

a real property (e.g., a business incubator or an industrial park) the requirement may be met by measuring jobs in the aggregate for all the businesses which locate on the property, provided such businesses are not otherwise assisted by ICDBG funds. Where ICDBG funds are used to pay for the staff and overhead costs of a CBDO under the provisions of §1003.204 making loans to businesses from non-ICDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during any one year period. For an activity that creates jobs, the grantee must document that at least 51 percent of the jobs will be held by, or will be available to, low and moderate income persons. For an activity that retains jobs, the grantee must document that the jobs would actually be lost without the ICDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the ICDBG assistance is provided: The job is known to be held by a low or moderate income person; or the job can reasonably be expected to turn over within the following two years and that steps will be taken to ensure that it will be filled by, or made available to, a low or moderate income person upon turnover. Jobs will be considered to be available to low and moderate income persons for these purposes only if:

(1) Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and

(2) The grantee and the assisted business take actions to ensure that low and moderate income persons receive first consideration for filling such jobs.

(e) *Additional criteria.* (1) Where the assisted activity is acquisition of real property, a preliminary determination of whether the activity addresses the primary objective may be based on the planned use of the property after acquisition. A final determination shall be based on the actual use of the property, excluding any short-term, temporary use.

(2) Where the assisted activity is relocation assistance that the grantee is required to provide, such relocation assistance shall be considered to address the primary objective as addressed by the displacing activity.

(3) In any case where the activity undertaken for the purpose of creating or retaining jobs is a public improvement and the area served is primarily residential, the activity must meet the requirements of paragraph (a) of this section as well as those of paragraph (d) of this section in order to qualify as benefiting low and moderate income persons.

(4) Expenditures for activities meeting the criteria for benefiting low and moderate income persons shall be used in determining the extent to which the grantee's overall program benefits such persons. In determining the percentage of funds expended for such activities:

(i) Costs of administration and planning, eligible under §1003.205 and §1003.206 respectively, will be assumed to benefit low and moderate income persons in the same proportion as the remainder of the ICDBG funds and, accordingly, shall be excluded from the calculation.

(ii) Funds expended for the acquisition, new construction or rehabilitation of property for housing those qualified under §1003.208(c) shall be counted for this purpose, but shall be limited to an amount determined by multiplying the total cost (including ICDBG and non-ICDBG costs) of the acquisition, construction, or rehabilitation by the percent of units in such housing occupied by low and moderate income persons.

(iii) Funds expended for any other activity which qualifies under §1003.208 shall be counted for this purpose in their entirety.

Subpart D—Single Purpose Grant Application and Selection Process

§ 1003.300 Application requirements.

(a) *Application information.* A Notice of Funding Availability (NOFA) shall be published in the FEDERAL REGISTER not less than 30 days before the deadline for application submission. The NOFA will provide information relating to the date and time for application

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submission, the form and content requirements of the application, specific information regarding the rating and ranking criteria to be used, and any other information pertinent to the application process.

(b) *Costs incurred by applicant.* Costs incurred by an applicant prior to the submission of the single purpose grant application to HUD will not be recognized by HUD as eligible ICDBG expenses.

(c) HUD will not normally reimburse or recognize costs incurred before HUD approval of the application for funding. However, under unusual circumstances, the Area ONAP may consider and approve written requests to recognize and reimburse costs incurred after submission of the application where failure to do so would impose undue hardship on the applicant. Such written authorization will be made only before the costs are incurred and where the requirements for reimbursement have been met in accordance with 24 CFR 58.22 and with the understanding that HUD has no obligation whatsoever to approve the application or to reimburse the applicant should the application be disapproved.

(Approved by the Office of Management and Budget under control number 2577-0191)

§ 1003.301 Selection process.

(a) *Threshold requirement.* An applicant that has an outstanding ICDBG obligation to HUD that is in arrears, or one that has not agreed to a repayment schedule, will be disqualified from the competition.

(b) *Application rating.* NOFAs will define and establish weights for the selection criteria, will specify the maximum points available, and will describe how point awards will be made.

[66 FR 4581, Jan. 17, 2001; 66 FR 8176, Jan. 30, 2001]

§ 1003.302 Project specific threshold requirements.

(a) *Housing rehabilitation projects.* All applicants for housing rehabilitation projects shall adopt rehabilitation standards and rehabilitation policies before submitting an application. The applicant shall assure that it will use project funds to rehabilitate units only

when the homeowner's payments are current or the homeowner is current in a repayment agreement that is subject to approval by the Area ONAP. The Area ONAP administrator may grant exceptions to this requirement on a case-by-case basis.

(b) *New housing construction projects.* New housing construction can only be implemented through a nonprofit organization that is eligible under §1003.204 or is otherwise eligible under §1003.207(b)(3). All applicants for new housing construction projects shall adopt, by current tribal resolution, construction standards before submitting an application. All applications which include new housing construction projects must document that:

(1) No other housing is available in the immediate reservation area that is suitable for the household(s) to be assisted; and

(2) No other sources can meet the needs of the household(s) to be assisted; and

(3) Rehabilitation of the unit occupied by the household(s) to be assisted is not economically feasible; or

(4) The household(s) to be housed currently is in an overcrowded housing unit (sharing with another household); or

(5) The household(s) to be assisted has no current residence.

(c) *Economic development projects.* All applicants for economic development projects must provide an analysis which shows public benefit commensurate with the ICDBG assistance requested will result from the assisted project. This 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 that it has a reasonable chance of success.