(10) Judicial review. The respondent may seek judicial review of the Secretary’s decision pursuant to section 111(c) of the Act.

[53 FR 34466, Sept. 6, 1988, as amended at 64 FR 3892, Jan. 25, 1999]

APPENDIX A TO PART 570—GUIDELINES AND OBJECTIVES FOR EVALUATING PROJECT COSTS AND FINANCIAL REQUIREMENTS

I. Guidelines and Objectives for Evaluating Project Costs and Financial Requirements. HUD has developed the following guidelines that are designed to provide the recipient with a framework for financially underwriting and selecting CDBG-assisted economic development projects which are financially viable and which make the most effective use of the CDBG funds. The use of these underwriting guidelines as published by HUD is not mandatory. However, grantees electing not to use these underwriting guidelines would be expected to conduct basic financial underwriting prior to the provision of CDBG financial assistance to a for-profit business. States electing not to use these underwriting guidelines would be expected to ensure that the state or units of general local government conduct basic financial underwriting prior to the provision of CDBG financial assistance to a for-profit business.

II. 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.

III. Recipients are encouraged, when they develop their own programs and underwriting criteria, to also take these factors into account. For example, a recipient administering a program providing only technical assistance to small businesses might choose to apply underwriting guidelines to the technical assistance program as a whole, rather than to each instance of assistance to a business. Given the nature and dollar value of such a program, a recipient might choose to limit its evaluation to factors such as the extent of need for this type of assistance by the target group of businesses and the extent to which this type of assistance is already available.

IV. The objectives of the underwriting guidelines are to ensure:

1. 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.

i. Project costs are reasonable. I. Reviewing costs for reasonableness is important. It will help the recipient avoid providing either too much or too little CDBG assistance for the proposed project. Therefore, it is suggested that the grantee obtain a breakdown of all project costs and that each cost element be reviewed to determine reasonableness. The amount of time and resources the recipient expends evaluating the reasonableness of a cost element should be commensurate with its cost. For example, it would be appropriate for an experienced reviewer looking at a cost element of less than $10,000 to judge the reasonableness of that cost based upon his or her knowledge and common sense. For a cost element in excess of $10,000, it would be more appropriate for the reviewer to compare the cost element with a third-party, fair-market price quotation for that cost element. Third-party price quotations may also be used by a reviewer to help determine the reasonableness of cost elements below $10,000 when the reviewer evaluates projects infrequently or if the reviewer is less experienced in cost estimations. If a recipient does not use third-party price quotations to verify cost elements, then the recipient would need to conduct its own cost analysis using appropriate cost estimating manuals or services.

ii. The recipient should pay particular attention to any cost element of the project that will be carried out through a non-arms-length transaction. A non-arms-length transaction occurs when the entity implementing the CDBG assisted activity procures goods or services from itself or from another party with whom there is a financial interest or family relationship. If abused, non-arms-length transactions misrepresent the true cost of the project.

2. Commitment of all project sources of financing. The recipient should review all projected sources of financing necessary to carry out the economic development project. This is to ensure that time and effort is not wasted on assessing a proposal that is not able to proceed. To the extent practicable, prior to the commitment of CDBG funds to the project, the recipient should verify that: sufficient sources of funds have been identified to finance the project; all participants have the financial capacity to provide the funds.

3. Avoid substitution of CDBG funds for non-Federal financial support. I. The recipient should review the economic development
project to ensure that, to the extent practicable, CDBG funds will not be used to substantially reduce the amount of non-Federal financial support for the activity. This will help the recipient to efficiently use its CDBG funds for economic development. To reach this determination, the recipient’s reviewer would conduct a financial underwriting analysis of the project, including reviews of appropriate projections of revenues, expenses, debt service and returns on equity investments in the project. The extent of this review should be appropriate for the size and complexity of the project and should use industry standards for similar projects, taking into account the unique factors of the project such as risk and location.

ii. Because of the high cost of underwriting and processing loans, many private financial lenders do not finance commercial projects that are less than $100,000. A recipient should familiarize itself with the lending practices of the financial institutions in its community. If the project’s total cost is one that would normally fall within the range that financial institutions participate, then the recipient should normally determine the following:

A. Private debt financing—whether or not the participating private, for-profit business (or other entity having an equity interest) has applied for private debt financing from a commercial lending institution and whether that institution has completed all of its financial underwriting and loan approval actions resulting in either a firm commitment of its funds or a decision not to participate in the project; and

B. Equity participation—whether or not the degree of equity participation is reasonable given general industry standards for rates of return on equity for similar projects with similar risks and given the financial capacity of the entrepreneur(s) to manage an assisted business to achieve the projections. Based upon its analysis of these elements, if any, that pose the greatest risks contributing to the project’s lack of financial feasibility.

5. Return on equity investment. To the extent practicable, the CDBG assisted activity should provide not more than a reasonable return on investment given industry rates of return for the owner of the assisted activity. This will help ensure that the grantee is able to maximize the use of its CDBG funds for its economic development objectives. However, care should also be taken to avoid the situation where the owner is likely to receive too small a return on his/her investment, so that his/her motivation remains high to pursue the business with vigor. The amount, type and terms of the CDBG assistance should be adjusted to allow the owner a reasonable return on his/her investment given industry rates of return for that investment, local conditions and the risk of the project.

6. Disbursement of CDBG funds on a pro rata basis. To the extent practicable, CDBG funds used to finance economic development activities should be disbursed on a pro rata basis with other funding sources. Recipients should be guided by the principle of not placing CDBG funds at significantly greater risk
PART 572—HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3)

Subpart A—General

§ 572.1 Overview of HOPE 3.
The purpose of the HOPE for Homeownership of Single Family Homes program (HOPE 3) is to provide homeownership opportunities for eligible families to purchase Federal, State, and local government-owned single family properties. HOPE 3 provides grants to eligible applicants to plan and implement homeownership programs designed to meet the needs of low-income first-time homebuyers.

§ 572.5 Definitions.
The terms HUD, Indian Housing Authority (IHA), NAHA, 1937 Act, NOFA, and Public Housing Agency (PHA) are defined in 24 CFR part 5.

Subpart B—Homeownership Program Requirements—Implementation Grants

§ 572.100 Acquisition and rehabilitation of eligible properties; rehabilitation standards.

§ 572.105 Financing the purchase of properties by eligible families.

§ 572.110 Identifying and selecting eligible families for homeownership.

§ 572.115 Transfer of homeownership interests.

§ 572.120 Affordability standards.

§ 572.125 Replacement reserves.

§ 572.130 Restrictions on resale by initial homeowners.

§ 572.135 Use of proceeds from sales to eligible families, resale proceeds, and program income.

§ 572.140 Third party rights.

§ 572.145 Displacement prohibited; protection of nonpurchasing residents.

Subpart C—Grants

§ 572.200 Planning grants.

§ 572.205 Planning grants—eligible activities.

§ 572.210 Implementation grants.

§ 572.215 Implementation grants—eligible activities.

§ 572.220 Implementation grants—matching requirements.

§ 572.225 Grant agreements; corrective and remedial actions.

§ 572.230 Cash and Management Information (C/MI) System.

Subpart D—Selection Process

§ 572.300 Notices of funding availability (NOFAs); grant applications.

§ 572.315 Rating criteria for planning grants.

Subpart E—Other Federal Requirements

§ 572.400 Consolidated plan.

§ 572.405 Nondiscrimination and equal opportunity requirements.

§ 572.410 Environmental procedures and standards.

§ 572.415 Conflict of interest.

§ 572.420 Miscellaneous requirements.

§ 572.425 Recordkeeping and reports; audit of recipients.

AUTHORITY: 42 U.S.C. 3535(d) and 12891.

SOURCE: 58 FR 36526, July 7, 1993, unless otherwise noted.