

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4180-N-01]

Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (Fiscal Year 1997) Notice of Funding Availability

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

ACTION: Notice of Funding Availability for Fiscal Year 1997.

SUMMARY: This notice announces the availability of \$67,453,491 for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (ICDBG Program). In the body of this Notice of Funding Availability (NOFA) is information concerning the following:

(a) The purpose of the NOFA and information regarding eligibility and available amounts;

(b) A list of steps involved and a checklist of the exhibits required in the application process, including where and how to apply and what to submit; and

(c) A description of application processing, including the selection process and the selection criteria.

DATES: Applications must be received by the appropriate Area ONAP of the HUD Office of Native American Programs (ONAP) no later than 3:00 P.M. on Friday, July 25, 1997. Application materials will be available from each Area ONAP. General program questions may be directed to the Area ONAP serving your area or to Robert Barth, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, P.O. Box 36003, 450 Golden Gate Ave., San Francisco, CA 94102; telephone (415) 436-8122. The TTY number is (415) 436-6594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Changes From FY 1996 NOFA

1. *Conformance with the Requirements of the July 31, 1996 Final Rule.* On July 31, 1996 (61 FR 40084), HUD published a final rule which revised the requirements for the ICDBG Program (24 CFR part 953). The FY 1996 NOFA was published on May 9, 1996 (61 FR 21338). The FY 1996 was therefore written to comply with the requirements of the interim rule (July 27, 1994, 59 FR 38326) which preceded the July 31, 1996 final rule. All references to 24 CFR part 953 in this FY 1997 NOFA are to the final rule.

There is one substantive difference between the interim and final rules which affects the process or procedures covered in the NOFA; the project specific threshold requirements for economic development projects have been changed. The previous threshold requirement that "an applicant shall demonstrate the need for grant assistance by providing documentation to support a determination that the assistance is appropriate to implement an economic development project" has been deleted. This requirement has proven to be an unnecessary complication for potential applicants for assistance.

One of the two remaining threshold requirements for economic development projects (i.e., that an analysis demonstrates that public benefit commensurate with the assistance requested can reasonably be expected) has been expanded in scope and revised. The expansion/revision of this threshold was done to state this threshold in a manner consistent with the objectives for the evaluation and selection of economic development projects which were set forth in section 806 of the Housing and Community Development Act of 1992.

2. *Population to be Considered for Grant Ceilings—Southwest ONAP.* Clarifying language has been included in Section III.(a)(3) so that the population to be considered for grant ceiling levels is unambiguous. In addition, the lowest population category has been revised to acknowledge that there are otherwise eligible applicants which because of recent recognition or extermination have no land base and, therefore, no on-reservation or rancheria Native American population.

3. *Imminent Threat Requirements and Process.* The wording of the NOFA has been revised (Section III.(a)(4)). The emergency nature of the problem to be addressed has been emphasized. Also, the fact that the deadline established by the NOFA does not apply to requests for assistance to address an imminent threat has been clarified.

4. *Southwest Area ONAP—Closing of the San Francisco Office.* The address of the San Francisco Office of the Southwest Area ONAP has been deleted from the listing of Area ONAP offices (Section IV.(a)(1)) since this office has been closed. Program responsibilities for applicants and grants in the former jurisdiction of that office have been transferred to the office in Phoenix.

5. *Housing Rehabilitation Grant Limit.* The grant limit set forth in Section VIII.(b)(2) for applicants in the jurisdiction of the Northwest Area ONAP has been increased to \$25,000.

6. *Land to Support New Housing—Selection Criterion VIII.(e)(2)(v).* In response to equity concerns raised by the Southern Plains Area ONAP, the language of this criterion has been changed. It will not be necessary for an applicant to provide documentation from the Bureau of Indian Affairs which demonstrates that the land to be purchased can and would be taken into trust to obtain the rating points available under this criterion. However, if this documentation is not provided, it will be necessary for the applicant to provide specified documentation that all taxes and fees on the land can and would be paid.

7. *Errors and Appeals.* The section formerly titled *Procedural Error and Appeals* has been re-titled *Errors and Appeals* (Section XI.). The following substantive changes have also been made. The basis upon which an appeal may be made has been clarified; it has been made explicit that only a perceived arithmetic error may form the basis of an appeal. In addition, the time period allowed for an appeal has been reduced to thirty days after notification of a funding decision.

8. *Editorial and Formatting Revisions.* In addition to the changes discussed above, this notice makes several technical changes to the FY 1996 NOFA. These editorial and formatting changes will make the NOFA easier to understand. Among other revisions, this notice divides several of the lengthy sections contained in the FY 1996 NOFA. For example, this NOFA sets forth the thresholds and selection criteria for Housing, Community Facilities, and Economic Development in separate sections. Other technical changes include: (1) moving the necessary definitions up front to a new Section II; (2) redesignating the NOFA paragraphs to conform to the designations used by HUD in its other regulations and notices; and (3) moving the information regarding the Paperwork Reduction Act of 1995 and the HUD Reform Act to the section titled "Findings and Certifications" (formerly titled "Other Matters").

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level.

Toward this end, the Department in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in the near future. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan. While tribes and Indian housing authorities are not required to execute a Consolidated Plan, comprehensive planning by tribes is encouraged.

Elsewhere in today's **Federal Register**, the Department is publishing the following related NOFAs: the NOFA for Emergency Shelter Grants Set-Aside for Indian Tribes and Alaskan Native Villages; and the NOFA for Indian Applicants under the HOME Program. The Department expects to publish within the next few weeks the NOFA for Indian Housing Development.

To foster comprehensive, coordinated approaches by communities, the Department intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at <http://www.hud.gov/nofas.html>. Additional steps on NOFA coordination may be considered for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

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I. Purpose and Authority

(a) *Purpose*. This notice announces the availability of \$67,453,491 for the ICDBG Program.

(b) *Authority*. Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); 24 CFR part 953.

II. Definitions

Adopt means to approve by formal tribal resolution.

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

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

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

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

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

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

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

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

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

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

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

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

Tribes means an Indian Tribe, band, group or nation, including Alaska Indians, Aleuts, Eskimos, Alaska Native Villages, ANCSA Village Corporations and Regional Corporations.

III. Funding and Eligibility

(a) *Funding.* (1) *General.* Amendments to Title I of the Housing and Community Development Act of 1974 have required that the allocation for Indian Tribes be awarded on a competitive basis in accordance with selection criteria contained in a regulation promulgated by the Secretary after notice and public comment. All grant funds awarded in accordance with this NOFA are subject to the requirements of 24 CFR part 953. Applicants within an Area ONAP's geographic jurisdiction compete only against each other for that Area ONAP's allocation of funds.

(2) *Allocations.* The requirements for allocating funds to Area ONAPs responsible for program administration are found at 24 CFR 953.101. Following these requirements, the allocations for FY 1997 are as follows:

Eastern/Woodlands	\$5,178,418
Southern Plains	12,254,896
Northern Plains	10,336,441
Southwest	28,199,896
Northwest	3,949,293
Alaska	5,534,557
Total	65,453,491

The total allocation includes \$453,491 in unused funds from the amount reserved by the Assistant Secretary in Fiscal Year 1996 for imminent threat grants. As indicated in Section III.(a)(4) below, \$2,000,000 will be retained to fund imminent threat grants.

(3) *Grant Ceilings.* The authority to establish grant ceilings is found at 24 CFR 953.100(b)(1). Grant ceilings are established for FY 1997 funding at the following levels:

Area ONAPs	Population	Ceiling
Eastern/Woodlands.	All	\$300,000
Southern Plains.	All	750,000
Northern Plains	All	800,000
Southwest	50,001+	5,000,000
	10,501-50,000	2,500,000
	9,001-10,500	2,000,000
	7,501-9,000 ...	1,500,000
	6,001-7,500 ...	1,000,000
	4,501-6,000 ...	750,000
	3,001-4,500 ...	650,000
	1,501-3,000 ...	550,000
	0-1,500	450,000
Northwest	All	320,000
Alaska	All	500,000

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

(4) *Imminent Threats.* (i) The criteria for grants to alleviate or remove imminent threats to health or safety that

require an immediate solution are described at 24 CFR part 953, subpart E. Please note that the problem to be addressed must be such that an emergency situation would exist if it were not addressed. In accordance with the provisions of 24 CFR part 953, subpart E, \$2,000,000 will be retained to meet the funding needs of imminent threat applications submitted to any of the Area ONAPs. The grant ceiling for imminent threat applications for FY 1997 is \$350,000. This ceiling is established pursuant to the provisions of § 953.400(c).

(ii) Requests for assistance under the imminent threat set-aside (24 CFR 953, subpart E) do not have to be submitted by the deadline established in this NOFA; the deadline applies to application submitted for assistance under 24 CFR 953, subpart D—single purpose grants.

(iii) If, in response to a request for assistance, an Area ONAP issues a letter to proceed under the authority of § 953.401(a), an application must be submitted to and approved by the Area ONAP before a grant agreement may be executed. This application must consist of the following components:

(A) Standard Form 424—Application for Federal Assistance

(B) Brief description of the proposed project

(C) Form HUD-4123—Cost Summary

(D) Form HUD-4125—

Implementation Schedule

(E) Form HUD-2880—Applicant/Recipient Disclosure/Update Report.

(F) Form HUD-4126—Certifications.

(G) Drug-free workplace certification (24 CFR part 24, subpart F).

(b) *Eligible Activities.* Activities that are eligible for ICDBG funds are identified at 24 CFR part 953, subpart C.

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

(2) *Tribal Organizations.* Tribal organizations are permitted to submit applications under 24 CFR 953.5(b) on behalf of eligible tribes or villages when one or more eligible tribe(s) or village(s) authorize the organization to do so under concurring resolutions. As is stated in this regulatory section, the tribal organization must itself be eligible under Title I of the Indian Self-Determination and Education Assistance Act.

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

documentation to determine whether it is in fact the successor entity.

(4) *Alaskan Tribal Entities.* (i) Due to the unique structure of tribal entities eligible to submit ICDBG applications in Alaska, and as only one ICDBG application may be submitted for each area within the jurisdiction of an entity eligible under 24 CFR 953.5, a Tribal Organization which submits an application for activities in the jurisdiction of one or more eligible tribes or villages must include a concurring resolution from each such tribe or village authorizing the submittal of the application. Each such resolution must also indicate that the tribe or village does not itself intend to submit an ICDBG application for that funding round. The hierarchy for funding priority continues to be the IRA Council, the Traditional Village Council, the Village Corporation and the Regional Corporation.

(ii) On February 16, 1995 (60 FR 9250), the Bureau of Indian Affairs (BIA) published a **Federal Register** Notice entitled "Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs." This notice provides a listing of Indian Tribal Entities in Alaska found to be Indian Tribes as the term is defined and used in 25 CFR part 83. Additionally, pursuant to Title I of the Indian Self Determination and Education Assistance Act, ANCSA Village Corporations and Regional Corporations are also considered tribes and therefore eligible applicants for the ICDBG program.

(iii) Any questions regarding eligibility determinations and related documentation requirements for entities in Alaska should be referred to the Alaska Area ONAP prior to the deadline for submitting an application. (See 24 CFR 953.5 for a complete description of eligible applicants.)

IV. Application Process and Submission Requirements

(a) *Application Process*

(1) An application package may be obtained from the Area ONAP in the following geographic locations:

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

Louisiana, Kansas, Oklahoma, and Texas, except West Texas: Southern Plains Office of Native American Programs, CD & TR Staff, Suite 400, 500 W. Main Street, Oklahoma City, OK

73102-3202; Telephone: (405) 553-7525.

Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming: Northern Plains Office of Native American Programs, CD & TR Staff, First Interstate Tower North, 833 17th Street, Denver, CO 80202-3607; Telephone: (303) 672-5457.

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

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

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

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

(2) Completed applications must be submitted to the appropriate Area ONAP, listed above, from which application information and packages were obtained. All telephone numbers listed may be accessed via TTY by calling the Federal Information Relay Service at 1-800-877-8339.

(3) Applications must be received by the appropriate Area ONAP no later than 3:00 P.M. on the deadline date, Friday, July 25, 1997.

(b) *Application Submission Requirements and Checklist*

(1) *General.* An applicant shall submit only one application. The ICDBG grant amount requested shall not total more than the grant ceiling. An application may include an unlimited number of eligible projects (e.g., housing or public facilities). Each project within an application will be rated separately.

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

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

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

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

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

(3) *Publication of community development statement.* Applicants shall prepare and publish or post the community development statement portion of their application according to the citizen participation requirements of § 953.604.

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

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

(ii) Community Development Statement which includes:

(A) Components that address the relevant selection criteria;

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

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

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

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

(iii) Certifications—form HUD 4126;

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

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

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

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

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

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

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

(D) The source of funds for relocation; and

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

(viii) If applicable, evidence of the disclosure required by 24 CFR 953.606(e).

(c) *Documentation requirements for point award for leveraged resources.* (1) *General.* For the applicant's own resources, a council resolution which identifies and commits the resources must be included in the application. For

resources to be provided by another entity, written verification of an application or request for the leveraged resources must be included in the application.

(2) *Resources contributed by a public agency, foundation, or other public party.* (i) In addition to the requirement described in paragraph (c)(1) of this section, for grants or other contributed resources from a public agency, foundation, or other private party, a *written commitment* which may be contingent on approval of the ICDBG award must be *received* by the Area ONAP no later than 30 days after the application deadline. This commitment must specifically identify or indicate:

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

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

(C) The project.

(ii) If the nature of the funding cycle of the contributing entity precludes such an entity from making a firm funding commitment in the 30 days provided by paragraph (c)(2)(i) of this section, such resources will be considered in the award of points if the entity provides a written statement indicating that the application or request for assistance has been received from the ICDBG applicant and stating the date by which its funding determination will be made. This date cannot be more than six months from the anticipated date of grant approval notification by HUD.

(iii) If the proposed project rates high enough for funding consideration, a special condition will be established in the grant agreement for the project. This condition will indicate that if a firm funding commitment for the leveraged resources is not provided within six months of the date of grant approval, the grant funds approved will be recaptured by HUD and will be used in accordance with the requirements of § 953.102.

(iv) The statement described in paragraph (c)(2)(ii) of this section must be received by the Area ONAP no later than 30 days after the application deadline. If the commitment or statement is not received in the required timeframe or if the required information is not included, points will not be awarded for the proposed contribution.

(v) If the proposed project still rates high enough to be approved, a pre-award condition will be established which will require the applicant to provide evidence of firmly committed resources to cover the entire non-ICDBG

project cost. If this condition is not met, the grant will not be awarded.

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

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

- (i) A site specific appraisal no more than two years old;
- (ii) An appraisal of a nearby comparable site also no more than two years old; and
- (iii) A reasonable extrapolation of land value based on current area realtors value guides.

V. Application Screening and Review Process

(a) *Screening for Acceptance.* Each Area ONAP will screen applications for single purpose grants. Applications failing this screening shall be rejected and returned to the applicants unrated. Area ONAPs will accept applications if all the criteria listed below as items (1) through (6) are met:

(1) The application is received by the appropriate Area ONAP no later than 3:00 P.M. local time on the deadline date;

(2) The applicant is eligible;

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

(4) The application contains substantially all the components specified in Section IV.(b)(4) of this notice;

(5) At least 70% of the grant funds are to be used for activities that benefit low and moderate income persons, in accordance with the requirements of § 953.208; and,

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

(b) *Application Review Process.*

(1) *Threshold review.* The Area ONAP will review each application that passes the screening process to ensure that each applicant and each proposed project meets the applicable threshold requirements set forth in 24 CFR 953.301(a) and 953.302, as implemented by this NOFA. *If an applicant fails to meet any of the applicant-specific thresholds, its application cannot be accepted for rating and ranking. Project(s) that do not meet the community development appropriateness or applicable project-specific thresholds will not be considered for funding.*

(2) *Rating Team.* All projects that meet the acceptance criteria and threshold requirements will be reviewed and rated by an Area ONAP rating team of at least three voting members. The Area ONAP rating team will examine each project to determine in which one of the rating categories set forth in 24 CFR 953.303(a) the project most appropriately belongs. The project will be rated on the basis of the criteria identified in the rating category component to which the project has been assigned. The total points for a rating component are 100, which is the maximum any project can receive.

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

(4) *Corrections to deficient applications and supplemental information.*

(i) The Area ONAP will not accept unsolicited information regarding the application after the application deadline has passed. The Area ONAP will notify applicants in writing of technical deficiencies in applications and permit them to be corrected. A technical deficiency is an error or oversight which, if corrected, would not alter, in either a positive or negative fashion, the review and rating of the application. Examples of technical deficiencies would be a failure to submit proper certifications or failure to submit an application containing an original signature by an authorized official.

(ii) The Area ONAP may request information for the purpose of clarifying

the terms of an applicant's application, provided the additional information is consistent with regulatory requirements.

Applicants will have 14 calendar days from the date of HUD's correspondence to reply and correct the technical deficiency or provide the requested supplemental information. If the technical deficiency is not corrected within this time period, the Area ONAP will reject the application as incomplete. If the supplemental information is not provided in this time period and, as a consequence, the Area ONAP determines that the applicant has failed to establish compliance with the requirements of 24 CFR part 953, the application will be returned, unrated.

(iii) No information submitted after the application due date can enhance a project's rating, and a new project may not be substituted for one included in the application.

(5) *Final ranking.* (i) All projects will be ranked against each other according to the point totals they receive, regardless of the rating category or component under which the points were awarded. Projects will be selected for funding based on this final ranking, to the extent that funds are available. Individual grant amounts will be determined in a manner consistent with the considerations set forth in 24 CFR 953.100(b)(2).

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

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

(i) *Eastern/Woodlands Office*

(A) The applicant with the fewest active grants.

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

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

(ii) *Southern Plains Office*

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

(B) The applicant with the fewest active grants.

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

(iii) *Northern Plains and Southwest Offices*

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

(B) The applicant with the fewest active grants.

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

(iv) *Northwest Office*

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

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

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

(v) *Alaska Office*

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

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

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

(c) *Pre-award requirements.*

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

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

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

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

(3) If the required conditions are not met within the prescribed time, HUD may unilaterally rescind the grant award.

(4) Grant amounts allocated for applicants unable to meet pre-award

requirements will be awarded in accordance with Sections VIII, IX, and X of this NOFA.

VI. General Threshold Requirements

(a) *General.* Two types of general thresholds are set forth in 24 CFR 953.301(a): those that relate to applicants, and those that address the overall community development appropriateness of the project(s) included in the application. Project-specific thresholds are set forth in 24 CFR 953.302.

(b) *Applicant thresholds.* (1) *General.* Applicant thresholds focus on the administrative capacity of the applicant to undertake the proposed project, on its past performance in the ICDBG program, and on its provision of housing assistance to low and moderate income tribal members.

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

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

(B) Where an applicant was found to be performing inadequately, the Area ONAP shall determine whether the applicant has corrected the deficiency or is following a schedule to correct performance to which the applicant and the Area ONAP have agreed. In cases of previously documented deficient performance, the Area ONAP must

determine that the applicant has taken appropriate corrective action to improve its performance prior to the application due date.

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

(ii) *Housing assistance.* (A) The applicant is presumed not to have taken actions to impede the provision of housing assistance for low and moderate income members of the tribe or village. Any action taken by the applicant to prevent or obstruct the provision or operation of assisted housing for low and moderate income persons shall be evaluated in terms of whether it constitutes inadequate performance by the applicant. If an applicant has established or joined an Indian Housing Authority (IHA), and this IHA has obtained housing assistance from HUD, the applicant's compliance with the obligations and responsibilities to the IHA set forth in the tribal ordinance which was the basis for the establishment or joining of the IHA will be a performance consideration.

(B) An applicant will not be held accountable for the poor performance of its IHA *unless* this inadequate performance is found to be a direct result of the applicant's action or inaction. Applicants which are members of "umbrella" IHAs will be judged only on their individual performance and will not be held accountable for the poor performance of other tribes that are members of the IHA.

(C) If an applicant has received ICDBG funds for the provision of new housing through a subrecipient, the Area ONAP will consider the following in making its determination regarding housing assistance performance:

(1) Whether the proposed units were constructed;

(2) Whether housing assistance was provided to the beneficiaries identified in the funded application, and if not, why not;

(3) Whether the applicant followed the provisions of its housing plan and procedures; and,

(4) Whether there were sustained complaints from tribal members regarding provision and/or distribution of ICDBG housing assistance.

(D) *The Area ONAP will inform in writing any potential applicant which has been determined not to meet the housing assistance performance*

threshold no later than 30 days prior to the application deadline.

(4) **Audits.** The thresholds described in paragraphs (b)(2) and (b)(3) of this section require the applicant to meet the following performance criteria:

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

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

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

(1) *Costs are reasonable.* The project must be described in sufficient detail so that the Area ONAP can determine:

(i) That costs are reasonable; and,
(ii) That the funds requested from the ICDBG program and all other sources are adequate to complete the proposed activity(ies) described in the application.

(2) *Project is Appropriate.* The project is appropriate for the intended use.

(3) *Project is Usable or Achievable.* The project is usable or achievable in a timely manner, generally within a two year period. The timetable for project implementation and completion must be set forth on the form HUD 4125—Implementation Schedule, included in the application. A period of more than

two years is acceptable in certain circumstances, if it is established that such circumstances are beyond the applicant's control.

VII. Summary of Selection System Criteria and Point Awards

	Maximum points
Housing (Section VIII. of this NOFA)	
(a) Rehabilitation	
(1) Project Need and Design	
(i) % of funds for standard rehab	20
(ii) applicant's selection criteria	10
(iii) housing survey	15
(2) Planning and Implementation	
(i) rehabilitation policies	
(A) rehabilitation standards	5
(B) selection policies and procedures	10
(C) project implementation policies and procedures	10
(ii) post rehab maintenance	5
(iii) cost estimates	15
(iv) cost effectiveness	5
(3) Leveraging	5
Total points	100
(b) Land to Support New Housing	
(1) Project Need	40
(2) Planning and Implementation	
(i) suitability of the land	20
(ii) housing resources	10
(iii) supportive services	5
(iv) commitment of households	5
(v) land to trust status	5
(vi) infrastructure commitment	10
(vii) land meets need and is reasonably priced	5
Total points	100
(c) New Housing Construction	
(1) Project Need and Design	
(i) IHA member/assistance	15
(ii) housing policies and plan	20
(iii) beneficiary identification	10
(2) Planning and Implementation	
(i) occupancy standards	10
(ii) site acceptability	15
(iii) energy conservation design	5
(iv) housing survey	10
(v) cost effectiveness	5
(3) Leveraging	10
Total points	100

Community Facilities (Section IX. of this NOFA)

(a) Infrastructure	
(1) Project Need and Design	
(i) meets an essential need	20
(ii) benefits the neediest	15
(iii) provides infrastructure/health and safety	25
(2) Planning and Implementation	
(i) maintenance and operation plan	
(ii) appropriate and effective design scale and cost	15
(3) Leveraging	10

	Maximum points
Total points	100
(b) Buildings	
(1) Project Need and Design	
(i) meets an essential need	20
(ii) benefits the neediest	10
(iii) provides building/health and safety	25
(iv) multi-use/multi-benefit	5
(2) Planning and Implementation	
(i) maintenance and operation plan	
(ii) appropriate and effective design scale and cost	15
(3) Leveraging	10
Total points	100

Economic Development (Section X. of this NOFA)

(a) Economic Development	
(1) Organization	8
(2) Project Success	
(i) market analysis	15
(ii) management capacity	15
(iii) financial analysis	15
(3) Leveraging	12
(4) Jobs	
(i) ICDBG cost/job	15
(ii) quality of jobs/training	5
(5) Additional considerations	15
Total points	100

VIII. Project Specific Thresholds and Selection Criteria for Housing

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

(b) *Rehabilitation Thresholds and Grant Limits.* (1) *Thresholds.* All applicants for housing rehabilitation grants shall adopt rehabilitation standards and rehabilitation policies prior to submitting an application. *These standards and policies must be submitted with the application.* The applicant shall provide an assurance that:

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

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

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

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

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

(i) Eastern/Woodlands	\$15,000
(ii) Southern Plains	\$20,000
(iii) Northern Plains	\$33,500
(iv) Southwest	\$35,000
(v) Northwest	\$25,000
(vi) Alaska	Lesser of \$45/sq.ft. or \$35,000

(c) *Selection Criteria for Rehabilitation Projects.*

(1) *Project Need and Design.* (45 points)

(i) The percentage of ICDBG funds committed to bring the houses to be assisted up to a standard condition as defined by the applicant.

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

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

91-100%	20 points
81-90.9%	15 points
80.9 and less	0 points

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

YES	10 points
NO	0 points

(iii) (A) Documentation of project need with a housing survey of all of the houses to be rehabilitated with ICDBG funds. This survey should include standard housing data on each house surveyed (e.g., age, size, type, number of

rooms, number of habitable rooms, number of bedrooms/sleeping rooms, type of heating). The survey should indicate the deficiencies for each house. *A definition of "suitable for rehabilitation" must be included.* At a minimum, this definition must not include houses that need only minor repairs, or houses that need such major repairs that rehabilitation is structurally or financially infeasible.

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

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

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

(2) *Planning and Implementation.* (50 points)

(i) *Rehabilitation Policies and Procedures including:*

(A) *Adopted rehabilitation standards.* The rehabilitation standards adopted by the applicant will ensure that after rehabilitation the houses assisted will be in a standard condition.

YES	5 points
NO	0 points

(B) *Rehabilitation selection policies and procedures.* (1) The rehabilitation selection policies and procedures contained in the application include:

- (i) Property selection standards;
- (ii) Cost limits;
- (iii) Type of financing (e.g., loan or grant);
- (iv) Homeowner costs and responsibilities;
- (v) Procedures for selecting households to be assisted; and,
- (vi) Income verification procedures.

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

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

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

(C) *Project implementation policies and procedures.* (1) These policies and

procedures must include a description of the following items:

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

(ii) The inspection procedures to be used;

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

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

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

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

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

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

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

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

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

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

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

(iii) *Quality of cost estimates.* (A) Cost estimates have been prepared by a qualified individual (Qualifications of the estimator must be included in the application). Costs of rehabilitation are documented on a per house basis and are supported by a work write-up for each house to be assisted. The work write-ups are based upon making those repairs necessary to bring the houses to a standard condition in a manner consistent with adopted construction codes and requirements. The write-ups must be submitted with the application.

If national standards (e.g., the Uniform Building Code) have been locally adopted as the construction codes and requirements, they must be referenced. If locally developed and adopted codes and requirements are used, they must be submitted. (15 points)

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

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

(D) Cost estimates are not included in the application or the basis for the cost estimates included is inappropriate or not provided. (0 points)

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

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

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

(3) *Leveraging.* (5 points)

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

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

(d) *Thresholds for Land to Support New Housing.* (1) The application contains information and documentation which establishes that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low and moderate income households with documented housing needs.

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

(e) *Selection Criteria for Land to Support New Housing.*

(1) *Project Need and Design.* (40 Points)

Information included in the application establishes that:

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

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

(iii) The applicant will be acquiring land for housing construction and the construction of needed infrastructure and amenities for both new and existing housing. (25 points); or,

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

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

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

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

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

(B) The land has adequate:

(1) Availability of drinking water;

(2) Access to utilities;

(3) Vehicular access;

(4) Drainage;

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

YES.....20 points
NO0 points

(ii) *Housing resources.* (A) Evidence of a conditional commitment for at least 25 percent of the housing units to be built on the land proposed for acquisition or evidence that an approvable application for these units has been submitted has been included in the application. (10 points)

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

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

YES.....5 points
NO0 points

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

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

YES.....5 points
NO0 points

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

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

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

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

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

(C) A plan for the provision of all necessary infrastructure is included in

the application but all financial commitments required to implement the plan have not been submitted. (5 points)

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

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

Yes.....5 points
No.....0 points

(f) *Thresholds for New Housing Construction.* The following thresholds and the selection criteria set forth in paragraph (g) of this section apply to new housing construction to be implemented through a Community-Based Development Organization (CBDO) as provided for under 24 CFR 953.204. *Please note that all households to be assisted under a new housing construction project must be of low or moderate income status.*

(1) New housing construction can only be implemented through a Community-Based Development Organization (CBDO). Eligible CBDOs are described in 24 CFR 953.204(c). The applicant must provide an assurance that it understands this requirement.

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

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

(ii) No other funding sources can meet the needs of the household(s) to be served.

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

(3) All applicants for new housing construction projects shall adopt construction standards and construction policies prior to submitting an application. Applicants must identify the building code to be used when constructing the houses and must document that this code has been

adopted. The building code may be a tribal building code or a nationally recognized model code. If it is a tribal code it must regulate all of the areas and subareas identified in 24 CFR 200.925b, and it must be reviewed and approved by the Area ONAP. If the code is recognized nationally, it must be the latest edition of one of the codes incorporated by reference in 24 CFR 200.925c.

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

(g) *Selection Criteria for New Housing Construction.*

(1) *Project Need and Design.* (45 points)

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

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

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

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

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

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

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

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

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

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

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

(B) The policies and plan include all of the information listed above. (20 points)

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

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

(iii) *Beneficiary identification.* (A) Households to be assisted are identified in the application and their income eligibility and household size are documented. (10 points)

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

(2) *Planning and Implementation.* (45 points)

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

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

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

(ii) *Site Acceptability.* (A) The applicant (or the proposed beneficiary household) has control of the land upon which the houses will be built. The application includes documentation that all housing sites are in trust or documentation from the BIA that the sites will be taken into trust within one year of the date of the ICDBG approval notification. If the sites are not in trust by the date of ICDBG approval notification, documentation that they are in trust must be provided to the Area

ONAP before ICDBG funds may be obligated for construction.

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

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

- (1) Each site has adequate;
- (2) Availability of drinking water
- (3) Access to utilities
- (4) Vehicular access
- (4) Drainage;
- (5) Each site appears to comply with environmental requirements.

YES.....15 points
NO.....0 points

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

YES.....5 points
NO.....0 points

(iv) *Housing Survey.* (A) The applicant has completed a survey of housing conditions and housing needs of its tribal members. This survey was completed within the twelve month period prior to the application submission deadline (or if an earlier survey, it was updated during this time period). *The survey must be submitted with the application.* The following descriptive data is included for each household surveyed:

- (1) Size of the household, inc. age and gender of any children.
- (2) Is the household occupying permanent housing or is it homeless?
- (3) Annual household income.
- (4) Owner or renter.
- (5) Number of habitable rooms and number of sleeping rooms.
- (6) Physical condition of the house—standard/substandard. If substandard, is it suitable for rehabilitation? A definition of “suitable for rehabilitation” must be included.
- (7) Number of distinct households occupying the house/degree of overcrowding.

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

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

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

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

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

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

(3) *Leveraging.* (10 points)

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

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

IX. Project Specific Thresholds and Selection Criteria for Community Facilities

(a) *Infrastructure Selection Criteria.*
(1) *Project Need and Design.* (60 points)

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

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

(C) The proposed project will fulfill a function which is not critical to the continued existence or orderly development of the community. (0 points)

(ii) *Benefits the neediest.* (A) The proposed project benefits the neediest segment of the population, as identified below. Applications must include information which demonstrates that

income data was collected in a statistically reliable and independently verifiable manner and that:

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

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

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

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

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

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

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

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

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

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

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

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

(2) *Planning and Implementation.* (30 points)

(i) *A viable plan for maintenance and operation.* (A) If the applicant is to assume responsibility for maintenance and operation of the proposed facility, the applicant must adopt a maintenance

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

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

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

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

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

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

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

(3) *Leveraging.* (10 points)

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

Non-ICDBG % of project cost	Points
25 and over	10
20-24.9	8
15-19.9	6
10-14.9	4

Non-ICDBG % of project cost	Points
5-9.9	2
0-4.9	0

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

(c) *Selection Criteria for Buildings.* (1) *Project Need and Design.* (60 points)

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

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

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

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

(A) 85 percent or more of the beneficiaries are low and moderate income. (10 points)

(B) Between 75-84.9 percent of the beneficiaries are low and moderate income. (8 points)

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

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

(iii) *Provides building/health and safety.* (A) The application includes documentation which demonstrates that the proposed building will be used to provide services or functions which are not provided to service area beneficiaries or it will replace a building which does not meet health or safety standards which is currently being used to provide the service or function or it will replace a building which is no

longer able to provide the space or amenities to meet the current need for the services or functions.

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

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

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

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

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

(iv) *Multi-use/multi-benefit.* (A) Provides multiple uses or multiple benefits, or has services available 24 hours a day. The application must show that the proposed building will house more than one broad category of activity or that services would be provided out of the building 24 hours a day. *A written commitment for the use of the space must be included in the application.* "Broad category" means a single activity or group of activities which serves a particular group of beneficiaries (e.g., senior citizens) or meets a particular need (e.g., literacy). No one category of activity will occupy more than 75 percent of the available space for more than 75 percent of the time.

Multipurpose buildings do not automatically meet these criteria, nor do buildings that provide a variety of activities for one client group.

(B) The proposed building will provide multiple uses or benefits or will have services available 24 hours/day and a commitment for the use of the space is included in the application. (5 points)

(C) The proposed building will not provide multiple benefits or services or will not have services available 24 hours a day or the application does not include a commitment for the use of the space. (0 points)

(2) *Planning and Implementation.* (30 points)

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

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

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

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

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

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

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

(3) *Leveraging.* (10 points)

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

Non-ICDBG % of Project Cost	Points
25 or more	10
20–24.9	8
15–19.9	6
10–14.9	4
5–9.9	2
0–4.9	0

X. Project Specific Thresholds and Selection Criteria for Economic Development

(a) *Thresholds for Economic Development.* (1) Economic development assistance may be provided only when a financial analysis is provided which shows public benefit commensurate with the assistance to the business can reasonably be expected to result from the assisted project.

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

(b) *Selection Criteria for Economic Development.*

(1) *Organization.* (8 points)

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

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

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

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

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

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

(2) *Project Success.* (45 points)

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

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

(B) A feasibility/market analysis which identifies the market and demonstrates that the proposed activities are reasonably likely to capture a fair share of the market. *The analysis must be submitted with the application.* (Moderate: 10 points)

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

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

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

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

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

(1) A detailed cost summary for the project;

(2) Evidence of funding sources;

(3) Five year operating or cash flow financial projections. If the project involves the expansion of an existing business, financial statements for the most recent three year period for the

business must also be submitted with the application (financial statements include the balance sheet, income statement and statement of retained earnings). For start-up businesses that will not be owned by the grantee, current financial or net worth statements of principal business owners or officers must also be submitted with the application.

(B) The information derived from the analysis will be reviewed and compared to local or national industry standards to assess reasonableness of development costs, financial need, profitability, and risk as factors in determining overall financial viability. In determining whether a project is financially viable, the Area ONAP will also consider current and projected market conditions and profitability measures such as cash flow return on equity, cash flow return on total assets and the ratio of net profit before taxes to total assets. Sources of industry standards include Marshall and Swift Publication Company, Robert Morris Associates, Dun and Bradstreet, the Chamber of Commerce, etc. Local standards may also be used. *If one of these standards is cited by the applicant, the appropriate data must be submitted with the application.*

(C) Based on the analysis:

(1) The project has an excellent chance of achieving financial success. (Maximum: 15 points)

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

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

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

Non-ICDBG % of Project Cost	Points
30% or more	12
20-29.9%	8
10-19.9%	4
less than 10%	0

(4) *Permanent Full-Time Equivalent Job Creation and Training*. (20 points).

(A) The total number of permanent full-time equivalent jobs expected to be created and/or retained as a result of the project as well as a summary of job descriptions must be identified or included in the application. Retained jobs will not be counted unless clear evidence is provided that these jobs would be lost without the project. The number and kind(s) of jobs expected to be available to low and moderate income persons must be identified.

(B) *ICDBG cost per job*:

\$30,000 or less	15 points
\$30,001-40,000	12 points
\$40,001-45,000	8 points
\$45,001+	0 points

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

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

(2) The employer commits to provide training opportunities. *A description of the planned training program must be submitted with the application.*

YES	5 points
NO	0 points

(5) *Additional Considerations*. (15 points)

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

(A) Use, improve or expand members' special skills. Special skills are those that members have developed through education, training or traditional cultural experiences.

YES	5 points
NO	0 points

(B) Provide spin-off benefits beyond the initial economic development benefits to employees or to the community.

YES	5 points
NO	0 points

(C) Provide special opportunities for residents of Federally-assisted housing.

YES	5 points
NO	0 points

(D) Provide benefits to other businesses owned by Indians or Alaska natives.

YES	5 points
NO	0 points

(E) *Loan Repayment/Reuse of ICDBG funds*. If the business is not tribally owned, at least 50% of the ICDBG assistance to the business will be repaid to the grantee within a 10 year period. If the business is tribally owned, the tribe agrees (by submission of a tribal resolution) within a 10 year period to use funds equal to 50% of the ICDBG assistance for eligible activities that meet a national objective. These funds should come from the profits of the tribally owned business.

YES	5 points
NO	0 points

XI. Error and Appeals

Rating panel judgements made within the provisions of this NOFA and the

program regulations (24 CFR 953) are not subject to claims of error. Applicants may bring arithmetic errors in the rating and ranking of applications to the attention of an Area ONAP within 30 days of being informed of their score. If an Area ONAP makes an arithmetic error in the application review and rating process which, when corrected, would result in the award of sufficient points to warrant the funding of an otherwise approvable project, the Area ONAP may fund that project in the next funding round without further competition.

XII. Findings and Certifications

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

Environmental Impact. This NOFA provides funding under, and does not alter environmental requirements of regulations in 24 CFR part 953. Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Recipient Compliance with Environmental Requirements. In accordance with 24 CFR 953.605, a recipient must comply with the environmental review requirements of 24 CFR part 58, including limitations on the commitment of project funds before submission of a request for release of funds.

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

Family Executive Order. The General Counsel, as the Designated Official for Executive Order 12606, *The Family*, has determined that the policies announced

in this NOFA would not have the potential for significant impact on family formation, maintenance and general well-being and thus not subject to review under the Order.

Prohibition of Advance Disclosure of Funding Decisions. HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of the applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have ethics related questions should contact HUD's Ethics Law Division (202) 708-3815. (This is not a toll-free number.)

Economic Opportunities for Low and Very Low Income Persons. All applicants are herein notified that the provisions of section 3 of the Housing and Urban Development Act of 1968, as amended, and the regulations in 24 CFR part 135 are applicable to funding awards made under this NOFA. One of the purposes of the assistance is to give to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns. Tribes that receive HUD assistance described in this part shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-determination and Education Assistance Act (25 U.S.C. 450e(b)).

Prohibition Against Lobbying Activities. Applicants for funding under

this NOFA are subject to the provisions of Section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. Section 1352 (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995, P.L. 104-65 (December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR Part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal Executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF-LLL disclosing such payments must be submitted. The certification and the SF-LLL are included in the application package.

The Lobbying Disclosure Act of 1995, P.L. 104-65 (December 19, 1995), which repealed Section 112 of the HUD Reform Act and resulted in the elimination of the regulations at 24 CFR Part 86, requires all persons and entities who lobby covered Executive or Legislative Branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities. IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

Section 102 of the HUD Reform Act—Documentation, Access, and Disclosure. Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure

greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

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

(b) **Disclosures.** HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

Catalog of Federal Domestic Assistance Number.

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

Dated: April 2, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

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