

poverty among the eligible Indian population; and

(iii) Twenty percent (20%) of the funds will be allocated based upon each Area ONAP's share of the total extent of overcrowded housing among the eligible Indian population.

(b) HUD will use other criteria to determine an allocation formula for distributing funds to the Area ONAPs if funds are set aside by statute for a specific purpose in any fiscal year if it is determined that the formula in paragraph (a) of this section is inappropriate to accomplish the purpose. HUD will use other criteria if it is determined that, based on a limited appropriation of funds, the use of the formula in paragraph (a) of this section is inappropriate to obtain an equitable allocation of funds.

(c) Data used for the allocation of funds will be based upon the Indian population of those tribes and villages that are determined to be eligible ninety (90) days before the beginning of each fiscal year.

#### **§ 1003.102 Use of recaptured and unawarded funds.**

(a) The Assistant Secretary will determine on a case-by-case basis the use of grant funds which are:

- (1) Recaptured by HUD under the provisions of § 1003.703 or § 1003.704;
- (2) Recaptured by HUD at the time of the closeout of a program; or
- (3) Unawarded after the completion by an Area ONAP of a funding competition.

(b) The recaptured or unawarded funds will remain with the Area ONAP to which they were originally allocated unless the Assistant Secretary determines that there is an overriding reason to redistribute these funds outside of the Area ONAP's jurisdiction. The recaptured funds may be used to fund the highest ranking unfunded project from the most recent funding competition, an imminent threat, or other uses. Unawarded funds may be used to fund an imminent threat or other uses.

### **Subpart C—Eligible Activities**

#### **§ 1003.200 General policies.**

An activity may be assisted in whole or in part with ICDBG funds only if the

activity meets the eligibility requirements of section 105 of the Act as further defined in this subpart and if the criteria for compliance with the primary objective of the Act set forth under § 1003.208 have been met. The requirements for compliance with the primary objective of the Act do not apply to imminent threat grants funded under subpart E of this part.

#### **§ 1003.201 Basic eligible activities.**

ICDBG funds may be used for the following activities:

(a) *Acquisition.* Acquisition in whole or in part by the grantee, or other public or private nonprofit entity, by purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of § 1003.207.

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with ICDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 1003.503.

(c) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in § 1003.207(a), carried out by the grantee or other public or private nonprofit entities. In undertaking such activities, design features and improvements which promote energy efficiency may be included. [However, activities under this paragraph may be directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to publicly owned and privately owned buildings, facilities, and improvements including those provided for in § 1003.207(a)(1).] Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the