

Subpart G—Other Program Requirements

§ 1003.600 Constitutional prohibition.

In accordance with First Amendment Church/State Principles, as a general rule, ICDBG assistance may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities. The following restrictions and limitations therefore apply to the use of ICDBG funds.

(a) ICDBG funds may not be used for the acquisition of property or the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures to be used for religious purposes or which will otherwise promote religious interests. This limitation includes the acquisition of property for ownership by primarily religious entities and the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures owned by such entities (except as permitted under paragraph (b) of this section with respect to rehabilitation and under paragraph (d) of this section with respect to repairs undertaken in connection with public services) regardless of the use to be made of the property or structure. Property owned by primarily religious entities may be acquired with ICDBG funds at no more than fair market value for a non-religious use.

(b) ICDBG funds may be used to rehabilitate buildings owned by primarily religious entities to be used for a wholly secular purpose under the following conditions:

(1) The building (or portion thereof) that is to be improved with the ICDBG assistance has been leased to an existing or newly established wholly secular entity (which may be an entity established by the religious entity);

(2) The ICDBG assistance is provided to the lessee (and not the lessor) to make the improvements;

(3) The leased premises will be used exclusively for secular purposes available to persons regardless of religion;

(4) The lease payments do not exceed the fair market rent of the premises as they were before the improvements are made;

(5) The portion of the cost of any improvements that also serve a non-leased part of the building will be allocated to and paid for by the lessor;

(6) The lessor enters into a binding agreement that unless the lessee, or a qualified successor lessee, retains the use of the leased premises for a wholly secular purpose for at least the useful life of the improvements, the lessor will pay to the lessee an amount equal to the residual value of the improvements;

(7) The lessee must remit the amount received from the lessor under paragraph (b)(6) of this section to the grantee or subrecipient from which the ICDBG funds were derived.

(8) The lessee can also enter into a management contract authorizing the lessor religious entity to use the building for its intended secular purpose, e.g., homeless shelter, provision of public services. In such case, the religious entity must agree in the management contract to carry out the secular purpose in a manner free from religious influences in accordance with the principles set forth in paragraph (c) of this section.

(c) As a general rule, ICDBG funds may be used for eligible public services to be provided through a primarily religious entity, where the religious entity enters into an agreement with the grantee or subrecipient from which the ICDBG funds are derived that, in connection with the provision of such services:

(1) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(2) It will not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;

(3) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services;

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(d) Where the public services provided under paragraph (c) of this section are carried out on property owned by the primarily religious entity, ICDBG funds may also be used for minor repairs to such property which are directly related to carrying out the public services where the cost constitutes in dollar terms only an incidental portion of the ICDBG expenditure for the public services.

§ 1003.601 **Nondiscrimination.**

(a) Under the authority of section 107(e)(2) of the Act, the Secretary waives the requirement that grantees comply with section 109 of the Act except with respect to the prohibition of discrimination based on age, sex, religion, or against an otherwise qualified disabled individual.

(b) A grantee shall comply with the provisions of title II of Pub. L. 90-284 (24 U.S.C. 1301—the Indian Civil Rights Act) in the administration of a program or activity funded in whole or in part with funds made available under this part. For purposes of this section, “program or activity” is defined as any function conducted by an identifiable administrative unit of the grantee; and “funded in whole or in part with funds made available under this part” means that ICDBG funds in any amount have been transferred by the grantee to an identifiable administrative unit and disbursed in a program or activity.

§ 1003.602 **Relocation and real property acquisition.**

(a) *Minimize displacement.* Consistent with the other goals and objectives of this part, grantees shall assure that they have taken all reasonable steps to minimize the displacement of persons (households, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) *Temporary relocation.* The following policies cover residential tenants who will not be required to move permanently but who must relocate temporarily for the project. Such tenants must be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing

and any increase in monthly housing costs (e.g., rent/utility costs).

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the suitable, decent, safe and sanitary dwelling to be made available for the temporary period;

(iii) The terms and conditions under which the tenant may occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the repairs; and

(iv) The provisions of paragraph (b)(1) of this section.

(c) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (g) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA)(42 U.S.C. 4601-4655) and implementing regulations at 49 CFR part 24.

(d) *Optional relocation assistance.* Under section 105(a)(11) of the Act, the grantee may provide relocation payments and other relocation assistance to persons displaced by a project that is not subject to paragraph (c) of this section. The grantee may also provide relocation assistance to persons receiving assistance under paragraph (c) of this section at levels in excess of those required. For assistance that is not required by State or tribal law, the grantee shall adopt a written policy available to the public that describes the relocation assistance that it has elected to furnish and provides for equal relocation assistance within each class of displaced persons.

(e) *Real Property acquisition requirements.* The acquisition of real property for an assisted activity is subject to 49 CFR part 24, subpart B. Whenever the grantee does not have the authority to acquire the real property through condemnation, it shall:

(1) Before discussing the purchase price, inform the owner:

(i) Of the amount it believes to be the fair market value of the property. Such amount shall be based upon one or