Attachment # 7

CDBG Program Information

SUMMARY OF NATIONAL OBJECTIVES

This section summarizes the National Objectives of the Community Development Block Grant Program contained in the Code of Federal Regulations, Title 24, Part 570, Sections 570.200(a)(2) and (3), 570.208(a)-(d), and 570.506. For a more complete description, consult the regulations and the Community Development Block Grant Program Guide to National Objectives & Eligible Activities for Entitlement Communities (Desk Guide) on the HUD Web site at www.hud.gov/offices/cpd/communitydevelopment/library/index.cfm.

NATIONAL OBJECTIVES

Each activity, except planning and administrative activities, must meet one of the CDBG program's three broad National Objectives:

1. Benefit low- and moderate-income persons,
2. Aid in the prevention or elimination of slums or blight, or
3. Meet community development needs having a particular urgency.

At least 70 percent of the grantee's overall expenditures during a one-, two- or three-year period (specified by the grantee) must be used for activities that benefit low- and moderate-income persons.

1. Activities benefiting low- and moderate-income persons

a) **Area benefit activities**

An activity, the benefits of which are available to ***all*** the residents in a particular area, where at least 51 percent of the residents are low- and moderate-income persons. The service area must be primarily residential, and the activity must meet the identified needs of low- and moderate-income persons. Examples include: street improvements, water and sewer lines, neighborhood facilities, and facade improvements in neighborhood commercial districts. Such an activity must meet one of the following qualifying criteria:

(1) Fifty-one percent of the persons residing in the service area are low and moderate income, supported by the most recently available decennial census information, together with the Section 8 income limits that would have applied at the time the income information was collected by the Census Bureau. (HUD provides grantees with information by census tract and block group that may be used to determine this percentage); or

(2) Fifty-one percent of the persons residing in the service area are low- and moderate-income residents supported by a current survey of the residents of the service area ***if*** the recipient believes that the census data do not reflect current relative income levels in an area, **or** where census boundaries do not coincide sufficiently well with the service area of an activity. The survey results must meet statistical reliability standards and be approved by HUD; or

(3) Under the Exception Criteria, a service area that contains less than 51 percent low- and moderate-income residents will be considered to meet this National Objective if the proportion of low- and moderate-income persons in the area is within the ***highest quartile*** of all areas in the recipient's jurisdiction in terms of the degree of concentration of such persons.

HUD will determine the lowest proportion a recipient may use to qualify an area for this purpose.

Records to be maintained:

- Boundaries of the service area;
- Data showing the percent of low- and moderate-income persons residing in the service area; and
- Data showing that the area qualifies under the exception rule if the percent of low- and moderate-income persons in the service area is less than 51 percent. Specific data requirements for the Consolidated Annual Performance and Evaluation Report (CAPER) can be found in the Appendix to Chapter 6, CAPER Information.

b) **Limited clientele activities**

(1) An activity that benefits a limited clientele, at least 51 percent of whom are low- and moderate-income persons. Examples include: construction of a senior center; public services for the homeless; meals on wheels for the elderly; and construction of job training facilities for the handicapped. The activity must meet one of the following qualifying criteria:

(a) The activity must exclusively serve a group of persons in any one or a combination of categories generally presumed to be principally low and moderate income: abused children, battered spouses, elderly persons, adults meeting the definition of "severely disabled" in the Bureau of Census's Current Population Reports, homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or

(b) Information must be required on family size and income to document that at least 51 percent of the clientele are persons whose family income does not exceed Section 8 low- and moderate-income limits; or

(c) The activity must have income eligibility requirements that limit the activity exclusively to low- and moderate-income persons; or

(d) The activities must be of such nature and in such location that it may be reasonably concluded that the activity's clientele will primarily be low- and moderate-income persons.

(2) A special project that serves to remove material and architectural barriers that restrict the mobility and accessibility of elderly persons or of adults meeting the definition of "severely disabled" in the Bureau of Census's Current Population Reports will qualify if it is restricted, to the extent practicable, to the removal of such barriers by assisting:

- the reconstruction of a public improvement or facility, or portion thereof, that does not serve an area that is predominantly low and moderate income;

- the rehabilitation of a privately owned non-residential building or improvement that does not serve an area that is predominantly low or moderate income or create or retain jobs primarily for low- and moderate-income persons; or,

- the rehabilitation of the common areas of a residential structure that is not principally occupied by low- and moderate-income households.

Records to be maintained:

One of the following types of documentation must be kept for each activity:

- Documentation showing that the activity is designed for and used by a segment of the population presumed by HUD to be principally low and moderate income; or
- Documentation describing how the nature and, if applicable, the location of the activity establishes that it will primarily benefit low- and moderate-income persons; or
- Date showing the size and annual income of the family of each person receiving the benefit; or
- Data showing that the activity is a special project removing accessibility barriers in the limited cases described above.

c) **Housing activities**

An activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be principally occupied by low- and moderate-income households. Examples include: property acquisition or rehabilitation of property for permanent housing; conversion of non-residential structures into permanent housing; and new housing construction. The activity must meet the following qualifying criteria:

(1) One-unit structures must be occupied by low- and moderate-income households.

(2) Two-unit structures must have at least one unit occupied by a low- and moderate-income household.

(3) Structures containing more than two units must have at least 51 percent of the units occupied by low- and moderate-income households.

(4) Rental buildings under common ownership and management that are located on the same or contiguous properties may be considered as a single structure.

(5) For rental housing, occupancy by low- and moderate-income households must be at affordable rents, consistent with standards adopted and publicized by the CDBG grantee for determining "affordable rent" levels.

(6) Assistance to reduce the development cost of the new construction of non-elderly, multi-unit rental structures may qualify if: (a) at least 20 percent of the units are occupied by low- and moderate-income households; (b) where low- and moderate-income occupancy is between 20 percent and 51 percent, the CDBG proportion of the total development costs (including the costs of all work from design and engineering through completion of the physical

improvements and, if integral to the project, the costs of acquisition) is no greater than the proportion of units occupied by low- and moderate-income households.

Records to be maintained:

- A copy of the written agreement with each landlord or developer receiving CDBG assistance indicating the total number of dwelling units in each multi-unit structure assisted and the number of those units that will be occupied by low- and moderate-income households after assistance.
- The total cost of the activity, including both CDBG and non-CDBG funds.
- For each unit occupied by a low- and moderate-income household, the size, ethnicity, and income of the household.
- For rental housing only:
  - Rent charged (or to be charged) after assistance, for each dwelling unit in each structure assisted; and
  - Information as necessary to show the affordability of units occupied (or to be occupied) by low- and moderate-income households pursuant to criteria established and made public by the grantee.
- For each property acquired on which there are no structures, evidence of commitments ensuring that the above criteria will be met when the structures are built.
- Where applicable, records documenting that the activity qualified under the exception allowed for new construction of non-elderly, multi-unit, rental housing.

d) **Job creation or retention activities**

An activity designed to create or retain permanent jobs where at least 51 percent of that, computed on a full-time equivalent (FTE) basis, involve the employment of low- and moderate-income persons. Potentially eligible activities include: construction by the grantee of a business incubator designed to offer space and assistance to new firms to help them become viable small businesses; loans to pay for the expansion of a plant or factory; and assistance to a business to prevent closure and a resultant loss of jobs for low- and moderate-income persons. As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies. However, in certain cases, such as where CDBG funds are used to acquire, develop or improve 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 that locate on the property, provided such businesses are not otherwise assisted by CDBG funds. Additionally, where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses from non-CDBG funds, this requirement may be met by aggregating the jobs created or retained by all of the businesses receiving loans during each program year. Finally, a job creation/retention activity undertaken pursuant to the strategy for a HUD-approved Neighborhood Revitalization Strategy Area may be considered to meet the low/moderate area benefit National Objective under 570.208(d)(5)(i).

Jobs may be taken by low- and moderate-income persons or made available to such persons. Jobs are only considered to be ***available to*** low- or moderate-income persons when:

(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) Local government and/or the assisted business take actions to ensure that low- and moderate-income persons receive ***first consideration*** for filling such jobs.

Records to be maintained for benefit based on job creation:

Where the grantee chooses to document that at least ***51 percent of the jobs will be available to*** low- and moderate-income persons, documentation for each assisted business shall include:

- A copy of a written agreement, containing:
  - A commitment by the business that it will make at least 51 percent of the FTE jobs available to low- and moderate-income persons and will provide training for any of those jobs requiring special skills or education;
  - A listing by job title of the permanent jobs to be created, indicating which jobs will be available to low- and moderate-income persons, which jobs require special skills or education, and which jobs are part-time; and,
  - A description of the actions to be taken by the grantee and business to ensure that low- and moderate-income persons receive ***first consideration*** for these jobs; and
- A listing by job title of the permanent jobs filled, and which jobs were available to low- and moderate-income persons, as well as a description of how first consideration was given to any such persons for these jobs. The description shall include what type of hiring process was used; the names of the low- and moderate-income persons interviewed for each such job; and those hired.

or

Where the grantee chooses to document that at least ***51 percent of the jobs will be held by*** low- and moderate-income persons, documentation for each assisted business shall include:

- A copy of a written agreement, containing:
  - A commitment by the business that at least 51 percent of the jobs created, on a full-time equivalent basis, will be held by low- and moderate-income persons; and,
  - A listing by job title of the permanent jobs to be created (identifying which are part-time, if any).
- A listing by job title of the permanent jobs filled and which jobs were ***initially taken*** *by* low- and moderate-income persons; and

- For each low- and moderate-income person hired, information on the size and annual income of the person's family prior to the time the person was hired for the job, or evidence that the person may be presumed to be low or moderate income based on the location of the business or the person's residence [see §570.208(a)(4)(iv)].

For benefit based on job retention, the following documentation must be kept:

- Evidence that in the absence of CDBG assistance, the jobs would be lost; and,

- For each business assisted, a listing by job title of permanent jobs retained, indicating which of those jobs are part-time and (where it is known) which are held by low- and moderate-income persons at the time the assistance is provided; and,

- Where applicable, identification of any of the retained jobs (other than those known to be held by low- and moderate-income persons) that are projected to become available to low- and moderate-income persons through job turnover within two years of the time CDBG assistance is provided, and information on how the turnover projections were calculated; and,

- For each retained job claimed to be held by a low- and moderate-income person, information on the size and annual income of the person's family, or evidence that the person may be presumed to be low or moderate income based on the location of the business or the person's residence [see §570.208(a)(4)(iv)]; and,

- For jobs claimed to be available to low- and moderate-income persons based on job turnover: a description covering the items required for "available to" jobs identified above; a listing of each job that has turned over to date, indicating which of those jobs were either taken by, or made available to low- and moderate-income persons; and a description of how "first consideration" was given to low- and moderate-income persons for those jobs.

2. <u>Activities that aid in the prevention or elimination of slums or blight</u>

a) <u>Activities to address *slums or blight* on an *area* basis</u>

An activity that aids in the prevention or elimination of slums or blight in a designated area. Examples include: assistance to commercial or industrial businesses, public facilities or improvements, and code enforcement **in a blighted neighborhood.** The activity must meet ***all*** of the following qualifying criteria:

(1) The area, delineated by the grantee, must meet a definition of a slum, blighted, deteriorated or deteriorating area under state or local law;

(2) There must be a substantial number of deteriorated or deteriorating buildings throughout the area, or the public improvements are in a general state of deterioration;

(3) The activity must address one or more of the conditions that contributed to the deterioration of the area; and

(4) If rehabilitation of residential buildings not occupied by low- and moderate-income households is undertaken, each such building rehabilitated must be considered substandard under local definition before rehabilitation, and ***all deficiencies making a building substandard must be corrected before less critical work on the building may be undertaken.***

Records to be maintained:

- Boundaries of the area.
- A description of the conditions that qualified the area at the time of its designation in sufficient detail to demonstrate how the area met the qualifying criteria.
- For each residential rehabilitation activity:
  - A local definition of 'substandard' that must be at least as stringent as the housing quality standards used in the Section 8 Housing Assistance Payment Program - Existing Housing; and
  - A pre-rehabilitation inspection report describing the deficiencies in each structure to be rehabilitated; and
  - Details and scope of CDBG-assisted rehabilitation, by structure

b) **Activities to address *slums or blight* on a *spot* basis**

An activity that aids in the prevention or elimination of slums or blight ***outside of a slum or blighted area***. Examples include: elimination of faulty wiring, falling plaster, or other similar conditions that are detrimental to all potential occupants; historic preservation of a deteriorated public facility; and demolition of a vacant, deteriorated, abandoned building. The activity must meet the following qualifying criteria:

(1) The activity must be designed to eliminate ***specific conditions of blight or physical decay*** on a spot basis; and

(2) The activity must be limited to ***acquisition, clearance, relocation, historic preservation, and/or rehabilitation of buildings***. Rehabilitation is limited to the extent necessary to eliminate specific conditions ***detrimental to public health and safety.***

Records to be maintained:

- A description of the specific condition of blight or physical decay treated;
- For rehabilitation carried out under this category, a description of the structure, including:
  - The specific conditions detrimental to public health and safety that were identified; and

- Details and scope of the CDBG-assisted rehabilitation.

c) **Activities to address *slums or blight* in an *urban renewal area***

An activity that aids in the elimination or prevention of slums or blight in an urban renewal area. The activity must meet the following qualifying criteria:

(1) The activity must be located within a Federally designated ***urban renewal project area or Neighborhood Development Program (NDP) action area;*** and,

(2) The activity must be ***necessary to complete the urban renewal plan***, then in effect, including ***initial*** land redevelopment permitted by the plan.

Records to be maintained:

- A copy of the Urban Renewal Plan, in effect at the time the CDBG activity is carried out, including maps and supporting documentation.

3. Activities designed to meet *urgent community development needs*

An activity designed to alleviate existing conditions that have a particular urgency. Examples include reconstruction of water and sewer lines destroyed by major catastrophes or emergencies such as floods or tornadoes. The activity must meet the following qualifying criteria:

a) The existing conditions must pose a ***serious and immediate threat to the health or welfare*** of the community;

b) The existing conditions are of ***recent origin*** or recently became urgent (generally within the past 18 months);

c) The grantee is ***unable to finance*** the activity on its own; and

d) ***Other sources of funding are not available.***

Records to be maintained:

- Documentation concerning the nature and degree of seriousness of the condition requiring assistance;

Evidence that the grantee certified that the CDBG activity was designed to address the urgent need;

- Information on the timing of the development of the serious condition; and

- Evidence confirming that other financial resources to alleviate the need were not available.

4. Additional Criteria

a) According to 24 CFR 570.208(d), where the assisted activity is ***acquisition of real property***, a preliminary determination of whether the activity addresses a National Objective may be based on

the planned use of the property after acquisition. The documentation required depends on planned use.

b) ***Where acquisition is for the purpose of clearance*** that will eliminate specific conditions of blight or physical decay, ***the clearance activity will be considered the actual use of the property.*** However, any subsequent use or disposition of the cleared property is treated as "change of use" under §570.505.

STATEMENT OF ELIGIBLE AND INELIGIBLE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM ACTIVITIES

This is a summary of certain activities that are eligible and ineligible for assistance under the Community Development Block Grant (CDBG) program pursuant to the governing regulations in the Code of Federal Regulations, Title 24, Part 570, Sections 570.200-570.207. For a more complete description, the regulations should be consulted. The Community Development Block Grant ProgramEntitlementCommunities(Desk Guide) W at www.hud.gov/offices/cpd/communitydevelopment/library/index.cfm.

General Policies - §570.200

The primary objective of the CDBG Program is the development of viable urban communities, by providing decent housing and a suitable living environment, and expanding economic opportunities, principally for persons of low and moderate income. Funds must be used to carry out activities that will meet one of the three broad National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet other community development needs having a particular urgency. At least 70 percent of the total CDBG funds expended must be used for activities that benefit low- and moderate-income persons, over a one-, two-, or three-year period (selected by the grantee).

Basic Eligible Activities - §570.201

(a) Acquisition in whole or in part by purchase, long-term lease, donation, or otherwise, of real property for any public purpose, subject to the limitations of §570.207.

(b) Disposition of real property acquired with CDBG funds through sale, lease or donation, or otherwise; or its retention for public purposes.

(c) Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, ***except buildings for the general conduct of government.*** Activities may include:

- Design features and improvements that promote energy efficiency; and
- Architectural design features and treatments intended to enhance the aesthetic quality of facilities and improvements.

Eligible facilities include those serving persons having special needs such as homeless shelters; convalescent homes; hospitals; nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for the developmentally disabled; and temporary housing for disaster victims.

In certain cases, non-profit entities and subrecipients (including CBDOs qualifying under §570.204) may acquire title to public facilities; when owned by non-profit entities or other such subrecipients, such facilities must be operated so as to be open for use by the general public during all normal hours of operation.

(d) Clearance, demolition, removal of buildings and improvements, and movement of structures to other sites. Demolition of HUD-assisted or HUD-owned housing units may be undertaken only with the prior approval of HUD. CDBG funds may also be used for physical removal of environmental contaminants or treatment of such contaminants to render them harmless.

(e) Provision of public services (including labor, supplies and materials) such as those concerned with employment, crime prevention, child care, health care, education, homebuyer down payment assistance, public safety, fair housing counseling, recreation, senior citizens, homeless persons, drug abuse counseling and treatment, and energy conservation counseling and testing. The services must meet each of the following criteria:

- The service must either be new or a quantifiable increase in the level of a service above that which has been provided with state or local funds in the previous twelve calendar months; and
- The amount obligated for public services shall not exceed 15 percent of the annual grant, plus 15 percent of the program income received by the grantee and its subrecipients during the previous program year.

(f) Interim assistance to correct objectively determinable signs of physical deterioration in areas where immediate action is necessary and where permanent improvements will be carried out as soon as practicable; or to alleviate emergency conditions threatening the public health and safety and requiring immediate resolution.

(g) Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities.

(h) Completion of urban renewal projects funded under Title I of the Housing Act of 1949, as amended.

(i) Relocation payments and assistance to displaced individuals, families, businesses, non-profit organizations, and farm operations.

(j) Payment to housing owners for losses of rental income incurred in holding units for persons displaced by relocation activities.

(k) Payment of costs in support of activities eligible for funding under the HOME program.

(l) Acquisition, construction, reconstruction, rehabilitation or installation of the distribution lines and facilities of privately owned utilities.

(m) CDBG may be used for the construction of housing assisted under Section 17 of the U.S. Housing Act of 1937.

(n) Direct assistance to facilitate and expand low- and moderate-income homeownership by subsidizing mortgage rates and principal amounts, financing the acquisition of housing occupied by low- and

moderate-income persons, acquiring guarantees of financing obtained from private lenders, providing up to 50 percent of down payment, or paying reasonable closing costs.

(o) Microenterprise Assistance

1. The provision of assistance to facilitate economic development by:

   - Providing credit and financial support, for the establishment, stabilization, and expansion of microenterprises;
   - Providing technical assistance, advice, and business support services to owners of microenterprises and persons developing microenterprises; and
   - Providing general support, including peer support programs, counseling, child care, transportation and other similar services to owners of microenterprises and persons developing microenterprises.

2. Services provided under this eligibility category are not subject to the restrictions on public services contained in 570.201(e).

3. "Persons developing microenterprises" are persons who have expressed interest and who are, or after an initial screening process, are expected to be, actively working toward developing businesses, each of which is expected to be a microenterprise at the time it is formed. A "microenterprise" is a business having five or fewer employees, at least one of whom is the owner.

(p) Provision of technical assistance to public or non-profit entities to increase their capacity to carry out eligible neighborhood revitalization or economic development activities, provided:

- The recipient determines, prior to the provision of the assistance, that the activity for which it is attempting to build capacity would be eligible for CDBG assistance; and
- The National Objective claimed by the grantee can reasonably be expected to be met once the entity has received the technical assistance and undertakes the activity.

Capacity building for private or public entities (including grantees) for other purposes may be eligible under §570.205.

Eligible Rehabilitation and Preservation Activities - §570.202

(a) Assistance to rehabilitate:

- Privately owned residential buildings and improvements;
- Low-income public housing and other publicly owned residential buildings and improvements;

- Publicly and privately owned commercial or industrial buildings, except that assistance is limited to improvements to the exterior of the building and the correction of code violations;

- Non-profit owned, non-residential buildings and improvements not eligible under 570.201(c); and

- Manufactured housing, when such housing is considered part of the community's permanent housing stock.

(b) Financial assistance through grants, loans, loan guarantees, interest supplements, or other means may be provided for rehabilitation activities for the buildings described above, including:

- Assistance to private individuals and entities, including profit-making and non-profit organizations, to acquire for the purposes of rehabilitation, and to rehabilitate properties for use or resale for residential purposes;

- Labor, materials, and other rehabilitation costs, including repair, replacement of principal fixtures and components, installation of security devices, and renovation of existing structures;

- Loans for refinancing existing indebtedness secured by a property being rehabilitated, if the grantee determines that the financing is appropriate to achieve its community development objectives;

- Improvements to increase the efficient use of energy;

- Improvements to increase the efficient use of water;

- Connection of residential structures to water distribution or local sewer collection lines;

- Initial homeowner warranty premiums, hazard insurance premiums, flood insurance premiums and lead-based paint testing and abatement, for rehabilitation carried out with CDBG funds;

- Acquisition of tools to be lent to carry out rehabilitation;

- Rehabilitation services related to assisting participants in CDBG-funded rehabilitation activities (such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, and inspection);

- Rehabilitation of housing under Section 17 of the U.S. Housing Act of 1937; and

- Lead-based paint hazard evaluation and reduction.

(c) Code enforcement in deteriorating or deteriorated areas where such enforcement, together with public or private improvements, rehabilitation, and services to be provided, may be expected to arrest the decline of such areas.

(d) Rehabilitation, preservation or restoration of publicly or privately owned historic properties, except for buildings used for the general conduct of government.

(e) Renovation of closed schools or other buildings for use as an eligible public facility or housing.

Special Economic Development Activities - §570.203

Special economic development activities include:

(a) The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private non-profit subrecipients.

(b) The provision of assistance to a private for-profit business, for any activity where the assistance is appropriate to carry out an economic development project, excluding those described as ineligible in §570.207(a).

(c) Economic development services in connection with activities eligible under this section, including, but not limited to, outreach efforts to market available forms of assistance; screening of applicants; reviewing and underwriting applications for assistance; preparation of all necessary agreements; management of assisted activities; and the screening, referral, and placement of applicants for employment opportunities generated by CDBG-eligible economic development activities, including the costs of providing necessary training for persons filling those positions.

Note: Guidelines for selecting activities to assist under this paragraph are provided at §570.209. The recipient must ensure that the appropriate level of public benefit will be derived pursuant to those guidelines before obligating funds under this authority. Special activities authorized under this section do not include assistance for the construction of new housing.

Special Activities by Community-Based Development Organizations (CBDOs) - §570.204

(a) ***Eligible activities.*** The recipient may provide CDBG funds as grants or loans to any CBDO qualified under this section to carry out a neighborhood revitalization, community economic development, or energy conservation project. The funded project activities may include those listed as eligible under 24 CFR 570 Subpart C, and, except as described below in paragraph (b), activities not otherwise listed as eligible under that subpart. For purposes of qualifying as a project under paragraphs (a)(1), (a)(2), and (a)(3) of this section, the funded activity or activities may be considered either alone or in concert with other project activities either being carried out or for which funding has been committed. For purposes of this section:

1. *A neighborhood revitalization project* includes activities of sufficient size and scope to have an impact on the decline of a geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation; or the entire jurisdiction of a unit of general local government that is under 25,000 population;

2. *A community economic development project* includes activities that increase economic opportunity, principally for persons of low and moderate income, or that stimulate or retain

businesses or permanent jobs, including projects that include one or more such activities that are clearly needed to address a lack of affordable housing accessible to existing or planned jobs and those activities specified at 24 CFR 91.1(a)(1)(iii);

3. *An energy conservation project* includes activities that address energy conservation, principally for the benefit of the residents of the recipient's jurisdiction; and

4. To *carry out a project* means that the CBDO undertakes the funded activities directly or through contract with an entity other than the grantee, or through the provision of financial assistance for activities in which it retains a direct and controlling involvement and responsibilities.

(b) ***Ineligible activities.*** Notwithstanding that CBDOs may carry out activities that are not otherwise eligible, they are not authorized to:

1. Carry out an activity described as ineligible in §570.207(a);

2. Carry out public services that do not meet the requirements of §570.201(e), except that:

   i. services carried out under this section that are specifically designed to increase economic opportunities through job training and placement and other employment support services; and

   ii. services of any type carried out under this section pursuant to a Neighborhood Revitalization Strategy approved by HUD, shall not be subject to the limitations in §570.201(e)(1) or (2), as applicable;

3. Provide assistance to special economic development activities that would otherwise be eligible under §570.203 that do not meet the guideline requirements of §570.209; or

4. Carry out an activity that would otherwise be eligible under §570.205 or §570.206, but that would result in the recipient's exceeding the planning and admin cap.

(c) ***Eligible CBDOs***

1. A CBDO qualifying under this section is an organization that has the following characteristics:

   i. Is an association or corporation organized under State or local law to engage in community development activities (which may include housing and economic development activities) primarily within an identified geographic area of operation within the jurisdiction of the recipient, or in the case of an urban county, the jurisdiction of the county; and

   ii. Has as its primary purpose the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more critical problems of the area, with particular attention to the needs of persons of low and moderate income; and

iii. May be either non-profit or for-profit, provided any monetary profits to its shareholders or members must be only incidental to its operations; and

iv. Maintains at least 51 percent of its governing body's membership for low- and moderate-income residents of its geographic area of operation, owners or senior officers of private establishments and other institutions located in and serving its geographic area of operation, or representatives of low- and moderate-income neighborhood organizations located in its geographic area of operation; and

v. Is not an agency or instrumentality of the recipient and does not permit more than one-third of the membership of its governing body to be appointed by, or to consist of, elected or other public officials or employees or officials of an ineligible entity (even though such persons may be otherwise qualified under paragraph (c)(1)(iv)); and

vi. Except as otherwise authorized in paragraph (c)(1)(v), requires the members of its governing body to be nominated and approved by the general membership of the organization, or by its permanent governing body; and

vii. Is not subject to requirements under which its assets revert to the recipient upon dissolution; and

viii. Is free to contract for goods and services from vendors of its own choosing.

2. A CBDO that does not meet the above eligibility criteria may also qualify as an eligible entity under this section if it meets one of the following requirements:

   i. Is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those that are profit making; or

   ii. Is an SBA approved Section 501 State Development Company or Section 502 Local Development Company, or an SBA Certified Section 503 Company under the Small Business Investment Act of 1958, as amended; or

   iii. Is a Community Housing Development Organization (CHDO) under 24 CFR 92.2, designated as a CHDO by the HOME Investment Partnerships program participating jurisdiction, with a geographic area of operation of no more than one neighborhood, and has received HOME funds under 24 CFR 92.300 or is expected to receive HOME funds as described in and documented in accordance with 24 CFR 92.300(e).

3. A CBDO that does not qualify under paragraphs (c)(1) or (2) of this section may also be determined to qualify as an eligible entity if the recipient demonstrates to the satisfaction of HUD, through the provision of information regarding the organization's charter and by-laws, that the organization is sufficiently similar in purpose, function, and scope to those entities qualifying paragraph (c)(1) or (c)(2) of this section.

Eligible Planning, Urban Environmental Design and Policy-Planning-Management-Capacity Building Activities - §570.205

(a) Planning activities such as data gathering, studies, analyses, preparation of plans, and identification of actions that will implement such plans.

(b) Activities designed to improve the grantee's capacity to plan and manage programs and activities.

Eligible Administrative Costs - §570.206

(a) Reasonable costs of overall program management, coordination, monitoring, and evaluation, including:

- Staff salaries, wages, and related costs;
- Travel costs;
- Administrative services such as general legal, accounting and audit services performed under third party contracts; and
- Other goods and services required for administration of the program.

(b) Provision of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of activities being assisted with CDBG funds.

(c) Provision of fair housing counseling services and activities.

(d) Indirect costs.

(e) Preparation of applications for Federal programs where the grantee determines such activities are necessary or appropriate to achieve its community development needs.

Ineligible Activities - §570.207

(a) The following activities may not be assisted with CDBG funds:

- Buildings used for the general conduct of government;
- General government expenses; and
- Political activities.

(b) The following activities may not be assisted unless certain criteria are met or they are carried out under the authority of *§570.203 or §570.204*:

- Purchase of construction equipment; purchase of furnishings and personal property, unless part of a public service activity or necessary for use by a grantee in the administration of the CDBG program;

- Repair, operation and maintenance of public facilities, improvements and services, except expenses associated with eligible public service activities, interim assistance, and office space for CDBG program staff;

- New housing construction, except under the special provisions provided §570.207(b)(3)(i)-(ii); and

- Income payments of a subsistence nature.

Guidelines for Evaluating and Selecting Economic Development Projects - §570.209

The following guidelines are provided to assist the recipient to evaluate and select activities to be carried out for economic development purposes. Specifically, these guidelines are applicable to activities that are eligible for CDBG assistance under 570.203. These guidelines also apply to activities carried out under the authority of 570.204 that would otherwise be eligible under 570.203, were it not for the involvement of a Community-Based Development Organization (CBDO). (This would include activities where a CBDO makes loans to for-profit businesses.) These guidelines are composed of two components: guidelines for evaluating project costs and financial requirements; and standards for evaluating public benefit. **The standards for evaluating public benefit are mandatory, but the guidelines for evaluating projects costs and financial requirements are not.**

a. **Guidelines and Objectives for Evaluating Project Costs and Financial Requirements.** HUD has developed guidelines that are designed to provide the recipient with a framework for financially underwriting and selecting CDBG-assisted economic development projects that are financially viable and will make the most effective use of the CDBG funds. These guidelines, also referred to as the underwriting guidelines, are published as Appendix A to 24 CFR Part 570. The use of the underwriting guidelines published by HUD is not mandatory. However, grantees electing not to use these guidelines would be expected to conduct basic financial underwriting prior to the provision of CDBG financial assistance to a for-profit business. Where appropriate, HUD's underwriting guidelines recognize that different levels of review are appropriate to take into account differences in the size and scope of a proposed project, and in the case of a microenterprise or other small business to take into account the differences in the capacity and level of sophistication among businesses of differing sizes. Recipients are encouraged, when they develop their own programs and underwriting criteria, to also take these factors into account. The objectives of the underwriting guidelines are to ensure:

1. That project costs are reasonable;

2. That all sources of project financing are committed;

3. That to the extent practicable, CDBG funds are not substituted for non-Federal financial support;

4. That the project is financially feasible;

5. That to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and

6. That to the extent practicable, CDBG funds are disbursed on a *pro rata* basis with other finances provided to the project.

b. **Standards for Evaluating Public Benefit.** The grantee is responsible for making sure that at least a minimum level of public benefit is obtained from the expenditure of CDBG funds under the categories of eligibility governed by these guidelines. The standards set forth below identify the types of public benefit that will be recognized for this purpose and the minimum level of each that must be obtained for the amount of CDBG funds used. Unlike the guidelines for project costs and financial requirements covered under paragraph (a) of this section, the use of the standards for public benefit is mandatory. Certain public facilities and improvements eligible under 570.201(c) of the regulations, which are undertaken for economic development purposes, are also subject to these standards, as specified in 570.208(a)(4)(vi)(F)(2).

1. Standards for activities in the aggregate. Activities covered by these guidelines must, in the aggregate, either:

   i. Create or retain at least one full-time equivalent, permanent job per $35,000 of CDBG funds used; or

   ii. Provide goods or services to residents of an area, such that the number of low- and moderate-income persons residing in the areas served by the assisted businesses amounts to at least one low- and moderate- income person per $350 of CDBG funds used.

2. Applying the aggregate standards.

   i. A metropolitan city or an urban county shall apply the aggregate standards under paragraph (b)(1) of this section to all applicable activities for which CDBG funds are first obligated within each single CDBG program year, without regard to the source year of the funds used for the activities. A grantee under the HUD-Administered Small Cities or Insular Areas CDBG programs shall apply the aggregate standards under paragraph (b)(1) of this section to all funds obligated for applicable activities from a given grant; program income obligated for applicable activities will, for these purposes, be aggregated with the most recent open grant. For any time period in which a community has no open HUD-Administered or Insular Areas grants, the aggregate standards shall be applied to all applicable activities for which program income is obligated during that period.

   ii. The grantee shall apply the aggregate standards to the number of jobs to be created/retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

   iii. Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, the grantee may elect to count the activity under either the jobs standard or the area residents standard, but not both.

   iv. Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be

considered to be created or retained jobs for the purposes of applying the aggregate standards.

v. Any activity subject to these guidelines that meets one or more of the following criteria may, at the grantee's option, be excluded from the aggregate standards described in paragraph (b)(1) of this section:

A. Provides jobs exclusively for unemployed persons or participants in one or more of the following programs:

1. Jobs Training Partnership Act (JTPA);
2. Jobs Opportunities for Basic Skills (JOBS); or
3. Aid to Families with Dependent Children (AFDC);

B. Provides jobs predominantly for residents of Public and Indian Housing units;

C. Provides jobs predominantly for homeless persons;

D. Provides jobs predominantly for low-skilled, low- and moderate- income persons, where the business agrees to provide clear opportunities for promotion and economic advancement, such as through the provision of training;

E. Provides jobs predominantly for persons residing within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

F. Provides assistance to business(es) that operate(s) within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

G. Stabilizes or revitalizes a neighborhood that has at least 70 percent of its residents who are low and moderate income;

H. Provides assistance to a Community Development Financial Institution that serves an area that is predominantly low- and moderate-income;

I. Provides assistance to a Community-Based Development Organization serving a neighborhood that has at least 70 percent of its residents who are low and moderate income;

J. Provides employment opportunities that are an integral component of a project designed to promote spatial deconcentration of low- and moderate-income and minority persons;

K. With prior HUD approval, provides substantial benefit to low-income persons through other innovative approaches;

L. Provides services to the residents of an area pursuant to a strategy approved by HUD under the provisions of 24 CFR 91.215(e);

M. Creates or retains jobs through businesses assisted in an area pursuant to a strategy approved by HUD under the provisions of 24 CFR 91.215(e).

3. Standards for individual activities. Any activity subject to these guidelines that falls into one or more of the following categories will be considered by HUD to provide insufficient public benefit, and **therefore may, under no circumstances, be assisted with CDBG funds:**

   i. The amount of CDBG assistance exceeds either of the following, as applicable:

      A. $50,000 per full-time equivalent, permanent job created or retained; or

      B. $1,000 per low- and moderate-income person to which goods or services are provided by the activity.

   ii. The activity consists of or includes any of the following:

      A. General promotion of the community as a whole (as opposed to the promotion of specific areas and programs);

      B. Assistance to professional sports teams;

      C. Assistance to privately owned recreational facilities that serve a predominantly higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons;

      D. Acquisition of land for which the specific proposed use has not yet been identified; and

      E. Assistance to a for-profit business while that business or any other business owned by the same person(s) or entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient.

4. Applying the individual activity standards.

   i. Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, it will be disqualified only if the amount of CDBG assistance exceeds both of the amounts in paragraph (b)(3)(i) of this section.

   ii. The individual activity standards in paragraph (b)(3)(i) of this section shall be applied to the number of jobs to be created or retained, or to the number of persons residing in

the area served (as applicable), as determined at the time funds are obligated to activities.

iii. Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the individual activity standards in paragraph (b)(3)(i) of this section.

c. **Amendments to economic development projects after review determinations.** If, after the grantee enters into a contract to provide assistance to a project, the scope or financial elements of the project change to the extent that a significant contract amendment is appropriate, the project should be reevaluated under these and the recipient's guidelines. (This would include, for example, situations where the business requests a change in the amount or terms of assistance being provided, or an extension to the loan payment period required in the contract.) If a reevaluation of the project indicates that the financial elements and public benefit to be derived have also substantially changed, the recipient should make appropriate adjustments in the amount, type, terms or conditions of CDBG assistance that has been offered, to reflect the impact of the substantial change. (For example, if a change in the project elements results in a substantial reduction of the total project costs, it may be appropriate for the recipient to reduce the amount of total CDBG assistance.) If the amount of CDBG assistance provided to the project is increased, the amended project must still comply with the public benefit standards under paragraph (b) of this section.

d. **Documentation.** The grantee must maintain sufficient records to demonstrate the level of public benefit, based on the above standards, that is actually achieved upon completion of the CDBG-assisted economic development activity(ies) and how that compares to the level of such benefit anticipated when the CDBG assistance was obligated. If the grantee's actual results show a pattern of substantial variation from anticipated results, the grantee is expected to take all actions reasonably within its control to improve the accuracy of its projections. If the actual results demonstrate that the recipient has failed the public benefit standards, HUD may require the recipient to meet more stringent standards in future years as appropriate.