Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*), shall be considered Federal government funds and shall not be used to meet the matching requirements. Matching funds shall be used as provided in the Assistance Agreement. Funds that are used prior to the execution of the Assistance Agreement may nevertheless qualify as matching funds provided the Fund determines in its reasonable discretion that such use promoted the purpose of the Comprehensive Business Plan that the Fund is supporting through its assistance.

§ 1805.501 Comparability of form and value.

(a) Matching funds shall be at least comparable in form (*e.g.*, equity investments, deposits, credit union shares, loans and grants) and value to financial assistance provided by the Fund (except as provided in § 1805.502). The Fund shall have the discretion to determine whether matching funds pledged are comparable in form and value to the financial assistance requested.

(b) In the case of an Awardee that raises matching funds from more than one source, through different investment instruments, or under varying terms and conditions, the Fund may provide financial assistance in a manner that represents the combined characteristics of such instruments.

(c) An Awardee may meet all or part of its matching requirements by committing available earnings retained from its operations.

§ 1805.502 Severe constraints waiver.

(a) In the case of an Applicant with severe constraints on available sources of matching funds, the Fund, in its sole discretion, may permit such Applicant to comply with the matching requirements by:

(1) Reducing such requirements by up to 50 percent; or

(2) Permitting an Applicant to provide matching funds in a form to be determined at the discretion of the Fund, if such an Applicant:

(i) Has total assets of less than $100,000;

(ii) Serves an area that is not a Metropolitan Area; and

(iii) Is not requesting more than $25,000 in assistance.

(b) Not more than 25 percent of the total funds available for obligation under this part in any fiscal year may be matched as described in paragraph (a) of this section. Additionally, not more than 25 percent of the total funds disbursed under this part in any fiscal year may be matched as described in paragraph (a) of this section.

(c) An Applicant may request a ''severe constraints waiver'' as part of its application for assistance. An Applicant shall provide a narrative justification for its request, indicating:

(1) The cause and extent of the constraints on raising matching funds;

(2) Efforts to date, results, and projections for raising matching funds;

(3) A description of the matching funds expected to be raised; and

(4) Any additional information requested by the Fund.

(d) The Fund will grant a ''severe constraints waiver'' only in exceptional circumstances when it has been demonstrated, to the satisfaction of the Fund, that an Investment Area(s) or Targeted Population(s) would not be adequately served without the waiver.

§ 1805.503 Time frame for raising match.

Applicants shall satisfy matching funds requirements within the period set forth in the applicable Notice of Funds Availability.

§ 1805.504 Retained earnings.

(a) An Applicant may use its retained earnings to match a request for a financial assistance grant from the Fund. An Applicant that proposes to meet all or a portion of its matching funds requirements by committing available earnings retained from its operations shall be subject to the restrictions described in this section. Retained earnings shall be calculated as directed by the Fund in the applicable Notice of Funds Availability, the financial assistance application and/or related guidance materials. Retained earnings accumulated after the end of the Applicant's most recent fiscal year

ending prior to the appropriate application deadline may not be used as matching funds.

(b) In the case of an Applicant that is not an Insured Credit Union or a State-Insured Credit Union, retained earnings that may be used for matching funds purposes shall consist of:

(1) The increase in retained earnings (meaning, for purposes of § 1805.504(b), operating income minus operating expenses less any dividend payments) that has occurred over the Applicant's most recent fiscal year (*e.g.*, retained earnings at the end of fiscal year 2003 less retained earnings at the end of fiscal year 2002); or

(2) The annual average of such increases that has occurred over the Applicant's three most recent fiscal years.

(c)(1) In the case of an Applicant that is an Insured Credit Union or a State-Insured Credit Union, retained earnings that may be used for matching funds purposes shall consist of:

(i) The increase in retained earnings that has occurred over the Applicant's most recent fiscal year;

(ii) The annual average of such increases that has occurred over the Applicant's three most recent fiscal years; or

(iii) The entire retained earnings that have been accumulated since the inception of the Applicant, provided that the Assistance Agreement shall require that:

(A) The Awardee shall increase its member shares, non-member shares, outstanding loans and/or other measurable activity as defined in and by an amount that is set forth in an applicable Notice of Funds Availability; and

(B) Such increase must be achieved by a date certain set forth in the applicable Notice of Funds Availability;

(C) The Applicant's Comprehensive Business Plan shall discuss its strategy for achieving the increases described in (c)(1)(iii)(A) of this section and the activities associated therewith;

(D) The level from which the achievement of said increases will be measured will be as of July 31 of the calendar year in which the applicable application deadline falls (or such other date as set forth in the applicable Notice of Funds Availability); and

(E) Financial assistance shall be disbursed by the Fund only as the amount of increases described in paragraph (c)(1)(iii)(A) of this section is achieved.

(2) The Fund will allow an Applicant to utilize the option described in paragraph (c)(1)(iii) of this section for matching funds only if it determines, in its sole discretion, that the Applicant will have a high probability of success in achieving said increases to the specified amounts.

Subpart F—Applications for Assistance

§ 1805.600 Notice of Funds Availability.

Each Applicant shall submit an application for financial or technical assistance under this part in accordance with the applicable Notice of Funds Availability published in the FEDERAL REGISTER. The Notice of Funds Availability will advise potential Applicants on how to obtain an application packet and will establish deadlines and other requirements. The Notice of Funds Availability may specify any limitations, special rules, procedures, and restrictions for a particular funding round. After receipt of an application, the Fund may request clarifying or technical information on the materials submitted as part of such application.

Subpart G—Evaluation and Selection of Applications

§ 1805.700 Evaluation and selection—general.

Applicants will be evaluated and selected, at the sole discretion of the Fund, to receive assistance based on a review process, that could include an interview(s) and/or site visit(s), that is intended to:

(a) Ensure that Applicants are evaluated on a merit basis and in a fair and consistent manner;

(b) Take into consideration the unique characteristics of Applicants that vary by institution type, total asset size, stage of organizational development, markets served, products and services provided, and location;