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agencies, or CBDOs under §1003.204, receiving funds under this part.

(d) *Exceptions requiring HUD approval*—(1) *Threshold requirements.* Upon the written request of a grantee, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis, when it determines that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the grantee's program or project. An exception may be considered only after the grantee has provided the following:

(i) A disclosure of the nature of the possible conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) An opinion of the grantee's attorney that the interest for which the exception is sought would not violate Tribal laws on conflict of interest, or applicable State laws.

(2) *Factors to be considered for exceptions:* In determining whether to grant a requested exception after the grantee has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall consider the cumulative effect of the following factors, where applicable:

(i) Whether the exception would provide a significant cost benefit or essential expert knowledge to the program or project which would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the affected person has withdrawn from his or her functions or responsibilities, or from the decision-making process, with reference to the specific assisted activity in question;

(iv) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(v) Whether undue hardship will result, either to the grantee or to the person affected, when weighed against the public interest served by avoiding the prohibited conflict;

(vi) Any other relevant considerations.

(e) *Circumstances under which the conflict prohibition does not apply.* (1) In instances where a person who might otherwise be deemed to be included under the conflict prohibition is a member of a group or class of beneficiaries of the assisted activity and receives generally the same interest or benefits as are being made available or provided to the group or class, the prohibition does not apply, except that if, by not applying the prohibition against conflict of interest, a violation of Tribal or State laws on conflict of interest would result, the prohibition does apply. However, if the assistance to be provided is housing rehabilitation (or repair) or new housing, a public disclosure of the nature of the assistance to be provided and the specific basis for the selection of the proposed beneficiaries must be made prior to the submission of an application to HUD. Evidence of this disclosure must be provided as a component of the application.

(f) *Record retention.* All records pertaining to the grantee's decision under this section shall be maintained for HUD review upon request.

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

§ 1003.607 Lead-based paint.

The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations part 35, subparts A, B, J, K, and R of this title apply to activities conducted under this program.

[64 FR 50230, Sept. 15, 1999]

§ 1003.608 Debarment and suspension.

The requirements in 2 CFR part 2424 are applicable. ICDBG funds cannot be provided to excluded or disqualified persons.

[72 FR 73497, Dec. 27, 2007]

Subpart H—Program Performance

§ 1003.700 Review of grantee's performance.

(a) *Objective.* HUD will review each grantee's performance to determine whether the grantee has: