projects and other outcomes or accomplishments under these programs;

(b) Performance, if any, in carrying out economic development projects similar to that proposed, including brownfields economic development or redevelopment projects, if any, and if applicable, the ability to conduct prudent underwriting;

(c) Ability to carry out projects and programs in a timely manner. An applicant must address its performance in spending previously awarded HUD and other funds, if any, in a timely manner, including, for CDBG entitlement recipients, the extent to which the CDBG entitlement recipient has met the HUD standard that the total amount of its undisbursed, entitlement grant funds may not be more than 1.5 times the entitlement grant amount for the current program year (see 24 CFR 570.902(a)(1)(i));

(d) If applicable because the applicant has such designation, the capacity to achieve state and local commitments, including maximizing the federal tax benefits made available as a result of a federal Renewal Community/ Empowerment Zone/Enterprise Community designation (including Enhanced Enterprise Community (EEC) designation). Applicants that have been designated as a Renewal Community (RC), Empowerment Zone (EZ) or Enterprise Community (EC/EEC) must respond to this subfactor even if the proposed brownfields economic development project is not to be located within the boundaries of the designated RC/EZ/EC; and

(e) An applicant that has previously received a BEDI or an EDI grant award or, within the past five years, a Section 108-guaranteed loan commitment, must describe the status of the implementation of those project(s) assisted with any BEDI or EDI funds or with any Section 108-guaranteed loan funds so approved within the last five years. An applicant must address any delays that have been encountered and the actions it is taking to overcome any such delays in carrying out the project(s) in a timely manner. For any such previously funded BEDI or EDI grant projects, or for those Section 108 guaranteed-loan projects committed within the past five years, HUD will award more rating points for applications providing evidence of achievement of specific measurable outcomes in carrying out approved activities funded with such guaranteed loan and/or grant funds.

If any of the rating criteria listed under (a) through (e) above do not apply to an application, the rating for this subfactor (1) shall be based solely upon the other applicable criteria.

(2) *Partner Capacity* (Up to 10 points). In response to this subfactor (2), the applicant should describe the experience and performance of subrecipients, private developers and other businesses, nonprofit organizations (including grassroots faith-based and other community-based

organizations), and other entities, if any, that have a role in implementing the proposed BEDI/108 program. Applicants are encouraged to identify specific economic development or other projects undertaken by each entity, which reflect the capacity of each entity to fulfill its responsibilities under the proposed brownfields economic development project, including the location, scale, and timeframe for completion of other relevant projects. If there are no third parties participating with the applicant in the proposed project, points under this subfactor (2) will be allocated under subfactor (1) and added to the maximum points possible under subfactor (1).

Experience will be judged in terms of recent (*i.e.*, within the past 5 years) and successful performance of activities relevant to those proposed in the BEDI application. The more recent and extensive the experience is, the greater the number of points that will be awarded for this Factor.

In addition to the application, HUD also may rely on information at hand or available from public sources such as newspapers, from performance and/or monitoring reports, Inspector General or Government Accounting Office reports or findings, hotline complaints that have been proven to have merit, audit reports and other reliable public information in rating this Factor.

Rating Factor 2: Distress/Extent of the Problem (20 Points Maximum)

This Factor addresses the extent to which there is need for funding the proposed activities based on levels of distress in both the jurisdiction of the public entity that is the applicant and the geographic or target area that will benefit from the project. In responding to this Factor, applications will be evaluated on the extent to which the level of distress for the target area is documented and compared with national data and data for the jurisdiction.

(1) In applying this Factor, HUD will consider current levels of distress defined in standard geographic terms in the target area, as defined by the applicant. This may be Census Tract(s) or Block Groups immediately surrounding the project site up to a radius of one-half mile; or it may be the target area proposed to be served by the project. HUD will also consider the current levels of distress in the applicant public entity's jurisdiction. The applicant should describe the nature of the distress that the project is designed to address and the rationale for its definition of the area to be benefited. Examples of project beneficiaries may include: (a) those receiving or using

products or services produced by the project, and (b) those employed by the project.

To the extent that the applicant's Consolidated Plan, its Analysis of Impediments to Fair Housing choice (AI), and/or its Anti-Poverty Strategy found therein identify the level of distress in the jurisdiction and the neighborhood in which the project is to be carried out, references to such documents should be included in preparing the response to this Factor. Applications that fail to reference these sources will receive fewer points under this Factor.

Notwithstanding the above, an applicant proposing a project to be located outside the area for which benefit is claimed could still receive points under this Factor if a clear rationale is provided linking the proposed project location and the benefits to be derived by persons living in the target area.

(2) Applicants should provide data that address the following specific indicators of distress:

(a) Poverty Rate (Up to 5 points). Data should be provided in both absolute and percentage form (*i.e.*, whole numbers and percents) for both the target area and the applicant's jurisdiction as a whole; an application that compares the local poverty rate in the following manner to the national average at the time of submission will receive points under this section as follows:

(i) Less than the national average, but with a poverty rate in the target area that is greater than the applicant's jurisdiction: 2 points;

(ii) Equal to or greater than, but less than twice, the national average: 3 points;

(iii) Equal to or greater than twice the national average: 5 points.

(b) Unemployment Rate (Up to 5 points). An application that compares the local unemployment rate for the applicant's jurisdiction and the target area in the following manner to the national average at the time of submission will receive points under this Section as follows:

(i) Less than the national average, but with an unemployment rate in the target area that is greater than the applicant's jurisdiction: 2 points;

(ii) Equal to or greater than, but less than twice, the national average: 3 points;

(iii) Equal to or greater than twice the national average: 5 points.

(c) Consolidated Plan and Analysis of Impediments to Fair Housing Choice (Up to 5 points). Describe any unmet needs as identified in the jurisdiction's Consolidated Plan and, pursuant to

Section IV(I) of this program section of the SuperNOFA, any impediments to fair housing identified in the jurisdiction's Analysis of Impediments to Fair Housing Choice that will be directly addressed by the proposed project.

(d) Other Indicators of Social and/or Economic Decline (Up to 5 points). Applicants should provide other indicators of social or economic decline that best capture the applicant's local situation. Examples that could be provided under this section include information demonstrating the target area and the jurisdiction's stagnant or falling tax base, including recent (within the last three years) commercial or industrial closings, downturns or layoffs; housing conditions, such as the number and percentage of substandard and/or overcrowded units; rent burden (defined as average housing cost divided by average income) for both the target area and jurisdiction; local crime statistics. The response to this subfactor (d) should paint a portrait of the extent of need and distress in the target area and jurisdiction.

HUD requires use of sound and reliable data (*e.g.*, U.S. Census data, state statistical reports, university studies/reports that are verifiable) to support distress levels cited in each application. A source for all information along with the publication or origination date must also be provided. Updated Census data are available as follows for the listed indicators:

Unemployment rate—estimated monthly for counties, with a two-month lag;

Poverty rate—estimated every two years, with a three-year lag, with 2000 being the most recent available.

In rating applications under this Factor, HUD reserves the right to consider sources of available objective data other than, or in addition to, those provided by applicants, in order to compare such data to those provided by applicants.

Rating Factor 3: Soundness of Approach (35 Points Maximum)

This factor addresses the quality and cost-effectiveness of the proposed plan for the brownfields economic development project. Brownfields economic development projects that do not involve new investments by an identified private sector party and that do not result in near-term, measurable economic benefits, such as projects that involve only the preparation of a site for potential redevelopment by an unidentified party, or the capitalization of a loan pool for loans to unidentified borrowers, will receive fewer points

under this Factor. The relationship between the proposed eligible activities, community needs and purposes of the program funding must be clearly described, as set forth below, in order to receive points for this Factor. In rating this Factor, HUD will consider the following:

(1) Consistency/Appropriateness of Proposed Activities with Identified Needs (Up to 8 points). The applicant should address the extent to which the proposed plan for use of BEDI grant/Section 108-guaranteed loan funds will address the needs described in Rating Factor 2 above, regarding the distress and extent of the problem in the target area or area to be benefited and the long-term benefit for current residents of the target area. The applicant should provide a clear and quantified explanation of this relationship. As part of the response to this Factor, an applicant should also fully describe:

(a) How the project will achieve one of the National Objectives under the Community Development Block Grant program (see 24 CFR 570.208) and the eligible activities that will be carried out under 24 CFR 570.703, including citations to the specific regulatory subsections supporting eligibility of activities and compliance with National Objectives; and

(b) How the project will address the following policy priorities:

(i) For all BEDI projects, the extent to which the proposed project will improve the quality of life in the nation's communities, by bringing private capital to distressed communities; and

(ii) For BEDI projects that include the construction or rehabilitation of housing:

(A) The extent to which the project will increase affordable housing and homeownership opportunities for low- and moderate income persons, the disabled, the elderly, minorities and families where English may be the second language, whether through the provision of housing or employment which will enable residents to access affordable housing and have a choice of such housing in environmentally healthy and revitalized neighborhoods; and

(B) The extent to which the project will encourage accessible design features for persons with disabilities.

(2) Feasibility and Demonstrable Benefits (Up to 15 points). In responding to this subfactor (2), the applicant should demonstrate the extent to which the redevelopment plan for the brownfields site is logical, feasible and likely to achieve its stated purpose. Applicants are reminded that HUD's

intention is to fund brownfields economic development projects and activities that will quickly produce measurable economic benefits and advance the purposes of the BEDI program. The applicant's response should demonstrate the extent to which the project is "ready to go," meaning that the project is likely to be completed within three to five years from the date of the BEDI award and will produce near-term, measurable economic benefits. Points for this subfactor will be awarded in two parts, for the following:

(a) Implementation Steps (Up to 8 points). The applicant's response should discuss the extent to which the redevelopment plan demonstrates a clear understanding of each of the steps required to implement the brownfields economic development project, including the actions that all parties responsible for implementing the project must complete. The applicant's response to this subfactor should address:

(i) Environmental Investigation. This subfactor (i) will consider the extent to which the redevelopment plan takes into account environmental issues typical of many brownfields remediation efforts. Proposed projects on sites where the nature and degree of environmental contamination is not well-quantified, where no environmental investigation has commenced, or that are the subject of on-going litigation or environmental enforcement actions will receive fewer points under this subfactor (i). Similarly, fewer points will be awarded to proposed projects at sites with exceptionally expensive contamination problems that may be beyond the scope of the BEDI and Section 108 programs' financial resources or other resources firmly committed to the project as described in the application, and sites subject to pending and current litigation that may not be available for remediation and development or redevelopment in a time-frame that will produce near-term and measurable economic benefits through the use of BEDI and Section 108 funds.

(ii) Site Control. This subfactor (ii) will consider the extent to which control of the proposed project site has been secured or is being sought.

(iii) Regulatory and Other Approvals. This subfactor (iii) will consider the extent to which any required zoning classifications, environmental regulatory approvals, waivers, general and special use permits, assessment district designations, public easements or rights-of-way have been secured or are being sought.

(iv) User Agreements. This subfactor (iv) will consider the extent to which any development agreements, leases, memoranda of understanding or other agreements integral to the success of the project have been secured or are being sought.

(b) Timing and Delivery of Project Benefits (Up to 7 points). The applicant's response should set forth the strategy and schedule for the delivery of the project's measurable economic benefits.

(i) Project Benefits. The response to this subfactor (i) should include a full description of the problem (e.g., the extent of environmental contamination, the need for jobs, the shortage of affordable housing, etc.) and the measurable economic benefits that will accrue from the project (e.g. the number of permanent jobs, the amount of commercial or industrial space to be created, the number of housing units to be provided, etc.). The response to this subfactor (i) must also include the time frame in which the measurable economic benefits are to be delivered. For multi-phase projects, the response to this Factor must clearly delineate the different phases of the project and indicate whether or not they are to be funded by BEDI/Section 108 funds. Brownfields economic development projects that provide near-term, measurable economic benefits directly through the creation or retention of jobs will receive a greater number of points under this subfactor (i). BEDI projects that utilize innovative construction techniques, technologies or other strategies in order to achieve increased energy efficiency will also receive a greater number of points under this subfactor (i).

(ii) Project Schedule. The applicant should provide a specific time schedule (with both beginning and end dates) for carrying out the project and identify interim measurable benchmarks (acquisition, site improvements, construction, etc.) to be accomplished. The applicant should also include a proposed schedule for drawing down all funds necessary to complete the project, including BEDI and Section 108 funds.

A timeline form is provided in Appendix A to this program section of the NOFA for the purpose of illustrating the project schedule, but HUD will consider the timeline form only as an illustration of the narrative response to this subfactor (ii).

(3) Section 108 Application (Up to 2 points). BEDI applications accompanied by a full and complete Section 108 application will receive up to two (2) points for this subfactor (3). BEDI applications accompanied by a copy of

a currently pending but unapproved Section 108 loan guarantee application for the same project described in the BEDI application will also receive up to two (2) points under this subfactor (3).

(4) Financial Feasibility/Need (Up to 10 points). The applicant should demonstrate the extent to which the project is financially feasible based on its proposed use of BEDI and Section 108 funds. In responding to this subfactor (4), applicants are encouraged to accompany their narrative response, as appropriate, with a development and operating pro forma or similar analysis of the proposed project financing. Such pro forma or other financial analysis will not be counted in the fifteen page limitation on the narrative response to the Rating Factors as provided in Section V (D) of this program section. In the narrative response, applicants must clearly address the question of why the BEDI funds are critical to the success of this project by providing the following items, as applicable:

(a) Project Costs and Financial Requirements. A funding sources and uses statement should be provided that specifies the source of funds for each identified use or activity, along with the derivation of project costs;

(b) Use of BEDI and Section 108 Funds. The applicant should discuss the critical gaps that exist in the financing of the proposed project, why those gaps exist and how the BEDI and Section 108 funds will be used to fill those gaps; and

(c) Funding Criteria. The applicant should describe the criteria used for determining funding need and feasibility.

Rating Factor 4: Leveraging Resources (15 Points Maximum)

In evaluating this factor, HUD will consider the extent to which the response demonstrates the likelihood that the project will leverage both Section 108 loan and other public or private funds as part of the total project resources. This factor has two subfactors, each with its own maximum point total:

(1) *Leverage of Section 108 funds* (Up to 8 points).

The minimum ratio of Section 108 funds to BEDI funds in any project may not be less than 1:1. Points will be awarded based upon the extent to which the proposed project leverages an amount of Section 108 funds greater than a 1:1 ratio. If the application has a ratio of 1:1, it will not receive any points under this subfactor. The higher the ratio of additional new Section 108 funds to BEDI funds proposed in an application, the more points it will receive under this subfactor, within the

points available hereunder. (See Section IV (G)(1) and (5) of this program section of the SuperNOFA regarding the conditioning of BEDI awards on achievement of a specific BEDI/Section 108 leveraging ratio.)

(2) *Leverage of Other Financial Resources* (Up to 7 points).

HUD will evaluate the extent to which other funds (public or private) are leveraged by BEDI grant funds, and the extent to which such other funds are firmly committed to the project. This could include the use of CDBG funds, other federal or state grants or loans, local general funds, project equity or commercial financing provided by private sources or funds from non-profits or other sources. Funds will be considered committed to the project if they meet the definition of "Firm Commitment" found in Section III(A)(1) above, and may be subject to completion of any environmental review required under 24 CFR part 58 for the project. In order for an applicant's commitment of CDBG funds to be accepted by HUD as additional financing for a project, a resolution from the local governing body (e.g., city/borough council) authorizing the amount and permitted use(s) of the funds must be provided. Additionally, with respect to all commitments, in order for a commitment to receive points under this Factor—such as a commitment to donate or purchase real property or to provide in-kind services—the party making the commitment must assign a monetary value to the commitment and provide the basis for that value.

Rating Factor 5: Achieving Results and Program Evaluation (10 Points Maximum)

This factor emphasizes HUD's commitment to ensuring that applicants maintain commitments made in their application and assess their performance to ensure that performance goals are met. The applicant's response to this Factor should identify: (1) Project outcomes for the proposed BEDI project; (2) interim benchmarks of the project; and (3) performance indicators that will allow the applicant to measure its performance in achieving the identified interim benchmarks and the project outcomes. Achieving results means that the applicant has clearly identified the outcomes of the brownfields economic development project, *i.e.*, the measurable economic benefits to be achieved. The applicant must also identify the interim benchmarks that will lead to the achievement of the project outcomes. The performance indicators selected by the applicant to measure performance should be

objectively quantifiable and measure actual achievements against anticipated achievements. The response to this Factor should identify what will be measured, how it will be measured, and the procedures that are in place to make adjustments if performance targets for the interim benchmarks or the project outcomes are not met within established timeframes. BEDI grant agreements will provide for a periodic report by the grantee on the progress of the grantee in achieving the interim benchmarks and project outcomes of the BEDI project, until such time as the project outcomes are achieved.

In response to this Factor, applicants are encouraged to address any of the following applicable outcomes or ultimate goals identified by HUD for BEDI projects: The number of jobs to be created or retained; the amount of increased wages resulting from the creation or retention of jobs; the number of housing units to be constructed or rehabilitated; the total square feet of commercial and industrial space to be created; the total number of low- and moderate-income persons to benefit from the project; the total number of businesses assisted by the project; the number of acres of brownfields returned to productive economic use; and any increased land value as a result of the BEDI project. Applicants may also propose alternative or additional outcomes or goals related to other benefits expected for the neighborhood or for persons assisted, as part of the evaluation plan. A logic model is provided in the General Section of the SuperNOFA for the purpose of illustrating the evaluation plan, but HUD will consider the logic model only as an illustration of the narrative response to this Factor.

Bonus Points

An application may receive up to four (4) bonus points, until the maximum of four points are achieved. Two bonus points may be awarded for each of the following:

(a) Projects that are located either in federally-designated Empowerment Zones, Enterprise or Renewal Communities, or Strategic Planning Communities (See Section VI (C)(2) of the General Section of the SuperNOFA) for advice on locating a list of designated communities);

(b) Projects that are located in Brownfields Showcase Communities designated by EPA. A list of the federally designated Brownfield Showcase Communities is listed in Appendix B of this program section of the SuperNOFA and is also available from the SuperNOFA Information

Center or through the HUD Web site, <http://www.hud.gov>.

VI. Application Submission Requirements

(A) *BEDI Funding*. An application for a BEDI grant under this program section of the SuperNOFA must have the following items listed in this Section VI to be complete. The standard forms, certifications and assurances that are required for the BEDI application (and listed in paragraph (I) below) can be found in Appendix B to the General Section. The remaining application items that are forms (*i.e.*, excluding such items as narratives or letters, etc.), referred to as the “non-standard forms”, can be found in Appendix A to this program section of the SuperNOFA.

(B) *Transmittal Letter* signed by the authorized representative of the eligible applicant indicating that it is submitting the application for funding under the Brownfields Economic Development Initiative Program and is requesting funding consideration for a BEDI project.

(C) *Checklist and Submission Table of Contents* indicating the page numbers where the submission items can be found in the application (form HUD-40076-A EDI/BEDI).

(D) *BEDI Narrative Statement* (not to exceed 3 pages) describing BEDI-funded eligible activities within the proposed project and indicating that funding will not be used for a prohibited purpose and that the proposed site for the project is not ineligible under the BEDI program. (See Section V (B) of this program section.)

(E) *EDI/BEDI/Section 108 Funding Eligibility Statement*. A completed EDI/BEDI Section 108 Funding Eligibility Statement (form HUD-40076-E EDI/BEDI).

(F) *Request for Loan Guarantee Assistance*. A request for loan guarantee assistance under Section 108, as further described in Section IV (D) of this program section of the SuperNOFA. Full application guidelines for the Section 108 program are found at 24 CFR 570.704.

(G) *Narrative Responses to Factors for Award (not to exceed 15 pages overall)*:

(1) Rating Factor 1: Capacity and Relevant Organizational Experience. Provide a narrative indicating the capacity of the applicant's organization and staff and any third parties to perform the work for which it is requesting funding.

(2) Rating Factor 2: Need Statement Identifying the level of Distress/Extent of the Problem. Provide a narrative statement including any documentation supporting the statement of need,

accompanied by a completed form HUD-40076-B EDI/BEDI.

(3) Rating Factor 3: Soundness of Approach. Include the activities, budget and time frame for conducting activities and providing project benefits in the narrative response, accompanied by form HUD 40076-C EDI/BEDI.

(4) Rating Factor 4: Leveraging Resources. The response must include a completed copy of form HUD-40076-D EDI/BEDI, “Rating Factor 4: Leveraging Resources—Sources and Uses Statement,” accompanied by any letters of firm commitment as defined in Section III (A)(1) of this program section.

(5) Rating Factor 5: Achieving Results and Program Evaluation: Provide a narrative response to this factor, accompanied by the logic model provided in the General Section of the SuperNOFA.

(H) *Request for Funds*. A single application must contain a request for funds for a single BEDI/108 project. An applicant may submit an additional application for each additional unrelated BEDI/108 project, but in no event will HUD rate and rank more than one BEDI project per application.

(I) *Additional Application Forms and Certifications*. In addition to any forms that have been submitted in response to Section VI (A) through (H) above (which may be found at Appendix A), the following forms and certifications must also be submitted in accordance with Section V (H) of the General Section of this SuperNOFA:

(1) Application for Federal Assistance (HUD-424);

(2) Federal Assistance Funding Matrix (HUD 424-M);

(3) Standard Form for Assurances—Non-Construction Programs (HUD 424-B) and/or Standard Form for Assurances—Construction Programs (SF 424-D); not required for BEDI applications since the “Leveraging Resources—Sources and Uses Statement” serves the same purpose as a budget form, but must be submitted with the Section 108 application. Since these forms contain assurances of compliance with civil rights and other regulatory requirements, BEDI applicants may elect to provide the signed assurances either with the BEDI or the Section 108 application, if the latter is submitted with the BEDI application.

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

(5) Certification of Consistency With EZ/EC Strategic Plan, HUD-2990.

These forms are found in the Appendix B to the General Section of this SuperNOFA.

The non-standard forms for the BEDI applications are in Appendix A to this program section.

If an applicant wishes to receive an acknowledgment of HUD's receipt of its application, it should submit a completed Acknowledgment of Receipt of Application form.

VII. Corrections to Deficient Applications

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

VIII. Environmental Requirements

(A) *Environmental Reviews*. After the completion of this competition and after HUD's award of BEDI grant funds, pursuant to 24 CFR 570.604, each project or activity assisted under this program is subject to the provisions of 24 CFR part 58, including limitations on the BEDI grantee and Section 108 public entity's commitment of HUD and non-HUD funds prior to the completion of environmental review, notification and release of funds. No such assistance will be released by HUD until a request for release of funds is submitted and the requirements of 24 CFR part 58 have been met. All public entities, including non-entitlement public entities, shall submit the request for release of funds and related certification, required pursuant to 24 CFR part 58, to the appropriate HUD field office for each project to be assisted.

(B) *Environmental Justice*. (1) Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) directs federal agencies to develop strategies to address environmental justice. Environmental justice seeks to rectify the disproportionately high burden of environmental pollution that is often borne by low-income, minority, and other disadvantaged communities, and to ensure community involvement in policies and programs addressing this issue.

(2) Brownfields are often located in distressed neighborhoods, contribute to neighborhood blight, and lower the quality of social, economic, and environmental health of communities. The BEDI program is intended to promote the clean up and redevelopment of brownfields sites and HUD expects that projects presented for BEDI funding will integrate environmental justice concerns and provide measurable economic benefits for affected communities and their current residents for the long term.

IX. Authority

Section 108(q), Title I, Housing and Community Development Act of 1974,

as amended, (42 U.S.C. 5301); 24 CFR part 570.

Appendices. Appendix A, the non-standard forms for the BEDI application,

and Appendix B, a listing of federally designated Brownfields Showcase Communities, follow.

Appendix A

OMB Approval No. 2506-0153 (exp.8/31/2004)

CHECKLIST AND SUBMISSION TABLE OF CONTENTS

The following checklist helps you to ensure that all of the required items have been submitted in order to receive consideration for funding. The applicant should assemble the application package in the order, shown below, check off each item included in its submission package and note the corresponding page number where the response is located.

<u>Check Off</u>	<u>Page Number</u>
<input type="checkbox"/> Application for Federal Assistance (HUD-424)	cover page 1
<input type="checkbox"/> Transmittal Letter	cover page 2
<input type="checkbox"/> Checklist and Submission Table of Contents	p. 1
<input type="checkbox"/> Applicant Narrative Statement (3 pages)	p. _____
<input type="checkbox"/> EDI/BEDI/108/CDBG Funding Eligibility Statement form (2 pages)	p. _____
<input type="checkbox"/> <u>Request for Loan Guarantee Assistance</u> (check off one of the four options)	p. _____
<input type="checkbox"/> Formal application	
<input type="checkbox"/> Brief description; formal application to be submitted in 60 days	
<input type="checkbox"/> Copy of previously submitted, but not yet approved, Section 108 application.	
<input type="checkbox"/> Request for Section 108 loan guarantee amendment to increase previously approved amount	
<u>Response to Rating Factors</u>	
<input type="checkbox"/> #1 Capacity of the Applicant and Relevant Organizational Experience	P. _____
<input type="checkbox"/> #2 Distress/Extent of the Problem	P. _____
<input type="checkbox"/> Distress/Extent of the Problem form (optional)	P. _____
<input type="checkbox"/> #3 Soundness of Approach	P. _____
<input type="checkbox"/> Project Timeline form	P. _____
<input type="checkbox"/> #4 Leveraging Resources/Financial Need	P. _____
<input type="checkbox"/> Sources and Uses Statement form	P. _____
<input type="checkbox"/> #5 Results and Program Evaluation	P. _____
<u>Application Forms and Certifications</u>	
<input type="checkbox"/> Section 108 Certifications	P. _____
<input type="checkbox"/> Applicant Assurances and Certifications (HUD-424B)	P. _____
<input type="checkbox"/> Certification and Disclosure Form Regarding Lobbying (SF-LLL)	P. _____
<input type="checkbox"/> Applicant/Recipient Disclosure Update Report (HUD-2880)	P. _____
<input type="checkbox"/> Certification Regarding Debarment & Suspension (HUD-2992)	P. _____
<input type="checkbox"/> Certification of Consistency with EZ/EC Strategic Plan (HUD-2990)	P. _____
<input type="checkbox"/> Certification of Consistency with the Consolidated Plan (HUD-2991)	
<u>Appendices</u>	
<input type="checkbox"/> Written Agreements or Signed Letters of Understanding - Rating Factor 1	P. _____
<input type="checkbox"/> Third Party Funding Commitment Letters - Rating Factor 4, subfactor 3	P. _____
<input type="checkbox"/> Acknowledgment Application Receipt	last page

RATING FACTOR 2: DISTRESS/EXTENT OF PROBLEM
(optional form)

Applicant: _____

Project Name/Title: _____

Instructions: The applicant is required to provide information related to the poverty rate for the Target Neighborhood (the area in which EDI/BEDI assistance will be used) and the larger jurisdiction. In addition, the applicant may include optional indicators such as the unemployment rate, median income of persons living in the area, or other indicators of the applicant's choosing. A data source and date are required for each indicator. Use of data from the applicant's Consolidated Plan and/or its Analysis of Impediments to Fair Housing Choice (AI) is encouraged.

<u>Required Indicator</u>	<u>Target Neighborhood</u>	<u>Jurisdiction</u>	<u>Data Source & Date</u>
1 <u>Poverty Rate</u>	_____	_____	_____

<u>Optional Indicators</u>	<u>Target Neighborhood</u>	<u>Jurisdiction</u>	<u>Data Source & Date</u>
2 <u>Unemployment</u>	_____	_____	_____
3 <u>Median Income</u>	_____	_____	_____
4 _____	_____	_____	_____
5 _____	_____	_____	_____
6 _____	_____	_____	_____
7 _____	_____	_____	_____
8 _____	_____	_____	_____

Definitions: Describe how the areas are defined (i.e., city boundaries, census tracts, zip codes, etc.)

Neighborhood: _____

Jurisdiction: _____

**RATING FACTOR 3: SOUNDNESS OF APPROACH
PROJECT TIMELINE**

Applicant: _____

Project Name/Title: _____

Instructions: Identify and list each major task/activity associated with the project. Darken appropriate boxes for quarter(s) when task/activity will occur. Fill in the amount of EDI/BEDI/108 funds associated with each task/activity in column labeled EDI/BEDI/108 Funds for Task." Fill in the amount of other sources of funding associated with each task in the column labeled "Other Funds." If the project extends beyond the timeframe indicated on the form, please attach justification/description of project term. Use as many as you need to show beginning -- end timeframes for all phases.

	Tasks/Activities	Year 1				Year 2				Year 3				EDI/BEDI/ 108 Funds for Task	Other Funds for Task
		1Q	2Q	3Q	4Q	1Q	2Q	3Q	4Q	1Q	2Q	3Q	4Q		
	EXAMPLE: Construction													\$1,500,000	\$2,500,000
1															
2															
3															
4															
5															
7															
8															
9															
10															
11															
12															
	TOTAL														

**RATING FACTOR 4: LEVERAGING RESOURCES/FINANCIAL NEED
SOURCES & USES STATEMENT**

Applicant: _____

Project Name/Title: _____

<u>Sources</u>	<u>Amount</u>	<u>Uses</u>	<u>Amount</u>
Federal		Acquisition of Real Property	
ED I or BEDI (circle one)		Construction/Rehab	
Section 108		(excl. infrastructure & remediation)	
CDBG		Infrastructure	
		Remediation	
		M&E	
		Working Capital	
State/Local		Creation of Loan Fund for	
		ED Activities	
		Project Delivery Costs	
		Contingency	
		Loan Loss Reserve	
		Land Writedown	
		Interest Rate Writedown	
Private (include debt financing)		Credit Enhancements	
Equity			
TOTAL:		TOTAL:	

Instructions: Fill in the dollar amounts corresponding to each project source in the **Amount** column on the left half of the table. Sources of funding not listed should be added under the relevant category (Federal, State/Local, Private). For each of the project uses (on the right half of the table), fill in the dollar amount to be spent in the **Amount** column. Add additional uses in the blank lines at the bottom of the **Uses** column.

EDI/BEDI/SECTION 108/CDBG FUNDING ELIGIBILITY STATEMENT

Page 1 of 2

Applicant: _____

Project Name/Title: _____

Instructions: The applicant should first enter the total project cost (line 16). Then, working backwards, the applicant should enter the total costs paid with CDBG (line 14) and non CDBG-related funds (line 15). These two amounts should equal the total listed in line 16. Next, the applicant should enter dollar amounts on lines 1-13 in order to demonstrate among which eligible activities the EDI/BEDI, Section 108 or CDBG funds are to be allocated.

Eligible Activities 1/	EDI or BEDI	Section 108	CDBG 2/	Total
1 Acquisition of Real Property 24 CFR 570.703(a)				
2 Rehabilitation of Publicly Owned Real Property 24 CFR 570.703(b)				
3 Payment of Interest 24 CFR 570.703(c)				
4 Relocation Payments 24 CFR 570.703(d)				
5 Clearance, Demolition, Removal 24 CFR 570.703(e)				
6 Site Preparation 24 CFR 570.703(f)				
7 Payment of Issuance Fees 24 CFR 570.703(g)				
8 Housing Rehabilitation 24 CFR 570.703(h)				
* 9 Economic Development Activities 24 CFR 570.703(i) (and 570.203/.204)				
10 Construction of Housing 24 CFR 570.703(j)				
11 Debt Service Reserve 24 CFR 570.703(k)				
12 Public Facilities 24 CFR 570.703(l)				
13 Public Facilities - Colonias 24 CFR 570.703(m)				
14 Subtotal				
15 Costs Paid with Non CDBG-Related Funds				
16 Total Project Costs 3/				

1/ The eligible Section 108 activities are defined in detail at 24 CFR 570.703.

2/ CDBG grants and program income other than EDI, BEDI or Section 108.

3/ This figure should match the total provided on the Sources & Uses statement.

EDI/BEDI/SECTION 108/CDBG FUNDING ELIGIBILITY STATEMENT

Applicant: _____

Project Name/Title: _____

National Objective 1/			
Single Project (check one only)		Loan Fund (check all that apply)	
<input type="checkbox"/>	Low-Mod Area Benefit	24 CFR 570.208(a)(1)	<input type="checkbox"/>
<input type="checkbox"/>	Low-Mod Limited Clientele	24 CFR 570.208(a)(2)	<input type="checkbox"/>
<input type="checkbox"/>	Low-Mod Area Housing	24 CFR 570.208(a)(3)	<input type="checkbox"/>
<input type="checkbox"/>	Low-Mod Job Creation/Retention	24 CFR 570.208(a)(4)	<input type="checkbox"/>
<input type="checkbox"/>	Slum/Blight Area Basis	24 CFR 570.208(b)(1)	<input type="checkbox"/>
<input type="checkbox"/>	Slum/Blight Spot Basis	24 CFR 570.208(b)(2)	<input type="checkbox"/>
<input type="checkbox"/>	Slum/Blight Urban Renewal	24 CFR 570.208(b)(3)	<input type="checkbox"/>
<input type="checkbox"/>	Urgent Need/Imminent Threat	24 CFR 570.208(c)	<input type="checkbox"/>

Public Benefit
<p>PLEASE NOTE: This section is applicable only to projects which plan to spend funds on eligible economic development activities as defined by 24 CFR 570.703(i).</p> <p>A. If this project will meet the public benefit standard based upon the number of jobs to be created [see 570.209(b)(3)(i)(A)], enter the total number of jobs:</p> <p style="text-align: center;">[]</p> <p>B. If this project will meet the public benefit standard based upon the number of low- and moderate-income persons served in the project area [see 570.209(b)(3)(i)(B)], enter the number of low- and moderate-income persons living in the project area:</p> <p style="text-align: center;">[]</p>

1/ The CDBG national objectives are defined in detail at 24 CFR 570.208.

**SECTION 108 LOAN GUARANTEE
State Certifications Related to
Nonentitlement Public Entities**

**U.S. Department of Housing
and Urban Development**
Office of Community Planning
and Development

**Pursuant to 24 CFR §570.704(b)(9), the SECTION 108 LOAN GUARANTEE
State Certifications Related to Nonentitlement Public Entities**

State of _____, with regard to the Section 108 Loan guarantee application submitted by the _____ (Nonentitlement Public Entity), certifies that:

- (i) It agrees to make the pledge of grants required under 24 CFR §570.705(b)(2).
- (ii) It possesses the legal authority to make such pledge.
- (iii) At least 70 percent of the aggregate use of the CDBG grant funds received by the State, guaranteed loan funds, and program income during the one, two, or three consecutive years specified by the State for its CDBG program will be for activities that benefit low and moderate income persons.
- (iv) It agrees to assume the responsibilities described in 24 CFR §570.710.

Signature

Name

Title

Date (mm/dd/yyyy)

Appendix B**Federally Designated Brownfields Showcase Communities**

The following lists Federally Designated Brownfield Showcase Communities:

- (1) Baltimore, Maryland
- (2) Cape Charles/Northhampton County, Virginia
- (3) Chicago, Illinois
- (4) Dallas, Texas
- (5) Denver, Colorado
- (6) Des Moines, Iowa
- (7) East Palo Alto, California
- (8) Eastward Ho (Consortium), Florida
- (8) Gila River Indian Community, Arizona
- (9) Glen Cove, New York
- (10) Houston, Texas
- (11) Jackson, Mississippi
- (12) Kansas City, Kansas/Missouri
- (13) Los Angeles, California
- (14) Lowell, Massachusetts
- (15) Metlakatla Indian Community, Alaska
- (16) Milwaukee, Wisconsin
- (17) Mystic Valley Development Commission, Massachusetts (Cities of Everett, Malden and Medford)
- (18) New Bedford, Massachusetts
- (19) Niagara Region, New York (Cities of Buffalo, Niagara Falls, Counties of Niagara and Erie)
- (20) Portland, Oregon
- (21) State of Rhode Island
- (22) St. Louis, Missouri/East St. Louis, Illinois
- (23) St. Paul, Minnesota
- (24) Salt Lake City, Utah
- (25) Seattle/King County, Washington
- (26) Stamford, Connecticut
- (27) Trenton, New Jersey

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