

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

**Office of the Assistant Secretary for
Community Planning and
Development**

[Docket No. N-95-3878; FR 3874-N-01]

**Notice of Funding Availability (NOFA)
and Program Guidelines for the
Economic Development Initiative (EDI)**

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

SUMMARY: This NOFA announces the availability of funds for grants under Section 108(q) of the Housing and Community Development Act of 1974, as amended. HUD reserves the right to award grants under this NOFA up to the maximum amount authorized by law. As of the date of this NOFA and subject to funding availability, HUD intends to award up to \$50 million in EDI funds.

Communities that are authorized to obtain Section 108 loan guarantee commitments to carry out qualifying projects may also be eligible under this NOFA to receive EDI grants. EDI grants are used to enhance the security of the Section 108 guaranteed loan or to improve the feasibility of proposed projects through techniques such as interest rate subsidies, loan loss reserves, etc. The NOFA sets out program guidelines that will govern the application, application review, and award process for this round of EDI grants.

DATES: Applications are due in HUD Headquarters at the address stated below under "Addresses," by April 28, 1995 (the "deadline date"). HUD will not accept applications that are submitted to HUD via facsimile (FAX) transmission. Applications that are mailed prior to the deadline date but not received within ten (10) days after that date will be deemed to have been received by that date if postmarked by the United States Postal Service by no later than April 25, 1995. Overnight delivery items received after the deadline date will be deemed to have been received by that date upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than April 27, 1995.

ADDRESSES: On and prior to the deadline date, completed applications will be accepted at the following address: Processing and Control Unit, Room 7255, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington,

D.C. 20410, Attention: EDI Grant. At close of business on the deadline date, completed applications will also be received in the South lobby of the Department of Housing and Urban Development at the above address (inquire at the security guard desk). However, any application received by the Office of Community Planning and Development in Headquarters, Washington, DC, by the deadline date will be accepted.

FOR FURTHER INFORMATION CONTACT: Paul Webster, Director, Financial Management Division, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7178, Washington, DC 20410. Telephone (202) 708-1871. The TDD number is (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements related to this program have been approved by the Office of Management and Budget (OMB) and assigned the approval number 2506-0153.

I. Purpose and Substantive Description

(A) *Authority.* Title I, Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301-5320) (the "Act"); 24 CFR part 570.

(B) *Definitions.*

CDBG funds means, in addition to those funds specified at § 570.3(e), grant funds received pursuant to Section 108(q).

Economic Development Initiative (EDI) means the provision of economic development grant assistance under Section 108(q) of the Act, as authorized by Section 232 of the Multifamily Housing Property Disposition Reform Act of 1994 (P.L. 103-233) (the "1994 Act").

Economic development project means an activity or activities (including mixed use projects with housing components) that are eligible under the Act and under 24 CFR § 570.703, and that increase economic opportunity for persons of low- and moderate-income or that stimulate or retain businesses or jobs or that otherwise lead to economic revitalization.

Empowerment Zone or Enterprise Community means an urban area so designated by the Secretary pursuant to 24 CFR part 597 (see January 12, 1995 final rule, 60 FR 3034).

Qualifying Empowerment Zone or Enterprise Community area means an urban area designated as an Empowerment Zone or Enterprise

Community pursuant to 24 CFR part 597 or nominated by one or more local governments and the State or States in which it is located for consideration of designation as an Empowerment Zone or Enterprise Community pursuant to 24 CFR part 597. The area need not have been designated an Empowerment Zone or Enterprise Community by the Secretary to be a qualifying empowerment zone or enterprise community area, but if it was not so designated it must meet the eligibility requirements for a nominated area pursuant to 24 CFR part 597, subpart B.

Strategic Plan means a strategy developed and agreed to by the nominating local government(s) and State(s) and submitted in partial fulfillment of the application requirements for designation as an Empowerment Zone or Enterprise Community pursuant to 24 CFR Part 597.

Unless otherwise defined herein, terms defined in 24 CFR part 570 and used in this NOFA shall have the respective meanings given thereto in that part.

(C) *Background.*

EDI is intended to complement and enhance the Section 108 Loan Guarantee program (see 24 CFR §§ 570.700-710 for regulations governing the Section 108 program). This provision of the Community Development Block Grant (CDBG) program provides communities with a source of financing for economic development, housing rehabilitation, and large scale physical development projects. HUD is authorized pursuant to Section 108 to guarantee notes issued by CDBG entitlement communities and non-entitlement units of general local government eligible to receive funds under the State CDBG program. Regulations governing the Section 108 program are found at 24 CFR part 570, subpart M.

The Section 108 program is authorized at \$2.054 billion in loan guarantee authority in Fiscal Year 1995. Under this program communities (and States, if applicable) pledge future years' CDBG allocations as security for loans guaranteed by HUD. The full faith and credit of the United States is pledged to the payment of all guarantees made under Section 108. The Section 108 program, however, does *not* require CDBG funds to be escrowed for loan repayment. This means that a community can continue to spend its existing allocation for other CDBG purposes, unless needed for loan repayment. The purpose of EDI grant funds is to further minimize the

potential loss of future CDBG allocations:

(1) By strengthening the economic feasibility of the projects financed with Section 108 funds (and thereby increasing the probability that the project will generate enough cash to repay the guaranteed loan),

(2) By directly enhancing the security of the guaranteed loan, or

(3) Through a combination of these or other risk mitigation techniques.

HUD envisions that the following project structures could be typical:

Funding reserves—The cash flow generated by an economic development project may be expected to be relatively "thin" in the early stages of the project. The EDI grant can make it possible for debt service or operating reserves to be established in a way that does not jeopardize the economic feasibility of the project.

An example is a supermarket or neighborhood shopping center that is designed to provide basic services and jobs for residents in a distressed neighborhood. The public entity must be prepared for the Section 108 loan repayments required during the time period after completion of construction and during the lease-up phase when the shopping center is not fully leased and generating sufficient revenues to support the Section 108 loan repayments. It may therefore require the developer to establish with a trustee a reserve account (or accounts) that would be available to cover operating expenses and/or debt service during this lease-up period. While such reserves are commonplace, their cost may be so high as to make an already risky neighborhood shopping center project economically infeasible. The increased cost resulting from establishing such reserves may be defrayed by the EDI grant. As with the letter of credit example below, such reserves protect the CDBG program against the risk that CDBG funds will have to be used to cover shortfalls in the intended source for repayment of the Section 108 loan.

Another example would be a community that used EDI grant funds and Section 108 loan funds to create an economic development loan fund administered by a community based development organization, such as a community development financial institution (CDFI) when eligible to undertake the proposed Section 108/EDI eligible activities. Under this example, a CDFI could use EDI grant funds together with Section 108 funds to capitalize the CDFI to make community economic development loans, and/or the EDI grant could serve as security for any defaults

in loans made with the Section 108 proceeds.

Over-collateralizing the Section 108 loan—The use of EDI grant funds may be structured in appropriate cases so as to improve the chances that cash flow will be sufficient to cover debt service on the Section 108 loan and directly to enhance the guaranteed loan. One technique for accomplishing this approach is over-collateralization of the Section 108 loan.

An example is the creation of a loan pool made up of Section 108 and EDI grant funds. The community would make loans to various businesses at an interest rate equal to or greater than the rate on the Section 108 loan. The total loan portfolio would be pledged to the repayment of the Section 108 loan. If the total loan repayments from the loan fund were twice the amount of the debt service on the Section 108 loan, the community could accumulate a loan loss reserve that would mitigate virtually any risk to future CDBG funds.

Direct enhancement of the security of the Section 108 loan—The EDI grant can be used to cover the cost of providing enhanced security. An example of how the EDI grant can be used for this purpose is by using the grant funds to cover the cost of a standby letter of credit, issued in favor of HUD. This letter of credit will be available to fund amounts due on the Section 108 loan if other sources fail to materialize and will, thus, serve to protect the public entity's future CDBG funds.

Provision of financing to for-profit businesses at a below market interest rate—While the rates on loans guaranteed under Section 108 are only slightly above the rates on comparable U.S. Treasury obligations, they may nonetheless be higher than can be afforded by businesses in severely economically distressed neighborhoods. The EDI grant can be used to make Section 108 financing affordable.

For example, a community's strategic plan to stabilize the economic viability of a severely distressed neighborhood may include providing loan assistance to both new and existing businesses at very low interest rates for some period of time until each business has reached a stabilized and profitable level of operation. EDI grant funds could serve to "buy down" the interest rate up front, or make full or partial interest payments, allowing the businesses to be financially viable in the early start-up period not otherwise possible with Section 108 alone. This strategy would be particularly useful where a community was undertaking a large commercial/retail project in a distressed neighborhood to act as a catalyst for

other development in the area. The use of EDI/Section 108 funds for financing the commercial/retail project along with providing financial assistance to neighboring new or existing businesses within the target area would create complementary economic activity and enhance the financial viability of all assisted activities.

A combination of these techniques—An applicant could employ a combination of these or other techniques in order to implement a strategy that carries out an economic development project.

Additionally, assistance provided under this NOFA is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, and the implementing regulations in 24 CFR part 135, as amended by an interim rule published on June 30, 1994 (59 FR 33866). Section 3 requires that to the greatest extent feasible, and consistent with Federal, State, and local laws and regulations, job training, employment and other contracting opportunities generated from certain HUD financial assistance be directed to low- and very-low income persons. The eligible activities for which funding is provided under this NOFA are consistent with the objectives of section 3. Public entities awarded funds under this NOFA and that intend to use the funds for housing rehabilitation, housing construction, or other public construction must comply with the applicable requirements of the interim regulations published on June 30, 1994.

(D) Timing of Grant Awards.

To the extent a full Section 108 application is submitted with the EDI grant application, the Section 108 application will be evaluated concurrently with the request for EDI grant funds. Note that EDI grant assistance cannot be used to support a Section 108 loan guarantee approved prior to the date of the publication of this NOFA. (See II.B. of this NOFA.) However, the EDI grant may be awarded prior to HUD approval of the Section 108 commitment if HUD determines that such award will further the purposes of the Act. HUD notification to the grantee of the amount and conditions (if any) of EDI funds awarded based upon review of the EDI application shall constitute an obligation of grant funds, subject to compliance with the conditions of award and execution of a grant agreement.

(E) Limitations on Grant Amounts.

HUD expects to approve EDI grant amounts for approvable applications at a range of ratios of EDI grant funds awarded to new Section 108 loan

guarantee commitments. For example, an applicant could request an EDI grant of \$1 million and propose to leverage \$10 million in new Section 108 loan guarantee commitments. Other applicants could request an EDI grant of \$1 million and propose to only leverage \$1 million in new Section 108 loan guarantee commitments. However, in no event will HUD make an award in which the amount of EDI funds awarded exceeds the amount of new Section 108 commitments. Of course, even in the first example above, applicants remain free to propose a greater leverage ratio of new Section 108 to EDI grant funds, for example \$12 million of new Section 108 to \$1 million of EDI grant funds. Those requesting the higher ratios of EDI grant funds to new Section 108 loan guarantee commitments should indicate in their application why the higher ratio is necessary for their proposed project. This explanation will be considered as part of the rating for need under the selection criterion at paragraph II.(C)(2).

HUD reserves the right to determine a minimum and a maximum amount of any EDI award or 108 award per applicant, application or project and to modify requests accordingly. In the case of an applicant that has received a prior EDI grant award, the Department reserves the right to consider the amount of the previous EDI award and the grant amount requested in response to this NOFA and to adjust the amount of an EDI award under this NOFA, including, if appropriate, not making an award.

In the event the applicant is awarded an EDI grant that has been reduced below the original request, the applicant will be required to modify its project plans and application to conform to the terms of HUD approval before execution of a grant agreement. HUD reserves the right to reduce or de-obligate the EDI award if approvable Section 108 loan guarantee applications are not submitted by the grantee in the required amounts on a timely basis. Any requested modifications must be within the scope of the original EDI application. If any additional EDI grant monies from this or previous EDI NOFAs become available, HUD may fund additional applicants in accordance with this NOFA during Fiscal Year 1995 or may add any deobligated funds to funds available for any future EDI competitions.

In the case of requested amendments to an approved Section 108 loan guarantee commitment (as further discussed in paragraph II.B.), the EDI assistance approved will be based on

the increased amount of Section 108 loan guarantee assistance.

(F) *Eligibility to apply for grant assistance.*

Any public entity eligible to apply for Section 108 loan guarantee assistance pursuant to § 570.702 may apply for grant assistance under Section 108(q). ELIGIBLE APPLICANTS ARE CDBG ENTITLEMENT UNITS OF GENERAL LOCAL GOVERNMENT AND NON-ENTITLEMENT UNITS OF GENERAL LOCAL GOVERNMENT ELIGIBLE TO RECEIVE LOAN GUARANTEES UNDER § 570.702. Note that effective January 25, 1995, non-entitlement communities in the states of New York and Hawaii were authorized to apply to HUD for Section 108 loans (see 59 FR 47,510, published December 27, 1994). Thus non-entitlement communities in all 50 states are now eligible to participate in the Section 108 and EDI programs.

(G) *Eligible activities.*

EDI grant funds may be used for:

(1) Activities listed at § 570.703, provided such activities are carried out as part of an economic development project. If the applicant is awarded points for activities and projects under selection criterion II.(C)(6)(b) (Proposals Addressing Special Need), the applicant is required to continue to use any funds awarded for such activities and projects under this NOFA and Program Guidelines to benefit the Qualifying Empowerment Zone or Enterprise Community area.

(2) Payment of costs of private financial guaranty insurance policies, letters of credit, or other credit enhancements for the notes or other obligations guaranteed by HUD pursuant to Section 108, provided such notes or obligations are used to finance an economic development project. Such enhancements shall be specified in the contract required by § 570.705(b)(1), and shall be satisfactory in form and substance to HUD for security purposes.

(3) The payment of principal or interest due (including such servicing, underwriting, or other costs as may be authorized by HUD) on the notes or other obligations guaranteed pursuant to the Section 108 loan guarantee program.

(H) *Catalogue of Federal Domestic Assistance (CFDA).* The EDI program has not been assigned a CFDA number as of the date of this NOFA. Please insert the letters "EDI" on the SF 424 as appropriate.

II. The Application Process

Public entities seeking EDI assistance must make a specific request for that assistance, in accordance with this NOFA. The EDI application shall be accompanied by a request for a Section

108 loan guarantee commitment, as further described in Section II.B. of this NOFA below. Application guidelines for the Section 108 program are found at § 570.704.

(A) *Timing of submission.*

Applications for EDI assistance shall be received at HUD Headquarters in the manner described under "Dates" and "Addresses" above.

(B) *Submission requirements.*

(1) The EDI application (an original and two copies) shall be accompanied by a request for loan guarantee assistance under Section 108. The request for Section 108 loan guarantee can be either one or more of the following:

(a) A formal application for Section 108 loan guarantee(s), including the documents listed at § 570.704(b);

(b) A brief description (not to exceed three pages) of a Section 108 loan guarantee application(s) to be submitted within 60 days (with HUD reserving the right to extend such period for good cause on a case-by-case basis) of a notice of EDI selection (EDI awards will be conditioned on approval of actual Section 108 loan commitments). This description must be sufficient to support the basic eligibility of the proposed project or activities for Section 108 assistance;

(c) If applicable, a copy of a Section 108 loan guarantee approval document with grant number and date of approval (which was approved *after* the date of this NOFA, except in conjunction with a previous EDI award); or

(d) A request for a Section 108 loan guarantee amendment (analogous to subparagraph (a) or (b) above) that proposes to increase the amount of a previously approved application. However, any amount of Section 108 loan guarantee authority approved *before* the date of this NOFA is not eligible to be used in conjunction with an EDI grant under this NOFA. Further, a Section 108 loan guarantee amount that is required to be used in conjunction with a prior EDI grant award, whether or not the Section 108 loan guarantee has been approved as of the date of this NOFA, is not eligible for an EDI award under this NOFA. For example, if a community has a previously approved Section 108 loan guarantee commitment of \$12 million, even if none of the funds have been utilized, or if the community had previously been awarded an EDI grant of \$1 million and had certified that it will submit a Section 108 loan application for \$10 million in support of that EDI grant, the community's application under this NOFA must propose to increase the amount of its total Section

108 loan guarantee commitments beyond those amounts (the \$12 million or \$10 million in this example) to which it has previously agreed.

(2) In addition, an application for EDI grant funds shall include the following:

(a) SF 424, Application for Federal Assistance.

(b) The certification regarding lobbying required under 24 CFR part 87 (Appendix A). The applicant may use the lobbying certification published with this NOFA.

(c) A narrative statement describing the activities that will be carried out with the EDI grant funds and explaining how the use of EDI grant funds meets the criteria in paragraph II.(C) below. The narrative statement shall not exceed two 8.5" by 11" pages for the description of the activities to be carried out with the EDI grant funds and one page for each of the listed selection criteria.

(3) Where relevant, applications shall be deemed to include a copy of the strategic plan for community revitalization previously submitted to HUD as part of a Federal Empowerment Zone or Enterprise Community application pursuant to a Notice inviting applications, published on January 18, 1994 at 59 FR 2711.

(C) *Selection Criteria.*

All applications will be considered for selection based on the following criteria that demonstrate the quality of the proposed project or activities, and the applicant's creativity, capacity and commitment to obtain maximum benefit from the EDI funds, in accordance with the purposes of the Act.

(1) Distress—(up to 20 points). In evaluating this criterion, HUD will consider the level of distress in the immediate community to be served by the project and the jurisdiction applying for assistance. Note that in the first EDI competition in September 1994, the poverty rate was often considered the best indicator of distress levels, although the applicant may demonstrate the level of distress with other factors indicative of distress such as income, unemployment, drug use, homelessness and other indicators of distress.

(2) Extent of need for EDI assistance to financially support the Section 108 loan and the project— (up to 15 points). In evaluating this criterion, HUD will consider the extent to which the applicant's response demonstrates the financial need and feasibility of the project and the leverage ratio of EDI grant funds to Section 108 loan proceeds. Additionally, the score may be increased within this criterion to the extent other funds (public or private) are

leveraged. This may include factors such as:

(i) Project costs and financial requirements.

(ii) The amount of any debt service or operating reserve accounts to be established in connection with the economic development project.

(iii) The reasonableness of the costs of any credit enhancement paid with EDI grant funds.

(iv) The amount of program income (if any) to be received each year during the repayment period for the guaranteed loan.

(v) Interest rates on those loans to third parties (other than subrecipients) (either as an absolute rate or as a plus/minus spread to the Section 108 rate).

(vi) Underwriting guidelines used (or expected to be used) in determining project feasibility.

(vii) The extent to which federal funds provided as a result of the Federal Empowerment Zone/Enterprise Community designation process may be utilized for the proposed EDI project.

(viii) The extent to which the EDI grant is proposed to leverage the proposed Section 108 loan guarantee commitments and other economic development activities. Applicants that use their EDI grant to leverage more 108 commitments are expected to receive more points under this subcriterion (viii).

(ix) Other relevant information.

Note that if the applicant proposes a generic loan fund to assist a certain category of project or businesses, the applicant should demonstrate why the use of Section 108 loans to assist such businesses would not be financially feasible without EDI grant assistance.

(3) The extent to which the proposed activities effectively support important National interests— (up to 15 points). These activities include:

(i) The provision of jobs for low- and moderate-income individuals with special consideration for participants in any of the following programs: Jobs Training Partnership Act (JTPA), Jobs Opportunities for Basic Skills (JOBS), or Aid to Families with Dependent Children (AFDC);

(ii) The provision of jobs for participants in Unemployment Insurance programs;

(iii) The provision of jobs for residents of Public and Indian Housing or other assisted housing units;

(iv) The provision of jobs for homeless persons;

(v) The provision of jobs that provide clear opportunities for promotion for low- and moderate-income individuals, such as through the provision of training;

(vi) The establishment, stabilization, or expansion of microenterprises that employ low- and moderate-income individuals;

(vii) The stabilization or revitalization of a neighborhood that is predominantly low- and moderate-income;

(viii) The provision of assistance to a community development financial institution whose service area is predominantly low- and moderate-income;

(ix) The provision of assistance to a neighborhood-based nonprofit organization serving a neighborhood that is predominantly low- and moderate-income;

(x) The provision of employment opportunities that are an integral component of a community's strategy to promote spatial deconcentration of low- and moderate-income and minority families;

(xi) The provision of 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; or

(xii) Other innovative approaches that provide substantial benefit to low- and moderate-income persons.

(4) Quality of the plan—(up to 60 points). HUD will consider the quality of the applicant's plan for the use of EDI funds and Section 108 loans, including the extent to which the applicant's proposed plan for the effective use of EDI grant/Section 108 loan guarantee will address its described need in the applicant's immediate community and/or its jurisdiction, and the extent to which the plan is logically, feasibly, and substantially likely to achieve its stated purpose.

(5) The capacity or potential of the public entity to successfully carry out the plan—(up to 15 points). This may include factors such as the applicant's performance in the administration of its CDBG program; its previous experience, if any, in administering a section 108 loan guarantee; its performance and capacity in carrying out economic development projects; its ability to conduct prudent underwriting; its capacity to manage and service loans made with the guaranteed loan funds or EDI grant funds; and, if applicable, its capacity to manage projects under this NOFA along with any federal funds awarded as a result of a federal urban Empowerment Zone/Enterprise Community designation.

(6) Applicants will be rated on both criteria (a) and (b) (if applicable) below, but will receive points for only the higher rated criterion of the two, but not both.

(a) The extent to which the proposed plan follows a comprehensive and coordinated approach in addressing the community and economic development needs of the public entity and furthers neighborhood revitalization—(up to 20 points).

OR

(b) Proposals Addressing Special Need —(Applicants to which this criterion does not apply need not respond thereto.) (up to 20 points). Of the 20 points under this factor, one point will be awarded to applicants that received a federal urban Empowerment Zone or Enterprise Community designation and up to 19 additional points will be awarded to applicants that propose EDI and Section 108 loan assisted activities that will benefit the applicant's Qualifying Empowerment Zone or Enterprise Community area and are consistent with the applicant's Strategic Plan; and

(7) Innovation and creativity—(up to 20 points). The extent to which the applicant incorporated innovation and/or creativity in the design and proposed implementation of the proposed activities carried out with Section 108/EDI funds.

Selection Process—Once scores are assigned, all applications will be ranked in order of points assigned, with the applications receiving more points ranking above those receiving fewer points. Applications will be funded in rank order, however, HUD, in its sole discretion, may choose to award EDI assistance to a lower rated approvable application over a higher rated application in order to increase the level of geographic diversity of grants approved under this part. As discussed in paragraph I.E. above, HUD reserves the right to determine a minimum and a maximum amount of any EDI award or Section 108 commitment per applicant, application or project and to modify requests accordingly. In addition, if HUD determines that an application rated, ranked and fundable could be funded at a lesser EDI grant amount than requested consistent with feasibility of the funded project or activities and the purposes of the Act, HUD reserves the right to reduce the amount of the EDI award and/or increase the Section 108 loan guarantee commitment, if necessary, in accordance with such determination.

HUD may decide not to award the full amount of EDI grant funds available under this NOFA and may make any remaining amounts available under a future NOFA.

Timing of grant awards—To the extent full Section 108 applications are

submitted concurrently with the EDI grant application, HUD's approval of the related Section 108 loan guarantee commitment will in most cases be granted contemporaneously with EDI grant approval. However, the EDI grant may be awarded prior to HUD approval of the Section 108 commitment if HUD determines that such award will further the purposes of the Act. EDI funds shall not be disbursed to the public entity before the issuance of the related Section 108 guaranteed obligations.

III. Technical Assistance

To the extent permitted by law, HUD may advise applicants of technical deficiencies in the EDI applications after submission and permit them to be corrected. Technical deficiencies relate only to items, such as a failure to submit or sign a required certification, that would not improve the substantive quality of the application relative to the selection criteria. Applicants will have 14 calendar days from the date HUD notifies the applicant of any such technical deficiency to submit the appropriate information in writing to HUD. At any time during the selection process, which began with preparation of this NOFA, HUD staff is limited in the assistance it is permitted to provide regarding applications for EDI grants, due to the requirements of the HUD Reform Act. The assistance and advice that can be provided includes such activities as explaining and responding to questions about program regulations, identification of those parts of an application that need substantive improvement, the dates by which decisions will be made and the procedures that are required to be performed to process an application. The term "technical assistance" however, does not include advising the applicant how to make substantive improvements in its application that will affect ratings.

In addition, any information published in the **Federal Register** and in this NOFA, and any information that has been made public through a means other than the **Federal Register** or NOFA, may be discussed.

HUD staff will be available throughout the EDI application period to provide extensive advice and assistance, as is currently provided, to develop 108 loan applications since the 108 program is not subject to the HUD Reform Act. Staff providing such assistance may provide technical advice to the EDI selection panel but *in no case* will such staff participate in the panel's voting process for EDI awards under this NOFA.

IV. Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying between 7:30 am and 5:30 pm weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW, Room 10276, Washington, DC 20410.

Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this NOFA will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal Government, or on the distribution of power and responsibilities between them and other levels of government. While the NOFA offers financial assistance to units of general local government, none of its provisions will have an effect on the relationship between the Federal Government and the States, or the States' political subdivisions.

Family

The General Counsel, as the Designated Official for Executive Order 12606, *The Family*, has determined that the policies announced in this NOFA would not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order. No significant change in existing HUD policies and programs will result from issuance of this NOFA, as those policies and programs relate to family concerns.

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable

certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding \$100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Prohibition Against Lobbying of HUD Personnel

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department *and* those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance. HUD's regulation implementing section 13 is codified at 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

Any questions concerning the rule should be directed to the Office of Ethics, Room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington DC 20410-3000. Telephone: (202) 708-3815 (voice/TDD). (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD Office.

Dated: February 16, 1995.

Andrew Cuomo,
Assistant Secretary for Community Planning and Development.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or

attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signed: _____

Date: _____

(Print name and title)

24 CFR Part 87, Appendix A

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