

§ 1003.101

24 CFR Ch. IX (4-1-07 Edition)

community development need. This type of grant is awarded through competition with other single purpose projects.

(2) *Imminent threat grants* alleviate an imminent threat to public health or safety that requires immediate resolution. This type of grant is awarded only after an Area ONAP determines that such conditions exist and if funds are available for such grants.

(b) *Size of grants.*—(1) *Ceilings.* Each Area ONAP may recommend grant ceilings for single purpose grant applications. Single purpose grant ceilings for each Area ONAP shall be established in the NOFA (Notice of Funding Availability).

(2) *Individual grant amounts.* An Area ONAP may approve a grant amount less than the amount requested. In doing so, the Area ONAP may take into account the size of the applicant, the level of demand, the scale of the activity proposed relative to need and operational capacity, the number of persons to be served, the amount of funds required to achieve project objectives, the reasonableness of the project costs, and the administrative capacity of the applicant to complete the activities in a timely manner.

[61 FR 40090, July 31, 1996, unless otherwise noted. Redesignated at 62 FR 12349, Mar. 12, 1998, as amended at 66 FR 4580, Jan. 17, 2001; 66 FR 8176, Jan. 30, 2001]

§ 1003.101 Area ONAP allocation of funds.

(a) Except as provided in paragraph (b) of this section, funds will be allocated to the Area ONAPs responsible for the program on the following basis:

(1) Each Area ONAP will be allocated \$1,000,000 as a base amount, to which will be added a formula share of the balance of the ICDBG Program funds, as provided in paragraph (a)(2) of this section.

(2) The amount remaining after the base amount is allocated and any amount retained by the Headquarters ONAP to fund imminent threat grants pursuant to the provisions of § 1003.402 is subtracted, will be allocated to each Area ONAP based on the most recent data compiled and published by the United States Bureau of the Census ref-

erable to the same point or period in time, as follows:

(i) Forty percent (40%) of the funds will be allocated based upon each Area ONAP's share of the total eligible Indian population;

(ii) Forty percent (40%) of the funds will be allocated based upon each Area ONAP's share of the total extent of 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 aesthetic quality of facilities and improvements receiving ICDBG assistance. Facilities designed for use in providing shelter for persons having special needs are considered public facilities and not subject to the prohibition of new housing construction described in § 1003.207(b)(3). Such facilities include shelters for the homeless; convalescent homes; hospitals, nursing homes; battered spouse shelters; half-way houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims. In certain cases, nonprofit entities and subrecipients including those specified in § 1003.204 may acquire title to public facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph (c) are subject to the following policies in paragraphs (c)(1) through (c)(3) of this section:

(1) *Special policies governing facilities.* The following special policies apply to:

(i) *Facilities containing both eligible and ineligible uses.* A public facility otherwise eligible for assistance under the ICDBG program may be provided with ICDBG funds even if it is part of a multiple use building containing ineligible uses, if:

(A) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and

(B) The grantee can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility. Allowable costs are limited to those attributable to the eligible portion of the building or facility.