

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4406-N-01]

Community Development Block Grant Program for Indian Tribes and Alaska Native Villages Fiscal Year 1999 Notice of Funding Availability

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability for Fiscal Year 1999.

SUMMARY: This notice announces the availability of \$68,305,105 for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (ICDBG Program). This figure consists of \$67,000,000 in fiscal year 1999 funds and \$1,305,105 in fiscal year 1998 carryover funds. The primary objective of this program is the development of viable Indian and Alaska Native communities, including the creation of decent housing, suitable living environments, and economic opportunities. The program is targeted principally towards people with low and moderate incomes. This Notice of Funding Availability (NOFA) contains the following information: (a) The purpose of the NOFA; (b) Information regarding eligibility and available amounts; (c) A list of steps involved in the application process, including where and how to apply and what to submit; (d) A checklist of the exhibits required for the application process; and (e) A description of how applications are processed, including the selection process and the selection criteria.

APPLICATION DUE DATE: You (the applicant) must submit your completed application no later than 5:00 p.m., local time, on May 10, 1999 to one of the addresses shown below. See below for specific procedures covering the method of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

Mailed Applications. We (HUD) will consider your application to be timely filed if it is postmarked on or before 12:00 midnight on the application due date and received by the appropriate Area ONAP within ten (10) days after the application due date.

Applications Sent By Overnight/Express Delivery. If you send your application by overnight delivery or express mail, we will consider it to be timely filed if we receive it before or on the application due date, or if you submit documentary evidence that you placed your application in transit with the overnight delivery service by no

later than the specified application due date and we receive it within five (5) days of the application due date.

Hand Carried Applications. You may hand carry your application to the appropriate Area ONAP during normal business hours before the application due date. On the application due date, we will accept applications until 5:00 p.m., local time.

ADDRESSES FOR SUBMITTING APPLICATIONS

If you are applying from this geographic location then	Send your application to this area ONAP
All States East of the Mississippi River, Plus Iowa and Minnesota.	Eastern/Woodlands Office of Native American Programs Community Development and Tribal Relations (CD & TR) Staff, 77 West Jackson Blvd., Chicago, IL 60604-3507, Telephone: (312) 886-4532, Ext. 2815.
Louisiana, Kansas, Oklahoma, and Texas, except West Texas.	Southern Plains Office of Native American Programs CD & TR Staff, Suite 400, 500 W. Main Street, Oklahoma City, OK 73102-3202, Telephone: (405) 553-7525.
Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.	Northern Plains Office of Native American Programs CD & TR Staff, First Interstate Tower North, 633 17th Street, Denver, CO 80202-3607, Telephone: (303) 672-5457.
Arizona, California, and Nevada.	Southwest Office of Native American Programs CD & TR Staff, Two Arizona Center, Suite 1650, 400 N. Fifth Street, Phoenix, AZ 85004-2361, Telephone: (602) 379-4197.
New Mexico and West Texas.	Southwest Office of Native American Programs CD & TR Specialist, Albuquerque Plaza, 201 3rd Street N.W., Suite 1830, Albuquerque, NM 87102-3368, Telephone: (505) 766-1372.
Idaho, Oregon, Washington.	Northwest Office of Native American Programs CD & TR Staff, Federal Office Building, 909 First Avenue, Suite 200, Seattle, WA 98104-1000, Telephone: (206) 220-5271.

ADDRESSES FOR SUBMITTING APPLICATIONS—Continued

If you are applying from this geographic location then	Send your application to this area ONAP
Alaska	As noted in Section I.(C)(4) of this NOFA, we will use FY 1999 ICDBG funds, allocated to the Alaska Area ONAP, to fund the highest rated applications received by that office from FY 1998. We will not accept new applications for FY 1999.

FURTHER INFORMATION, APPLICATION KITS, AND TECHNICAL ASSISTANCE:

For Further Information. You should direct general program questions to the Area ONAP serving your area, or to Robert Barth, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, P.O. Box 36003, 450 Golden Gate Avenue, San Francisco, CA 94102; telephone (415) 436-8122. The TTY number is (415) 436-6594. (These are not toll-free numbers.)

For Application Kits. You may obtain an application kit from the Area ONAPs identified above. You should make your request for an application kit immediately to ensure sufficient time for application preparation. We will distribute application kits as soon as they become available.

For Technical Assistance. Before the application deadline, we will be available to provide you with general guidance. We cannot, however, provide you with guidance on the actual contents of your application. If applicable, after selection but before award, we will be available to assist you in clarifying or confirming information that is required to address a pre-award requirement or condition.

SUPPLEMENTARY INFORMATION:

Changes From FY 1998 NOFA

1. **Deadline for Submission of Hand Carried Applications.** We have changed the deadline for submitting hand carried applications from 6:00 p.m., local time, to 5:00 p.m., local time. Based on our experience in FY 1998, there is no need to extend normal business hours for acceptance of applications.

2. **Grant Ceilings—Southwest ONAP.** We have not changed the grant ceilings for the Southwest ONAP. We have, however, clarified the process used to correct or revise population levels upon which the grant ceiling is based.

3. **Application Components.** We have clarified the status of two application

components. First, we now indicate that, if applicable, a demographic data certification (along with supporting documentation) is an application component. We referenced this certification in the FY 1998 NOFA, however, it was not identified as an application component. Second, we now indicate that a concurring resolution is an application component, if it is part of an application submitted by a tribal organization, as defined in 24 CFR 1003.5(b), and submitted on behalf of a tribe, band, group, or nation. Please note that both of these items were identified in the FY 1998 ICDBG Application Kit as possible application components. They were not, however, identified as such in the FY 1998 NOFA. These clarifications make the FY 1999 NOFA and Application Kits consistent in this regard.

4. *Application Review Process—Threshold Review.* We have clarified that projects that do not meet the community development appropriateness or applicable project-specific thresholds will not be rated or ranked. In addition, we have removed references to the term "RADAR" (Risk Analysis for Determining the Allocation of Resources) from the discussion of performance threshold reviews. We did this because we are ending the use of this term in the risk analysis process used by the Area ONAPs.

5. *Correction of Technically Deficient Applications and Provision of Clarifying Information.* We have changed the processes used by Area ONAPs that allow you to provide corrections to technically deficient applications and allow us to request clarifying information from you. As we have indicated in this NOFA, a technical deficiency is an error or oversight that, if corrected, would not alter, either in a positive or negative fashion, the review and rating of an application. In FY 1998, we reviewed all applications that successfully passed the screening process for technical deficiencies. If we found any such deficiencies, we contacted each applicant, in writing and before rating the application, and gave them an opportunity to correct the deficiencies. Because, in most Area ONAPs, we can approve only a relatively small percentage of submitted applications (given the limited availability of funds), this process resulted in applicant and our staff time being spent, too often, on explaining or addressing technical deficiencies for applications that would not have rated high enough to be approved. In FY 1999, we will review all applications that pass screening for technical deficiencies, but will ask only

successful applicants to correct any deficiencies. The deficiencies must be corrected before the grant is awarded.

In addition, we have changed what in FY 1998 was called "supplemental information" to "clarifying information" in FY 1999. The purpose of this change is to better explain that such information, if requested by us, cannot affect the rating of an application. Finally, we have streamlined the process used for obtaining such information.

6. *Land to Support New Housing.* We have clarified and revised the first threshold requirement for this type of project. We have also provided an example of the type of documentation needed to establish that there would be a reasonable ratio between the number of net usable acres to be acquired and documented housing needs. In addition, we have identified a corollary consideration under this threshold: the need for the applicant to make the most effective and economic use of the land to be acquired.

7. *New Housing Construction.* We have modified the site acceptability rating criterion to provide an option to the requirement that the land upon which the houses would be built must be in trust (or must be taken into trust).

8. *Community Facilities Rating Factors.* The rating factor "A viable plan for maintenance and operation" which is similar for both infrastructure and buildings has been revised. It is now stated that if an entity other than the tribe commits for maintenance and operation of the proposed facility and this entity is an established organization or agency, its letter of commitment does not have to document its financial ability to assume these responsibilities; the financial ability of such entities to meet the commitments made will be assumed.

9. *Documentation Requirements for Leveraged Resources.* We have clarified under paragraph (2)(b) of that section that the letter from the contributing entity must identify the project and the amount of funds requested from the entity by the applicant.

10. *Editorial and Formatting Revisions.* In addition to the changes discussed above, we have made a number of non-substantive technical changes to the FY 1998 NOFA. These editorial and formatting changes should make the NOFA easier to understand.

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting and supporting comprehensive, coordinated approaches to housing and community

development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Consistent with this effort, you must demonstrate that housing category projects are consistent with, and where possible, are identified in, the Indian Housing Plan (IHP) submitted by, or on behalf of, you under the provisions of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*). If you have not submitted the IHP for the Indian Housing Block Grant (IHBG) program year that includes the implementation period for the proposed ICDBG funded activity by the ICDBG application due date, you must submit an assurance that if an IHP is submitted, it will specifically reference the proposed housing category project.

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(\$1,305,105 in fiscal year 1998 carryover funds).
 (B) *Purpose.* This notice announces the availability of \$68,305,105 for the ICDBG Program.

are found at 24 CFR 1003.101. Following these requirements, the allocations for FY 1999 are as follows:

Eastern/Woodland	\$5,246,027
Southern Plains	12,414,912
Northern Plains	10,471,405
Southwest	28,565,024
Northwest	4,000,851
Alaska	5,606,886
Total	66,305,105

Additional Information

I. Authority; Purpose; Amounts Allocated; and Eligibility

(A) *Authority.* Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301, *et seq.*); 24 CFR part 1003; Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, 112 Stat. 2461, approved October 21, 1998) (\$67,000,000 in fiscal year 1999 funds); and Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Pub. L. 105-65, 111 Stat. 1344, approved October 27, 1997)

(C) *Amount Allocated.*
 (1) *General.* Amendments to title I of the Housing and Community Development Act of 1974 have required that the allocation for Indian Tribes be awarded on a competitive basis in accordance with selection criteria contained in a regulation promulgated by the Secretary after notice and public comment. All grant funds awarded in accordance with this NOFA are subject to the requirements of 24 CFR part 1003. Applicants within an Area ONAP's geographic jurisdiction compete only against each other for that Area ONAP's allocation of funds.

The total allocation includes \$1,305,105 in unused funds from the amount reserved by the Assistant Secretary in Fiscal Year 1998 for imminent threat grants. As indicated in section I. (a)(4) below, \$2,000,000 will be retained to fund imminent threat grants.

(2) *Allocations.* The requirements for allocating funds to Area ONAPs responsible for program administration

(3) *Grant Ceilings.* The authority to establish grant ceilings is found at 24 CFR 1003.100(b)(1). Grant ceilings are established for FY 1999 funding at the following levels:

Area ONAP	Population	Ceiling
Eastern/Woodlands	All	\$400,000
Southern Plains	All	750,000
Northern Plains	All	800,000
Southwest	50,001+	5,000,000
	10,501-50,000	2,500,000
	7,501-10,500	2,000,000
	6,001-7,500	1,000,000
	1,501-6,000	750,000
	0-1,500	550,000
Northwest	All	335,000
Alaska	[See (4) below].	

For the Southwest Area ONAP jurisdiction, the population used to determine ceiling amounts is the Native American population that resides on a reservation or rancheria. Please contact that office before submitting your application if you are unsure of the population level to use to determine the ceiling amount for your tribe or if you believe that the level used for previous years needs to be revised or corrected. The Southwest ONAP must accept any corrections or revisions before you submit your application.

(4) *FY 1998 Funding process for the Alaska Area ONAP.*

As stated in the August 5, 1998, amendment to the FY 1998 ICDBG NOFA, the Alaska Area ONAP is using a biennial funding process for FY 1998 and FY 1999. Applicants prepared and submitted applications under the provisions of the FY 1998 NOFA. We screened, reviewed, and rated all applications under the provisions and requirements of that NOFA. After we completed rating the applications and developed a ranked list of projects, we made grant awards using FY 1998

allocated funds until these funds were exhausted. Our Alaska Area ONAP retained applications not funded.

We will use FY 1999 funds allocated to the Alaska Area ONAP for grant offers to those applicants with the highest ranking retained applications until these funds are exhausted. FY 1999 grant offers will be contingent upon the successful applicant providing to the Alaska Area ONAP within 30 days of the offer such supporting documentation as is required and confirming, in writing, that:

- (a) You continue to meet performance threshold requirements;
- (b) The project still meets all community development appropriateness and project specific threshold requirements; and
- (c) No changes have occurred since you submitted your application that would affect the rating or viability of the project.

(5) *Imminent Threats.* (a) The criteria for grants to alleviate or remove imminent threats to health or safety that require an immediate solution are described at 24 CFR part 1003, subpart E. In order to satisfy these criteria, the

problem to be addressed must be such that an emergency situation exists or would exist if the problem were not addressed. In addition, you may use funds provided under that subpart only to address imminent threats that are not of a recurring nature and that represent a unique and unusual circumstance that impacts an entire service area. In accordance with the provisions of 24 CFR part 1003, subpart E, we will retain \$2,000,000 to meet the funding needs of imminent threat applications submitted to any of the Area ONAPs. The grant ceiling for imminent threat applications for FY 1999 is \$350,000. We established this ceiling pursuant to the provisions of § 1003.400(c).

(b) You do not have to submit a request for assistance under the imminent threat set-aside (24 CFR 1003, subpart E) by the deadline established in this NOFA; the deadline applies only to applications submitted for assistance under 24 CFR 1003, subpart D, Single purpose grants.

(c) If, in response to a request for assistance, an Area ONAP issues you a letter to proceed under the authority of

§ 1003.401(a), then your application must be submitted to and approved by the Area ONAP before a grant agreement may be executed. This application must consist of the following components:

- (i) Standard Form 424, Application for Federal Assistance;
- (ii) Brief description of the proposed project;
- (iii) Form HUD-4123, Cost Summary;
- (iv) Form HUD-4125, Implementation Schedule;
- (v) Form HUD-2880, Applicant/Recipient Disclosure/Update Report;
- (vi) Form HUD-4126, Certifications;
- (vii) Certification for a Drug-Free Workplace (form HUD 50070); and
- (viii) Certification regarding lobbying activities (24 CFR part 87) and SF-LLL (if applicable).

(D) *Eligible Applicants.* (1) *General.* To apply for funding you must be eligible as an Indian Tribe (or as a tribal organization) by the application submission date.

(2) *Tribal Organizations.* Tribal organizations are permitted to submit applications under 24 CFR 1003.5(b) on behalf of eligible tribes when one or more eligible tribe(s) authorize the organization to do so under concurring resolutions. As is stated in this regulatory section, the tribal organization must itself be eligible under title I of the Indian Self-Determination and Education Assistance Act.

(3) *Successors to Eligible Entities.* If a tribe or tribal organization claims that it is a successor to an eligible entity, the Area ONAP must review the documentation to determine whether it is in fact the successor entity.

Please note: when used in this NOFA the word "tribe" means an Indian tribe, band, group or nation, including Alaska Indians, Aleuts, Eskimos, Alaska Native Villages, ANCSA Village Corporations, and Regional Corporations.

(E) *Eligible Activities.* Activities that are eligible for ICDBG funds are identified at 24 CFR part 1003, subpart C.

II. Program Requirements

(A) *Statutory and Regulatory Requirements.* All applicants must meet and comply with all statutory and regulatory requirements. Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*) contains the applicable program specific statutory requirements for this program. The applicable program specific regulatory requirements are in 24 CFR part 1003. Copies of these regulations are available from HUD Community Connections Information Clearinghouse.

(B) *Nondiscrimination and Compliance with Civil Rights Laws.* Under the authority of section 107(e)(2) of the Housing and Community Development Act of 1974, as amended, the Secretary has waived the requirement that recipients comply with the anti-discrimination provisions in section 109 of the Act with respect to race, color and, national origin. As a recipient you must comply with the other prohibitions against discrimination in Section 109; the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968, 24 U.S.C. 1001-1303); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and, Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). You must comply with the substantial rehabilitation and new construction requirements, in addition to the other requirements of 24 CFR part 8.

(C) *Relocation.* If your proposed activities involve the relocation or displacement of persons, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the government-wide implementing regulations at 49 CFR part 24 apply to funding under this NOFA.

(D) *Debarred or Suspended Contractors.* The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, subgrants, or funding of any recipients, contractors, or subcontractors, during any period of debarment, suspension, or placement in ineligibility status.

(E) *Indian Preference.* HUD has determined that programs funded under this NOFA are subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b). The provisions and requirements for implementing this section are in 24 CFR 1003.510.

(F) *Conflict of Interest.* In addition to the conflict of interest requirements with respect to procurement transactions found in 24 CFR 85.36 and 84.42, as applicable, the provisions of 24 CFR 1003.606 apply to such activities as the provision of assistance by the recipient or sub-recipients to businesses, individuals, and other private entities under eligible activities that authorize such assistance.

(G) *Certifications and Assurances.* The specific certifications and assurances that you must provide are included under section IV. of this NOFA.

(H) *Economic Opportunities for Low and Very Low Income Persons.* You must comply with section 3 of the Housing and Urban Development Act of

1968 (12 U.S.C. 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects) and its implementing regulations at 24 CFR part 135. You must ensure that training, employment and other economic opportunities are directed, to the greatest extent feasible, toward low and very low income persons, particularly those persons who receive government assistance for housing and to business concerns that provide economic opportunities to low and very low income persons. You must comply with the reporting and recordkeeping requirements found at 24 CFR part 135, subpart E. Tribes that receive HUD assistance described in this part must comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

III. Application Selection Process

(A) *Rating and Ranking.*

(1) *Screening for Acceptance.* Each Area ONAP will screen applications for single purpose grants. The Area ONAP will reject an application that fails this screening and will return the application unrated. Area ONAPs will accept your application if it meets all the criteria listed below as items (a) through (f):

(a) Your application is received or submitted in accordance with the requirements set forth under APPLICATION DUE DATE in this NOFA;

(b) You are eligible;

(c) The proposed activities are eligible. Activities assisted with ICDBG funds are subject to the requirements of section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8;

(d) Your application contains substantially all the components specified in section IV.(D) of this notice;

(e) At least 70% of the grant funds are to be used for activities that benefit low and moderate income persons, in accordance with the requirements of 24 CFR 1003.208; and

(f) Your application is for an amount that does not exceed the grant ceilings that are established by the NOFA.

(2) *Application Review Process.*

(a) *Threshold review.* The Area ONAP will review each application that passes the screening process to ensure that each applicant and each proposed project meets the applicable threshold requirements set forth in 24 CFR 1003.301(a) and 1003.302, as implemented by this NOFA. *The Area*

ONAP will not accept your application for rating and ranking if you fail to meet any of the applicant-specific thresholds. The Area ONAPs will not rate and rank project(s) that do not meet the community development appropriateness or applicable project-specific thresholds.

(b) *Rating Team.* An Area ONAP rating team of at least three voting members will review and rate each project that meets the acceptance criteria and threshold requirements. The Area ONAP rating team will examine each project to determine in which one of the rating categories set forth in 24 CFR 1003.303(a) the project most appropriately belongs. The project will be rated on the basis of the criteria identified in the rating category component to which the project has been assigned. The total points for a rating component are 100, which is the maximum any project can receive.

(c) *Public service projects.* Because there is a statutory 15 percent cap on public services activities, you may not receive a single purpose grant solely to fund public services activities. Your application, however, may contain a public services component for up to 15 percent of the total grant. This component may be unrelated to the other project(s) included in your application. If your application does not receive full funding, we will reduce the public services allocation proportionately so that it comprises no more than 15 percent of the total grant award. In making such reductions, the feasibility of the proposed project will be taken into consideration.

(d) *Final ranking.* (i) We will rank all projects against each other according to the point totals they receive, regardless of the rating category or component under which the points were awarded. We will select projects for funding based on this final ranking, to the extent that funds are available. We will determine individual grant amounts in a manner consistent with the considerations set forth in 24 CFR 1003.100(b)(2). Specifically, an Area ONAP may approve a grant amount less than the amount requested. In doing so, the Area ONAP may take into account the size of the applicant, the level of demand, the scale of the activity proposed relative to need and operational capacity, the number of persons to be served, the amount of funds required to achieve project objectives, and the administrative capacity of the applicant to complete the activities in a timely manner.

(ii) If the Area ONAP determines that there are not enough funds available to fund a project as proposed by the

applicant, it may decline to fund that project and fund the next highest ranking project or projects for which adequate funds are available. The Area ONAP may select, in rank order, additional projects for funding if one of the higher ranking projects is not funded, or if additional funds become available.

(e) *Tiebreakers.* When rating results in a tie among projects and insufficient resources remain to fund all tied projects, Area ONAPs will approve projects that can be fully funded over those that cannot be fully funded. When that does not resolve the tie, the Area ONAP will use the following factors in the order listed to resolve the tie:

(i) *Eastern/Woodlands Office.*

(1) The applicant with the fewest active grants.

(2) The applicant that has not received an ICDBG grant over the longest period of time.

(3) The project that would benefit the highest percentage of low and moderate income persons.

(ii) *Southern Plains Office.*

(1) The applicant that has not received an ICDBG grant over the longest period of time over the last 8 years.

(2) The applicant with the fewest active grants.

(3) The project that would benefit the highest percentage of low and moderate income persons.

(iii) *Northern Plains and Southwest Offices.*

(1) The applicant that has not received an ICDBG grant over the longest period of time.

(2) The applicant with the fewest active grants.

(3) The project that would benefit the highest percentage of low and moderate income persons.

(iv) *Northwest Office.*

(1) The applicant that has not received an ICDBG grant over the longest period of time.

(2) The applicant that has received the fewest ICDBG dollars since the inception of the program.

(3) The project that would benefit the highest percentage of low and moderate income persons.

(f) *Pre-award requirements.*

(i) *Technical Deficiencies.* If there are technical deficiencies in successful applications, you must satisfactorily address these deficiencies before we can make a grant award. Please see section VI. of this NOFA for a definition of such a deficiency and a description of the process to address and correct the deficiency. You must correct all technical deficiencies within the timeframe established by HUD; if they

are not corrected, we will not make the grant award and will reject your application.

(ii) We also may require a successful applicant to provide supporting documentation concerning the management, maintenance, operation, or financing of proposed projects before a grant agreement can be executed. We will normally give you no less than thirty (30) calendar days to respond to these requirements. If you do not respond within the prescribed time period or you make an insufficient response, the Area ONAP may determine that you have not met the requirements and may withdraw the grant offer. The Area ONAP require you to submit supporting documentation if:

(1) Specific questions remain concerning the scope, magnitude, timing, or method of implementing the project; or

(2) You have not provided information verifying the commitment of other resources required to complete, operate, or maintain the proposed project.

(iii) You may not substitute new projects for those originally proposed in your application.

(iv) We will award, in accordance with the provisions of this NOFA, grant amounts that had been allocated for applicants unable to meet pre-award requirements.

(3) *General threshold requirements.*

(a) *General.* Two types of general thresholds are set forth in 24 CFR 1003.301(a): those that relate to applicants, and those that address the overall community development appropriateness of the project(s) included in the application. Project-specific thresholds are set forth in 24 CFR 1003.302.

(b) *Applicant Thresholds.* (i) *General.* Applicant thresholds focus on the administrative capacity of the applicant to undertake the proposed project, on its past performance in the ICDBG program, and on its provision of housing assistance to low and moderate income tribal members.

(ii) *Applicant-Specific Thresholds: Capacity.* The Area ONAP will assume, absent evidence to the contrary, that you possess, or can obtain the managerial, technical, or administrative capability necessary to carry out the proposed project. Your application should address who will administer the project and how you plan to handle the technical aspects of executing the project. If the Area ONAP determines, based on substantial evidence (which could include information provided by the most recent risk analysis conducted by the Area ONAP), that you do not

have or cannot obtain the capacity to undertake the proposed project, it will not consider your application any further.

(iii) *Applicant-Specific Thresholds: Performance.* (1) *Community Development.* (a) If you have previously participated in the ICDBG Program, the Area ONAP will determine whether you have performed adequately in grant administration and management. This determination will include an evaluation of the most recent risk analysis conducted by the Area ONAP for you.

(b) To assess whether or not a recipient is making satisfactory progress in completing previously approved programs, we will measure actual progress against the most recent implementation schedule(s) for the recipient's program(s). We will do this assessment with our evaluation of the risk analysis and other relevant information, e.g., monitoring reports, which document or reflect a recipient's performance. We will determine that a recipient which is more than *sixty days* behind schedule is performing inadequately with respect to this aspect of grant administration.

(c) If you have been found to be performing inadequately, the Area ONAP will determine whether you have corrected the deficiency or are following a schedule to correct performance to which you and the Area ONAP have agreed. In cases of previously documented deficient performance, the Area ONAP must determine that you have taken appropriate corrective action to improve your performance before the application due date.

(d) *The Area ONAP will inform in writing any potential applicant that has been determined not to meet this performance threshold no later than 30 days prior to the application due date.* In its letter, the Area ONAP will specify what actions would have to be taken by the potential applicant to address the identified performance deficiency. If you have not met the performance threshold by the application submission deadline, we will not accept your application for rating and ranking.

(2) *Housing assistance.* (a) If you have taken any action to prevent or obstruct the provision or operation of assisted housing for low and moderate income persons we will evaluate that action to determine if it constitutes inadequate performance by you. If you have established or joined an Indian Housing Authority (IHA), and this IHA has obtained housing assistance from HUD, we will take into consideration your performance in meeting your obligations and responsibilities to the IHA in the

development and operation of housing units assisted under the United States Housing Act of 1937 in evaluating your housing assistance performance. This evaluation will include a review of your compliance with the provisions of the documents that created your relationship with the IHA and the requirements of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*). In addition, if you have designated another entity (a tribally designated housing entity [TDHE]) to be the recipient of Indian Housing Block Grant Assistance on your behalf, we will also consider in our evaluation your compliance with your agreement with the TDHE.

(b) We will not hold you accountable for the poor performance of your IHA (or TDHE) *unless* we find this inadequate performance to be a direct result of your action or inaction. If you are a member of a multi-tribal IHA or are associated with a multi-tribal TDHE, we will judge you only on your individual performance and will not hold you accountable for the poor performance of other tribes that are members of the IHA or that are also associated with the TDHE.

(c) If you have received ICDBG funds to provide new housing through a Community Based Development Organization (CBDO), the Area ONAP will consider the following in making its determination regarding housing assistance performance:

(i) Whether the proposed units were constructed;

(ii) Whether housing assistance was provided to the beneficiaries identified in the funded application, and if not, why not;

(iii) Whether the provisions of your housing plan and procedures have been followed; and

(iv) Whether there were sustained complaints from tribal members regarding provision and/or distribution of ICDBG housing assistance.

(d) *The Area ONAP will inform in writing any potential applicant that has been determined not to meet the housing assistance performance threshold no later than 30 days before the application deadline.*

(iv) *Audits.* The thresholds described in paragraphs (3)(b)(ii) and (3)(b)(iii) of this section III.(A) require you to meet the following performance criteria:

(1) You cannot have an outstanding ICDBG obligation to HUD or to an ICDBG program that is in arrears, or you must have agreed to a repayment schedule. If you have an outstanding ICDBG obligation that is in arrears, or have not agreed to a repayment

schedule, you will be disqualified from the current competition and from subsequent competitions until your obligations are current. If a recipient that was current at the time of application submission becomes delinquent during the review period, we may reject the application.

(2) You cannot have an overdue or unsatisfactory response to an audit finding pertaining specifically to an ICDBG program. If you have an overdue or unsatisfactory response to an audit finding, you will be disqualified from the current and subsequent competitions until you have taken final action necessary to close the audit finding. The Area ONAP Administrator may provide exceptions to this disqualification if you have made a good faith effort to clear the audit finding. When funds are due HUD or an ICDBG program as a result of a finding, the Area ONAP Administrator may grant an exception only if you have made a satisfactory arrangement to repay the debt and payments are current.

(c) *Community Development Appropriateness.* In order to rate and rank a project contained in an application that has passed the screening tests outlined in section III.(A) of this NOFA, Area ONAPs must determine that the proposed project meets the community development appropriateness thresholds set forth below:

(i) *Costs are reasonable.* The project must be described in sufficient detail so that the Area ONAP can determine:

(1) That costs are reasonable; and
(2) That the funds requested from the ICDBG program and all other sources are adequate to complete the proposed activity(ies) described in the application.

(ii) *Project is Appropriate.* The project is appropriate for the intended use.

(iii) *Project is Usable or Achievable.* The project is usable or achievable in a timely manner, generally within a two year period. The timetable for project implementation and completion must be set forth on the form HUD 4125, Implementation Schedule, included in the application. A period of more than two years is acceptable in certain circumstances, if it is established that such circumstances are beyond your control.

(B) *Factors for Award Used To Evaluate and Rate Applications.* The factors for rating and ranking applications and the points for each factor are provided below. The maximum number of points for a rating component is 100, which is the maximum any project can receive.

(1) Summary of Rating Factors and Point Awards.

	Maximum points
Housing	
Sec. III.(B)(3):	
(c) Rehabilitation	
(i) Project Need and Design	
(1) % of funds for standard rehab	20
(2) Applicant's selection criteria	5
(3) Housing survey	15
(ii) Planning and Implementation	
(1) Rehabilitation policies	
(a) Rehabilitation standards	10
(b) Selection policies and procedures	10
(c) Project implementation policies and procedures	10
(2) Post rehab maintenance	5
(3) Cost estimates	15
(4) Cost effectiveness	5
(iii) Leveraging	5
Total points	100
(e) Land to Support New Housing	
(i) Project Need	40
(ii) Planning and Implementation	
(1) Suitability of the land	20
(2) Housing resources	10
(3) Supportive services	5
(4) Commitment of households	5
(5) Land to trust status	5
(6) Infrastructure commitment	10
(7) Land meets need and is reasonably priced	5
Total points	100
(g) New Housing Construction	
(i) Project Need and Design	
(1) IHA member/assistance	15
(2) Housing policies and plan	25
(3) Beneficiary identification	5
(ii) Planning and Implementation	
(1) Occupancy standards	10
(2) Site acceptability	15
(3) Energy conservation design	5
(4) Housing survey	10
(5) Cost effectiveness	5
(iii) Leveraging	10
Total points	100
Community Facilities	
Sec. III.(B)(4):	
(a) Infrastructure	
(i) Project Need and Design	
(1) Meets an essential need	20
(2) Benefits the neediest	15
(3) Provides infrastructure/health and safety	25
(ii) Planning and Implementation	
(1) Maintenance and operation plan	15
(2) Appropriate and effective design scale and cost	15
(iii) Leveraging	10
Total Points	100
(c) Buildings	
(i) Project Need and Design	
(1) Meets an essential need	20
(2) Benefits the neediest	15
(3) Provides building/health and safety	25
(ii) Planning and Implementation	
(1) Maintenance and operation plan	15
(2) Appropriate and effective design scale and cost	15
(iii) Leveraging	10

	Maximum points
Total points	100
Economic Development	
Sec. III.(B)(5):	
(b) Economic Development	
(i) Organization	8
(ii) Project Success	
(1) Market analysis	15
(2) Management capacity	15
(3) Financial analysis	15
(iii) Leveraging	12
(iv) Jobs	
(2) ICDBG cost/job	15
(3) Quality of jobs/training	5
(v) Additional considerations	15
Total points	100

(2) *Definitions.*

Adopt means to approve by formal tribal resolution.

Assure means to comply with a specific NOFA requirement. As an applicant, you should state your compliance or your intent to comply in your application.

Document means to supply supporting written information and/or data in the application which satisfies the NOFA requirement.

Leverage means resources that you will use in conjunction with ICDBG funds to achieve the objectives of the project. Resources include, but are not limited to:

- (1) Tribal trust funds;
- (2) Loans from individuals or organizations;
- (3) State or Federal loans or guarantees;
- (4) Other grants; and
- (5) Noncash contributions and donated services. (See section IV.(E) of this NOFA for documentation requirements for point award for leveraged resources.)

Project Cost means the total cost to implement the project. Project cost includes both ICDBG and non ICDBG funds and resources.

Section 8 standards means housing quality standards contained in 24 CFR 982.401 (Section 8 Tenant-Based Assistance: Unified Rule for Tenant-Based Assistance Under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program).

Standard Housing/Standard Condition means housing that meets the housing quality standards (HQS) adopted by the applicant.

(1) The HQS adopted by the applicant must be at least as stringent as the Section 8 standards unless the Area ONAP approves less stringent standards based on a determination that local

conditions make the use of Section 8 standards infeasible.

(2) You may submit, before the application due date, a request for the approval of standards less stringent than Section 8 standards. If you submit the request with your application, you should not assume automatic approval by the Area ONAP.

(3) The adopted standards must provide for the following:

- (i) That the house is safe, in a physically sound condition with all systems performing their intended design functions;
- (ii) A livable home environment;
- (iii) An energy efficient building and systems which incorporate energy conservation measures; and
- (iv) Adequate space and privacy for all intended household members.

Housing

(3) *Project Specific Thresholds and Rating Factors for Housing.* (a) *Specific thresholds for housing category projects.*

(i) You must provide an assurance that households that have been evicted from HUD assisted housing within the past five years will not be assisted by the proposed project except in emergency situations. The Area ONAP Administrator will review each emergency situation proposed by an applicant on a case-by-case basis to determine whether an exception is warranted.

(ii) *Consistency with Indian Housing Plan (IHP).* You must provide an assurance that the housing category project proposed is consistent with, and to the extent possible, identified in, the Indian Housing Plan (IHP) submitted by you or on your behalf under the provisions of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*). (If the IHP for the IHBG

program year which coincides with the implementation of the ICDBG proposed project has not been submitted, you must provide an assurance that when submitted, the IHP will specifically reference the proposed housing category project).

(b) *Rehabilitation Thresholds and Grant Limits.* (i) *Thresholds.* If you are applying for a housing rehabilitation grant, you must adopt rehabilitation standards and rehabilitation policies before you submit an application. *You must submit these standards and policies with the application.* You must provide an assurance that:

(1) Any house to be rehabilitated will be the permanent non-seasonal residence of the occupants; the residents will live in the unit at least nine months per year.

(2) Houses designated for eventual replacement will only receive repairs essential for the health and safety of the occupants.

(3) Project funds will be used to rehabilitate HUD assisted houses only when the tenant/homeowner's payments are current or the tenant/homeowner is current in a repayment agreement that is subject to approval by the Area ONAP. In emergency situations the Area ONAP administrator may grant exceptions to this requirement on a case-by-case basis.

(4) Houses that have received comprehensive rehabilitation assistance from any ICDBG or other Federal grant program within the past 8 years will not be assisted with ICDBG funds to make the same repairs if the repairs are needed as a result of abuse or neglect.

(ii) *Grant limits.* Rehabilitation grant limits for each Area ONAP jurisdiction are as follows:

- (1) Eastern/Woodlands \$20,000
- (2) Southern Plains 15,000

(3) Northern Plains	33,500
(4) Southwest	40,000
(5) Northwest	25,000

(c) *Rating Factors for Rehabilitation Projects.*

(i) *Rating Factor 1: Project Need and Design.* (40 points)

(1) The percentage of ICDBG funds committed to bring the houses to be assisted up to a standard condition as defined by the applicant.

Administrative, planning, and technical assistance expenditures are excluded in computing the percentage of ICDBG funds committed to bring the houses up to a standard condition. The percentage of ICDBG funds not used to bring the houses up to a standard condition must be used for emergency repairs, demolition of substandard units or another purpose closely related to the housing rehabilitation project.

Percentage of ICDBG funds committed to bring houses to be assisted up to a standard condition:

91-100%	20 points.
81-90.9%	15 points.
80.9 and less	0 points.

(2) Your selection criteria which are included in your application give first priority to the neediest households.

"Neediest households" means households whose houses are in the greatest disrepair (but still suitable for rehabilitation treatment) in the project area, or very low-income households.

YES: 5 points

NO: 0 points

(3)(a) Documentation of project need with a housing survey of all of the houses to be rehabilitated with ICDBG funds. This survey should include standard housing data on each house surveyed (e.g., age, size, type, number of rooms, number of habitable rooms, number of bedrooms/sleeping rooms, type of heating). The survey should indicate the deficiencies for each house. *The survey must include a definition of "suitable for rehabilitation."* At a minimum, this definition must not include houses that need only minor repairs, or houses that need such major repairs that rehabilitation is structurally or financially infeasible.

(b) The application contains all the required survey data and the required definition of "suitable for rehabilitation." (15 points)

(c) The application does not contain the required definition of "suitable for rehabilitation" and/or all the survey data, but does contain sufficient data to enable the project to proceed effectively. (10 points)

(d) The application does not contain survey data or the survey data it does

contain is not sufficient to enable the project to proceed effectively. (0 points)

(ii) *Rating Factor 2: Planning and Implementation.* (55 points)

(1) *Rehabilitation Policies and Procedures including:*

(a) *Adopted rehabilitation standards.*

The rehabilitation standards adopted by you, the applicant, will assure that after rehabilitation the houses assisted will be in a standard condition as defined in this NOFA. In addition, these standards include specific requirements that address child safety measures to be incorporated in all appropriate rehabilitation work. Such measures may include, but are not limited to, child safety latches on cabinets, hot water protection devices, and window guards to prevent children from falling.

The standards you adopt will ensure that after rehabilitation the houses assisted will be in a standard condition as defined in this NOFA and that, where applicable, a safer living environment for children has been created. (10 points)

The standards you adopt will ensure that after rehabilitation the houses assisted will be in a standard condition as defined in this NOFA but they do not address applicable specific child safety measures. (5 points)

The standards do not meet requirements for point award. (0 points)

(b) *Rehabilitation selection policies and procedures.* (i) The rehabilitation selection policies and procedures contained in the application include:

- (A) Property selection standards;
- (B) Cost limits;
- (C) Type of financing (e.g., loan or grant);
- (D) Homeowner costs and responsibilities;
- (E) Procedures for selecting households to be assisted; and,
- (F) Income verification procedures.

(ii) The application contains all the rehabilitation selection policies and procedures listed above. (10 points)

(iii) The application does not contain all the rehabilitation selection policies and procedures listed above, but contains sufficient data to enable the project to proceed effectively or the application contains all the rehabilitation selection policies and procedures listed above, but in insufficient detail. (5 points)

(iv) The application does not contain the rehabilitation selection policies and procedures listed above or if it does contain policies and procedures, they are not sufficient to enable the project to proceed effectively. (0 points)

(c) *Project implementation policies and procedures.* (i) These policies and procedures must include a description of the following items:

(A) The qualifications which will be required of the inspector;

(B) The inspection procedures to be used;

(C) The procedures to be used to select the contractor or contractors;

(D) The manner in which the households to be assisted will be involved in the rehabilitation process;

(E) How disputes between the households to be assisted, the contractors and the applicant will be resolved; and, if applicable;

(F) The repayment provisions which will be required if sale of the assisted house occurs prior to 5 years after the rehabilitation work has been completed.

(ii) The application contains all the policies and procedures listed above, and they will enable the project to be effectively implemented. (10 points)

(iii) The application contains some but not all of the policies and procedures listed above and these policies and procedures are sufficient for the project to proceed effectively. (5 points)

(iv) The application does not contain the policies and procedures listed above. (0 points)

(2) *Post rehabilitation maintenance policies that address counseling and training assisted households on maintenance.* (a) The policies included in the application contain a well-planned counseling and training program. Training will be provided for assisted households, and provision is made for households unable to do their own maintenance (e.g., elderly and persons with disabilities).

(b) The policies include follow-up inspections after rehabilitation is completed to ensure the house is being maintained. (5 points)

(c) The policies contain a well-planned home maintenance training and counseling program but fail to adequately address all of the items listed above. (3 points)

(d) Your application does not contain a well-planned home maintenance training and counseling program. (0 points)

(3) *Quality of cost estimates.* (a) Cost estimates have been prepared by a qualified individual. (You must include qualifications of the estimator in the application). You have documented costs of rehabilitation on a per house basis and are supported by a work write-up for each house to be assisted. The work write-ups are based upon making those repairs necessary to bring the houses to a standard condition in a manner consistent with adopted construction codes and requirements. You must submit the write-ups with the application. If national standards (e.g.,

the Uniform Building Code) have been locally adopted as the construction codes and requirements, they must be referenced. If you used locally developed and adopted codes and requirements, you must submit them. (15 points)

(b) You have prepared cost estimates for each house to be rehabilitated to determine the total rehabilitation cost and have included the cost estimates in your application. Costs to rehabilitate each house are documented by a deficiency list. (12 points)

(c) You have prepared cost estimates and have included them in your application but the estimates are based on surveys and not on individual house deficiency lists. (5 points)

(d) You have not included cost estimates in your application or the basis for the cost estimates included is inappropriate or not provided. (0 points)

(4) *Cost effectiveness of the rehabilitation program.* (a) This is a measure of how efficiently and effectively funds will be used under the proposed program. Applicants must demonstrate how the proposed rehabilitation will bring the houses to be assisted to a standard condition in an efficient and cost effective manner.

(b) Rehabilitation project is cost effective. (5 points)

(c) Rehabilitation project is not cost effective. (0 points)

(iii) *Rating Factor 3: Leveraging.* (5 points)

We will award points under this component in a manner consistent with the definition of "Leverage" included in this NOFA and the following breakdown:

Non-ICDBG % of project cost	Points
25 and over	5
20-24.9	4
15-19.9	3
10-14.9	2
5-9.9	1
0-4.9	0

(d) *Thresholds for Land To Support New Housing.* (i) The application

contains information and documentation such as a preliminary plot plan or its equivalent that establishes that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low and moderate income households with documented housing needs. A clear objective of the applicant must be to make the most effective and economic use of the land proposed for acquisition.

(ii) Housing assistance needs must be clearly demonstrated and documented with either a survey that identifies the

households to be served, their size, income levels and the condition of current housing or an IHA, or if applicable, TDHE approved waiting list.

The survey or waiting list must be submitted with the application.

(e) *Rating Factors for Land to Support New Housing.*

(i) *Rating Factor 1: Project Need and Design.* (40 Points)

Information included in the application establishes that:

(1) The applicant has no suitable land for the construction of new housing and the necessary infrastructure and amenities for this housing. (40 points); or

(2) The applicant has land suitable for housing construction and needed infrastructure and amenities, but the land is officially dedicated to another purpose. (30 points); or

(3) The applicant will be acquiring land for housing construction and the construction of needed infrastructure and amenities for both new and existing housing. (25 points); or

(4) The applicant will be acquiring land for the construction of amenities for existing housing. (15 points); or

(5) The reason for the land acquisition does not meet any of the criteria listed above. (0 points)

(ii) *Planning and Implementation.* (60 points)

(1) *Suitability of land to be acquired.*

You had a preliminary investigation conducted by a qualified independent entity. Based on this investigation (*which you must submit with your application*), the land appears to meet all applicable requirements:

(a) Soil conditions appear to be suitable for individual and/or community septic systems or other acceptable methods for waste water collection and treatment have been identified.

(b) The land has adequate:

(i) Availability of drinking water;

(ii) Access to utilities;

(iii) Vehicular access;

(iv) Drainage.

(e) The land appears to comply with environmental requirements. Future development costs are expected to be consistent with other subdivision development costs in the area (subdivision development costs include the costs of the land, housing construction, water and sewer, electrical service, roads, and drainage facilities if required).

YES: 20 points

NO: 0 points

(2) Commitment and availability of housing resources.

(a) The application includes evidence of a commitment and an ability to

construct at least 25 percent of the housing units to be built on the land proposed for acquisition. This evidence consists of one (or more) of the following.

(i) A firm or conditional commitment to construct (or to finance the construction of) the units; or

(ii) Documentation that an approvable application for the construction of these units has been submitted to a funding source or entity; or

(iii) Documentation that these units are specifically identified in the Indian Housing Plan submitted on or on behalf of the applicant as an affordable housing resource with a commensurate commitment of Indian Housing Block Grant (IHBG) resources. (10 points)

(b) Your application does not include evidence required for the award of 10 points. (0 points)

(3) *Availability/accessibility of supportive services and employment opportunities.* The application includes documentation indicating that, upon completion of construction of the housing to be built on the land to be acquired, fire and police protection will be available to the site and medical and social services, schools, shopping, and employment opportunities will be accessible from the site according to the community's established norms.

YES: 5 points

NO: 0 points

(4) *Commitment that households will move into the new housing.* The application includes a documented commitment from households that they will move into the new housing to be built on the land to be acquired.

YES: 5 points

NO: 0 points

(5) *Land to trust status.* (a) Land can be taken into trust or provisions have been made for taxes and fees. There must be a written assurance from the BIA that the land will be taken into trust or the applicant must demonstrate the financial capability and commitment to pay the property taxes and fees on the land for any period of time during which it anticipates it will own the property in fee. This commitment must be in the form of a resolution by the governing body of the applicant that indicates that the applicant will pay or guarantee that all taxes and fees on the land will be paid.

(b) Your application includes documentation from the BIA that land can be taken into trust or the required governing body resolution. (5 points)

(c) Your application does not include either the assurance or the resolution or they are inadequate. (0 points)

(6) *Infrastructure commitment.* (a) Your application includes a plan or

commitment for any infrastructure needed to support the housing to be built on the land to be acquired. The plan or commitment must address water, waste water collection and treatment, electricity, roads, and drainage facilities necessary to support the housing to be developed.

(b) Your application includes financial commitments for all necessary infrastructure or includes documentation demonstrating that all necessary infrastructure is in place. (10 points)

(c) The application includes a plan to provide all necessary infrastructure but you have not submitted all financial commitments required to implement the plan. (5 points)

(d) The application does not include either a financial commitment or plan. (0 points)

(7) *The extent to which the site proposed for acquisition meets the housing needs of the applicant and is reasonably priced.* Your application includes documentation indicating that you have examined and assessed the appropriateness of alternative sites and demonstrating that the site proposed for acquisition best meets the documented housing needs of tribal households. Your application must include comparable sales data that show that the cost of the land proposed for acquisition is reasonable.

Yes: 5 points
No: 0 points

(f) *Thresholds for New Housing Construction.* The following thresholds and the rating factors set forth in paragraph (g) of this section apply to new housing construction to be implemented through a Community-Based Development Organization (CBDO) as provided for under 24 CFR 1003.204. *Please note that all households to be assisted under a new housing construction project must be of low or moderate income status.*

(i) New housing construction can only be implemented through a CBDO. Eligible CBDOs are described in 24 CFR 1003.204(c). You must provide an assurance that you understand this requirement.

(ii) *You must include in the application, documentation supporting the following determinations:*

(1) No other housing is available in the immediate reservation area that is suitable for the households to be assisted.

(2) No other funding sources including an Indian Housing Block Grant can meet the needs of the household(s) to be served.

(3) The house occupied by the household to be assisted is not in

standard condition and rehabilitation is not economically feasible, or the household is currently in an overcrowded house (sharing house with another household(s)), or the household to be assisted has no current residence.

(iii) Before you submit an application for new housing construction projects, you must adopt construction standards and construction policies. You must identify the building code to be used when constructing the houses and must document that this code has been adopted. The building code may be a tribal building code or a nationally recognized model code. If it is a tribal code it must regulate all of the areas and sub-areas identified in 24 CFR 200.925b, and it must be reviewed and approved by the Area ONAP. If the code is recognized nationally, it must be the latest edition of one of the codes incorporated by reference in 24 CFR 200.925c.

(iv) You must provide an assurance that any house to be constructed will be the permanent non-seasonal residence of the household to be assisted; this household must live in the house at least nine months per year.

(g) *Rating Factors for New Housing Construction.*

(i) *Rating Factor 1: Project Need and Design.* (45 points)

(1) *IHA member/assistance.* (a) Your application includes documentation which establishes that you were not served by an Indian Housing Authority (IHA), or if you were a member of an umbrella IHA, this IHA had not provided assistance to you in a substantial period, or the IHA that served the applicant had not received HUD Public and Indian Housing new construction assistance in a substantial period due to limited HUD appropriations. The period during which the IHA serving you had not received funding for inadequate or poor performance by you does not count towards the period that no assistance has been provided by HUD.

(b) No assistance from IHA for 10 years or longer. (15 points)

(c) No assistance from IHA for 6–9 years, 11 months. (10 points)

(d) No assistance from IHA for 0–5 years, 11 months. (0 points)

(2) *Adopted housing construction policies and plan.* (a) The plan must include a description of the proposed CBDO and its relationship (or proposed relationship) to the applicant. In addition, the policies and plan must include:

(i) A selection system that gives priority to the neediest households. "Neediest households" means households whose current residences

are in the greatest disrepair, or very low-income households, or households without permanent housing.

(ii) A system effectively addressing long-term maintenance of the constructed houses.

(iii) Estimated costs and identification of the entity responsible for paying utilities, fire hazard insurance and other normal maintenance costs.

(iv) Policies governing ownership of the houses, including the status of the land.

(v) Description of a comprehensive plan or approach being implemented by the tribe to meet the housing needs of its members.

(vi) Policies governing disposition or conversion to non-dwelling uses of standard houses that will be vacated when a replacement house is provided.

(b) The policies and plan include all of the information listed above and, in addition, they specifically address the incorporation of child safety measures in the housing to be constructed. These measures may include, but are not limited to, child safety latches on cabinets, hot water protection devices, and window guards to prevent children from falling. (25 points)

(c) The policies and plan include all of the information listed above but do not specifically address the incorporation of child safety measures. (20 points)

(d) The policies and plan do not include all of the information listed above, but do include sufficient information to allow the project to proceed effectively or all of the information is included, but in insufficient detail. (10 points)

(e) The information included in the application is not sufficient to meet the requirements for the award of 10 points. (0 points)

(3) *Beneficiary identification.* (a) Your application identifies households to be assisted and documents their income eligibility and household size. (5 points)

(b) Your application does not identify households to be assisted or, if identified, does not document their income eligibility and household size. (0 points)

(ii) *Rating Factor 2: Planning and Implementation.* (45 points)

(1) *Occupancy Standards.* (a) The proposed housing will be designed and built according to adopted reasonable standards that govern the size of the housing in relation to the size of the occupying household (minimum and maximum number of persons allowed for the number of sleeping rooms); the minimum and maximum square footage allowed for major living spaces (bedrooms, living room, kitchen and

dining room). *You must submit the standards with your application.*

(b) You have adopted reasonable occupancy standards and they are included in your application. (10 points)

(c) You have not adopted reasonable occupancy standards or did not include the standards in your application. (0 points)

(2) *Site Acceptability.* (a) You (or the proposed beneficiary household) have control of the land upon which the houses will be built. Either: (i) the application includes documentation that all housing sites are in trust or documentation from the BIA that the sites will be taken into trust within one year of the date of the ICDBG approval notification. If the sites are not in trust by the date of ICDBG approval notification, you must provide documentation that they are in trust to the Area ONAP before ICDBG funds may be obligated for construction; or

(ii) If you cannot provide documentation that the site(s) are in trust or will be taken into trust in the timeframe established, you have provided a formal tribal assurance. This assurance states that deed restrictions (or legal equivalents) will be imposed so that the owner of the site upon which the ICDBG assisted house will be built cannot sell the house without your permission and that the owner must reimburse you for the appraised value of the house at the time of sale (or the value of the ICDBG assistance provided, whichever is less). You must provide evidence that these restrictions have been recorded to the Area ONAP before you may obligate ICDBG funds for construction. You must treat any funds reimbursed to you as the result of future sales as program income as defined and regulated in 24 CFR 1003.503.

(b) You had a preliminary investigation of the site(s) conducted by a qualified independent entity. Based on this investigation (which must be included in the application) the site(s) appear to meet all applicable requirements:

Soil conditions appear to be suitable for individual or community septic systems or other acceptable methods for waste water collection and treatment have been identified.

- (i) Each site has adequate:
- (ii) Availability of drinking water;
- (iii) Access to utilities;
- (iv) Vehicular access;
- (v) Drainage;
- (vi) Each site appears to comply with environmental requirements.

YES: 15 points
NO: 0 points

(3) *Energy Conservation Design.* Your application includes documentation demonstrating that the proposed houses have been designed in a manner that will ensure that energy use will be no greater than that for comparable houses in the same general geographic area that have been constructed in accordance with applicable state energy conservation standards for residential construction. Your application describes any special design features, materials, or construction techniques which enhance energy conservation.

YES: 5 points
NO: 0 points

(4) *Housing Survey.* (a) You have completed a survey of housing conditions and housing needs of your tribal members. You completed this survey within the twelve months before the application submission deadline (or if an earlier survey, you updated it during this period). *You must submit the survey with your application.* You included the following descriptive data for each household surveyed:

- (i) Size of the household, including age and gender of any children.
- (ii) Is the household occupying permanent housing or is it homeless?
- (iii) Annual household income.
- (iv) Owner or renter.
- (v) Number of habitable rooms and number of sleeping rooms.
- (vi) Physical condition of the house—standard/substandard. If substandard, is it suitable for rehabilitation? *The survey must include a definition of "suitable for rehabilitation."*
- (vii) Number of distinct households occupying the house/degree of overcrowding.
- (viii) If there is a need for a replacement house, what are the housing preferences of the household, e.g., ownership or rental; location; manufactured or stick-built.

(b) You submitted an acceptable survey. (10 points)

(c) You did not submit a survey or the survey is not acceptable. (0 points)

(5) *Cost effectiveness of new housing construction.* (a) This is a measure of how efficiently and effectively funds will be used under the proposed program. You must demonstrate how the proposed housing activities will be accomplished in an efficient and cost effective manner.

(b) You have demonstrated that the proposed activities are cost effective. (5 points)

(c) You have not demonstrated that the proposed activities are cost effective. (0 points)

(iii) *Rating Factor 3: Leveraging.* (10 points)

We will award points under this component in a manner consistent with the definition of "Leverage" included in this NOFA and the following breakdown:

Non-ICDBG % of project cost	Points
25 and over	10
20-24.9	8
15-19.9	6
10-14.9	4
5-9.9	2
0-4.9	0

Community Facilities

(4) *Project Specific Thresholds and Rating Factors for Community Facilities.*

(a) *Rating Factors for Infrastructure.*

(i) *Rating Factor 1: Project Need and Design.* (60 points)

(1) *Meets an essential need.* (a) Your application includes documentation demonstrating that the proposed project meets an essential community development need by fulfilling a function that is critical to the continued existence or orderly development of the community.

(b) The proposed project will fulfill a function that is critical to the continued existence or orderly development of the community. (20 points)

(c) The proposed project will fulfill a function that is not critical to the continued existence or orderly development of the community. (0 points)

(2) *Benefits the neediest.* (a) The proposed project benefits the neediest segment of the population, as identified below. You must include information demonstrating that income data were collected in a statistically reliable and independently verifiable manner and that:

(b) 85 percent or more of the beneficiaries are low and moderate income. (15 points)

(c) Between 75-84.9 percent of the beneficiaries are low and moderate income. (10 points)

(d) Between 55-74.9 percent of the beneficiaries are low and moderate income. (5 points)

(e) Less than 55 percent of the beneficiaries are low and moderate income. (0 points)

(3) *Provides infrastructure/health and safety.*

(a) The application includes documentation demonstrating that the proposed project will provide infrastructure that does not currently exist for the area to be served or it will eliminate or substantially reduce a health or safety threat or problem or it will replace existing infrastructure that no longer functions adequately to meet current needs.

(b) The infrastructure does not exist or the existing infrastructure no longer functions or the existing infrastructure does not contribute to the elimination of, or causes, a verified health or safety threat or problem. (25 points)

(c) The existing infrastructure no longer functions adequately to meet current needs or is unreliable. (20 points)

(d) The proposed project will replace or supplement existing infrastructure which is adequate for current needs but which will not meet acknowledged future needs. (12 points)

(e) The proposed project will replace or supplement existing infrastructure which is adequate to meet current needs and future needs have not been acknowledged or documented. (0 points)

(f) If the project is intended to address a health or safety threat or problem, you must provide documentation consisting of a signed study or letter from a qualified independent authority which verifies that:

(i) A threat to health or safety (or a health or safety problem) exists that has caused or has the potential to cause serious illness, injury, disease, or death; and

(ii) The threat or problem can be completely or substantially eliminated if the proposed project is undertaken.

(ii) *Rating Factor 2: Planning and Implementation.* (30 points)

(1) *A viable plan for maintenance and operation.* (a) If you are to assume responsibility for maintenance and operation of the proposed facility, you must adopt a maintenance and operation plan which addresses maintenance, repair and replacement of items not covered by insurance, and which clearly identifies operating responsibilities and resources. You must include this plan and the adopting resolution in your application. The plan must identify a funding source to ensure that the facility will be properly maintained and operated. The resolution adopting the plan must identify the total annual dollar amount you will commit.

(b) If an entity other than you commits to pay for maintenance and operation, you must include a letter of commitment that identifies the responsibilities the entity will assume in your application. You are not required to submit a maintenance and operations plan. If this entity is not an established organization or agency, this letter must also identify its financial ability to assume the indicated responsibilities. The Area ONAP will award points only if it is able to determine that the entity is financially

able to assume the costs of maintenance and operation.

(c) Your application includes an acceptable maintenance and operation plan and adopting resolution (or letter of commitment). (15 points)

(d) Your application does not include either the plan and resolution or the commitment letter or if included, they are not acceptable. (0 points)

(2) *An appropriate and effective design, scale and cost.* (a) Your application includes information demonstrating that the proposed project is the most appropriate and cost effective approach to address the identified need. This information demonstrates that you have considered the use of existing facilities and resources, and alternatives, including method of implementation and cost. If only one approach is feasible (there are no alternatives to the proposed project), the application must include an explanation.

(b) Your application includes the required information. (15 points)

(c) Your application does not include the required information or, if included, it is unacceptable. (0 points)

(iii) *Rating Factor 3: Leveraging.* (10 points)

We will award points under this component in a manner consistent with the definition of "Leverage" included in this NOFA and the following breakdown:

Non-ICDBG % of project cost	Points
25 and over	10
20-24.9	8
15-19.9	6
10-14.9	4
5-9.9	2
0-4.9	0

(b) *Threshold for Buildings.* If you propose a facility that would provide health care services funded by the Indian Health Service (IHS), you must assure that the facility meets all applicable IHS facility requirements. We recognize that tribes that are contracting services from the IHS may establish other facility standards. These tribes must assure that these standards at least compare to nationally accepted minimum standards.

(c) *Rating Factors for Buildings.*

(i) *Rating Factor 1: Project Need and Design.* (60 points)

(1) *Meets an essential need.* (a) Your application includes documentation that the proposed building meets an essential community development need by providing space so that a service or function that is critical to the continued existence or orderly development of the community can be provided.

(b) The proposed building will provide space for a service or function that is essential to the continued existence or orderly development of the community. (20 points)

(c) The proposed building will provide space for a service or function that is not critical to the continued existence or orderly development of the community. (0 points)

(2) *Benefits the neediest.* The proposed project benefits the neediest segment of the population, as identified below. Your application must include information demonstrating that income data was collected in a statistically reliable and independently verifiable manner and that:

(a) 85 percent or more of the beneficiaries are low and moderate income. (15 points)

(b) Between 75-84.9 percent of the beneficiaries are low and moderate income. (10 points)

(c) Between 55-74.9 percent of the beneficiaries are low and moderate income. (5 points)

(d) Less than 55 percent of the beneficiaries are low and moderate income. (0 points)

(3) *Provides building/health and safety.* (a) Your application includes documentation demonstrating that the proposed building will be used to provide services or functions that are not currently being provided to service area beneficiaries or it will replace a building that does not meet health or safety standards that are currently being used to provide the service or function or it will replace a building that is no longer able to provide the space or amenities to meet the current need for the services or functions.

(b) The services or functions to be provided in the proposed building do not exist for the service area population or the building currently being used does not meet health or safety standards. (25 points)

(c) The building to be replaced by the proposed building is not able to provide the space or amenities for the services or functions so that current needs cannot be entirely met. (20 points)

(d) The building to be replaced is able to provide adequate space and current needs are being met but it cannot provide space for acknowledged future needs. (10 points)

(e) The proposed building is not necessary since current needs and acknowledged future needs can be met through the use of existing facilities. (0 points)

(f) If the proposed building is intended to replace an existing building that does not meet health or safety standards, your application must

include documentation consisting of a signed letter from a qualified independent authority which specifically identifies the standard or standards which are not being met by the existing building.

(ii) *Rating Factor 2: Planning and Implementation.* (30 points)

(1) *A viable plan for maintenance and operation.* (a) If you are to assume responsibility for the maintenance and operation of the proposed building, you must adopt a maintenance and operation plan that addresses maintenance, repair and replacement of items not covered by insurance, and that clearly identifies operating responsibilities and resources. *You must include this plan and the adopting resolution in your application.* The plan must identify a funding source to ensure that the building will be properly maintained and operated. The resolution adopting the plan must identify the total annual dollar amount you will commit.

(b) If an entity other than the applicant commits to pay for maintenance and operation, you must include a letter of commitment identifying the responsibilities the entity will assume in your application. You are not required to submit a maintenance and operation plan. If this entity is not an established organization or agency, this letter must also identify its financial ability to assume the indicated responsibilities. The Area ONAP will award points only if it is able to determine that the entity is financially able to assume the costs of maintenance and operation.

(c) Your application includes an acceptable maintenance and operation plan and adopting resolution (or letter of commitment). (15 points)

(d) Your application does not include either the plan and resolution or the commitment letter, or if included, they are not acceptable. (0 points)

(2) *An appropriate and effective design, scale and cost.* (a) Your application includes information demonstrating that the proposed building is the most appropriate and cost effective approach to address the identified need(s). This information demonstrates that you have considered the use of existing facilities and resources and alternatives, including method of implementation and cost. If only one approach is feasible (there are no alternatives to the proposed building), the application must include an explanation.

(b) Your application includes the required information. (15 points)

(c) Your application does not include the required information or, if included, it is unacceptable. (0 points)

(iii) *Rating Factor 3: Leveraging.* (10 points)

We will award points under this component based on the definition of "Leverage" included in this NOFA and the following breakdown:

Non-ICDBG % of project cost	Points
25 or more	10
20-24.9	8
15-19.9	6
10-14.9	4
5-9.9	2
0-4.9	0

Economic Development

(5) *Project Specific Thresholds and Rating Factors for Economic Development.*

(a) *Thresholds for Economic Development.* (i) Economic development assistance may be provided only when a financial analysis is provided which shows public benefit commensurate with the assistance to the business can reasonably be expected to result from the assisted project.

(ii) The analysis should also establish that to the extent practicable: reasonable financial support will be committed from non-Federal sources prior to disbursement of Federal funds; any grant amount provided will not substantially reduce the amount of non-Federal financial support for the activity; not more than a reasonable rate of return on investment is provided to the owner; and, that grant funds used for the project will be disbursed on a pro-rata basis with amounts from other sources. In addition, it must be established that the project is financially feasible and has a reasonable chance of success.

(b) *Rating Factors for Economic Development.*

(i) *Rating Factor 1, Organization.* (8 points)

(1) The application contains information and documentation that addresses all of the following three elements (Maximum: 8 points):

(a) You (or entity to be assisted) have an established organization system for operation of a business, (e.g., adopted tribal ordinances, articles of incorporation, Board of Directors in place, tribal department).

(b) Formal provisions exist for separation of government functions from business operating decisions. An operating plan has been established and is submitted.

(c) The Board of Directors consists of persons who have prior business

experience. A staffing plan has been developed and is submitted.

(2) The application contains all of the first element listed above, and some of the items in the second and third elements *OR*, the application contains all of the elements listed above, but in insufficient detail. The business should be able to operate effectively. (Moderate: 5 points)

(3) The application does not meet the criteria for the award of moderate points. (Unsatisfactory: 0 points)

(ii) *Rating Factor 2: Project Success.* (45 points)

We will rate the project on the adequacy and quality of the information included in the application which addresses the following criteria: *WE WILL NOT CONSIDER ANY PROJECT FOR FUNDING UNLESS IT RECEIVES AT LEAST MODERATE POINTS IN EACH OF THE FOLLOWING THREE RATING FACTORS.*

(1) *Market analysis.* (a) A feasibility/market analysis, generally not older than two years, identifying the market and demonstrating that the proposed activities are highly likely to capture a fair share of the market. *You must submit the analysis with your application.* (Maximum: 15 points)

(b) A feasibility/market analysis identifying the market and demonstrating that the proposed activities are reasonably likely to capture a fair share of the market. *You must submit the analysis with your application.* (Moderate: 10 points)

(c) Your submission does not meet the criteria for the award of moderate points. (Unsatisfactory: 0 points)

(2) *Management capacity.* (a) You have identified a management team with qualifying specialized training or technical/managerial experience in the operation of a similar business. *You must submit with your application job descriptions of key management positions as well as resumes showing qualifying specialized technical/managerial training or experience of the identified management team.* (Maximum: 15 points)

(b) You will hire a management team with qualifying general business training or experience if the grant is approved. *You must submit with your application job descriptions of key management positions.* (Moderate: 12 points)

(c) The submission does not meet the criteria for the award of 12 points. (Unsatisfactory: 0 points)

(3) *Financial Analysis of the Business.* (a) We will determine the financial viability of a project by analyzing financial and other project related

information. *You must submit the following for all proposed projects:*

(i) A detailed cost summary for the project;

(ii) Evidence of funding sources;

(iii) Five year operating or cash flow financial projections. If the project involves the expansion of an existing business, you must also submit with your application financial statements for the most recent three year period for the business (financial statements include the balance sheet, income statement and statement of retained earnings). For start-up businesses that will not be owned by the recipient, you must also submit with your application current financial or net worth statements of principal business owners or officers.

(b) The Area ONAP will review the information derived from the analysis and compare it to local or national industry standards to assess reasonableness of development costs, financial need, profitability, and risk as factors in determining overall financial viability. In determining whether a project is financially viable, the Area ONAP will also consider current and projected market conditions and profitability measures such as cash flow return on equity, cash flow return on total assets and the ratio of net profit before taxes to total assets. Sources of industry standards include Marshall and Swift Publication Company, Robert Morris Associates, Dun and Bradstreet, the Chamber of Commerce, etc. You may also use local standards. *If you cite one of these standards, you must submit the appropriate data with your application.*

(c) Based on the analysis:

(i) The project has an excellent chance of achieving financial success. (Maximum: 15 points)

(ii) The project has an average chance of achieving financial success. (Moderate: 8 points)

(iii) The project has a minimal prospect of achieving financial success. (Unsatisfactory: 0 points)

(iii) *Rating Factor 3: Leveraging.* We will award points under this component in a manner consistent with the definition of "Leverage" included in this NOFA and the following breakdown.

Non-ICDBG % of Project Cost	Points
30% or more	12
20-29.9%	8
10-19.9%	4
Less than 10%	0

(iv) *Rating Factor 4: Permanent Full-Time Equivalent Job Creation and Training.* (20 points). (1) You must

identify or include in your application the total number of permanent full-time equivalent jobs expected to be created and/or retained as a result of the project as well as a summary of job descriptions. We will not count retained jobs unless you have provided clear evidence that these jobs would be lost without the project. You must identify the number and kind(s) of jobs expected to be available to low and moderate income persons.

(2) *ICDBG cost per job:*

\$30,000 or less	15 points.
\$30,001-40,000	12 points.
\$40,001-45,000	8 points.
\$45,001+	0 points.

(3) *Quality of jobs and/or training targeted to low and moderate income persons:*

(a) The jobs offer wages and benefits comparable to area wages and benefits for similar jobs, provide opportunity for advancement, and teach a transferable skill; *OR*

(b) The employer commits to provide training opportunities. *You must submit a description of the planned training program with your application.*

YES: 5 points

NO: 0 points

(v) *Rating Factor 5: Additional Considerations.* (15 points)

A project must meet three of the following factors to receive 15 points. (Maximum: 15 points)

(1) Use, improve or expand members' special skills. Special skills are those that members have developed through education, training or traditional cultural experiences.

YES: 5 points

NO: 0 points

(2) Provide spin-off benefits beyond the initial economic development benefits to employees or to the community.

YES: 5 points

NO: 0 points

(3) Provide special opportunities for residents of Federally-assisted housing.

YES: 5 points

NO: 0 points

(4) Provide benefits to other businesses owned by Indians or Alaska Natives.

YES: 5 points

NO: 0 points

(5) Loan Repayment/Reuse of ICDBG funds. If the business is not tribally owned, at least 50% of the ICDBG assistance to the business will be repaid to the grantee within a 10 year period. If the business is tribally owned, the tribe agrees (by submission of a tribal resolution) within a 10 year period to

use funds equal to 50% of the ICDBG assistance for eligible activities that meet a national objective. These funds should come from the profits of the tribally owned business.

YES: 5 points

NO: 0 points

IV. Application Submission Requirements and Checklist

(A) *General.* You must submit your completed application (*one originally signed and two copies*) to the appropriate Area ONAP listed above. You may access any of the telephone numbers listed via TTY by calling the Federal Information Relay Service at 1-800-877-8339. To be eligible for consideration, your application must be received by or be submitted to the appropriate Area ONAP in accordance with the requirements set forth under **APPLICATION DUE DATE** above. You may submit only one application; however, an application may include more than one eligible project (e.g., housing and public facilities). In any event, the ICDBG grant amount requested may not total more than the grant ceiling. We will rate separately each project within your application.

(B) *Demographic data.* You may submit data that are unpublished and not generally available in order to meet the requirements of this section. You must certify that:

(1) Generally available, published data are substantially inaccurate or incomplete;

(2) Data provided have been collected systematically and are statistically reliable;

(3) Data are, to the greatest extent feasible, independently verifiable; and

(4) Data differentiate between reservation and BIA service area populations, when applicable.

(C) *Publication of Community Development Statement.* You must prepare and publish or post the community development statement portion of your application according to the citizen participation requirements of § 1003.604.

(D) *Application Submission.* Your application must include:

(1) Standard Form 424—Application for Federal Assistance;

(2) Community Development Statement which includes:

(a) Components that address the relevant selection criteria;

(b) A brief description or an updated description of community development needs;

(c) A brief description of projects proposed to address needs, including scope, magnitude, and method of implementing the project;

(d) A schedule for implementing the project (form HUD-4125, Implementation Schedule); and

(e) Cost information for each separate project, including specific activity costs, administration, planning, and technical assistance, total HUD share (form HUD-4123, Cost Summary);

(3) Certifications—form HUD 4126;

(4) Certification for a Drug-Free Workplace (form HUD 50070);

(5) Certification regarding lobbying (24 CFR part 87) and SF-LLL (if applicable);

(6) Applicant/Recipient Disclosure/Update Report—form HUD 2880, as required under subpart A of 24 CFR part 4, Accountability in the Provision of HUD Assistance;

(7) A map showing project location, if appropriate;

(8) If the proposed project will result in displacement or temporary relocation, a statement that identifies:

(a) The number of persons (families, individuals, businesses and nonprofit organizations) occupying the property on the date of the submission of the application (or date of initial site control, if later);

(b) The number to be displaced or temporarily relocated;

(c) The estimated cost of relocation payments and other services;

(d) The source of funds for relocation; and

(e) The organization that will carry out the relocation activities;

(9) If applicable, evidence of the disclosure required by 24 CFR 1003.606(e) regarding conflict of interest.

(10) If applicable, the demographic data certification described in Section IV(B) of the NOFA. The data accompanying the certification must identify the total number of persons benefiting from the project and the total number of low-and-moderate persons benefiting from the project. Supporting documentation should include a sample copy of a completed survey form and an explanation of the methods used to collect the data, and a listing of incomes by household.

(11) If the application has been submitted by a tribal organization as defined in 24 CFR Section 1003.5(b), on behalf of an Indian tribe, band, group, or nation, you must submit concurring resolutions from these entities.

(E) *Documentation requirements for point award for leveraged resources.*

(1) *General.* For your own resources, you must include in your application a council resolution (or legal equivalent) that identifies and commits the resources. For resources to be provided by another entity, you must include in

your application written verification of an application or request for the leveraged resources.

(2) *Resources contributed by a public agency, foundation, or other private party.* (a) In addition to the requirement described in section IV.E.(1), above, for grants or other contributed resources from a public agency, foundation, or other private party, you must submit a *written commitment*, which may be contingent on approval of the ICDBG award, and it must be *received* by the Area ONAP no later than *30 days* after the application deadline. This commitment must specifically identify or indicate:

(i) The dollar amount committed (or dollar value of the noncash resource and the basis for the valuation);

(ii) That the resources are currently available or will be available when necessary for successful project implementation; and

(iii) The project.

(b) If the nature of the funding cycle of the contributing entity prevents the entity from making a firm funding commitment in the 30 days, we will consider these resources in the award of points if the entity provides a written statement that identifies the project and the dollar amount under consideration, indicates that the entity has received the application or request for assistance from the ICDBG applicant, and states the date by which its funding determination will be made. This date cannot be more than six months from the anticipated date of grant approval notification by HUD.

(c) If the proposed project rates high enough for funding consideration, we will establish a special condition in the grant agreement for the project. This condition will indicate that, if a firm funding commitment for the leveraged resources is not provided within six months of the date of grant approval, we will recapture the grant funds approved and will use them in accordance with the requirements of § 1003.102.

(d) The Area ONAP must receive the statement described in paragraph (c)(2)(ii) of this section no later than *30 days* after the application deadline. If the commitment or statement is not received in the required timeframe or if the required information is not included, we will not award points for the proposed contribution.

(e) If the proposed project still rates high enough to be approved, we will establish a pre-award condition that will require the applicant to provide evidence of firmly committed resources to cover the entire non-ICDBG project cost. If you do not meet this condition, we will not make the grant award.

(3) *Contributions of goods and services.* In addition to the above requirements for point award, you must include in your application special documentation for certain contributions. We will consider the contribution of goods and services for point award if your application meets the applicable requirements listed above; if you demonstrate and we determine that the items or services are necessary to the actual development of the project; and you have submitted comparable cost and/or time estimates that support the donation.

(4) *Contributions of land.* We will consider land to be contributed for point award when its use and area are integral to the development of the project. In addition, you must verify the value of the land by any of the following means or methods and must include this documentation in your application:

(a) A site specific appraisal no more than two years old;

(b) An appraisal of a nearby comparable site also no more than two years old; and

(c) A reasonable extrapolation of land value based on current area realtors value guides.

(5) *Indirect costs.* We will not consider the contribution of indirect administrative costs as identified in OMB Circular A-87, attachment A, section F, as a leveraged resource for purposes of point award.

(6) *Operations and maintenance expenditures.* We will not consider the contribution of resources to pay for the anticipated operations and maintenance costs of any proposed project to be leveraged resources for purposes of point award.

V. Clarifying Information

After the application due date, Area ONAPs may not, consistent with 24 CFR part 4, subpart B, consider unsolicited information from you. The Area ONAP may however, but is under no obligation to, contact you to clarify an item in the application. You should note, however, that the Area ONAP may not seek clarification of items or responses that improve the substantive quality of the applicant's response to any eligibility or selection criterion. The Area ONAP will make any requests for clarifying information in writing and will specify the item, or items, that need clarification and a timeframe for response. Failure on your part to provide such requested information will result in the rejection of the application.

VI. Correction of Technical Deficiencies

A technical deficiency is an error or oversight which, if corrected, would not

alter, either in a positive or negative fashion, the review and rating of an application. Examples of technical deficiencies include the failure to submit the proper certifications or the failure to have an original signature of an authorized official, as required, on an application form. As indicated under Section III(A)(2)(f) above, only successful applicants will be required to address technical deficiencies and this must be done before we make a grant award. If you do not provide the information necessary to address the deficiency within the time allowed, we will not award you the grant and will reject your application. The Area ONAP will notify you in writing and will describe the technical deficiency, what must be done to correct it, and the date by which you must submit this information. The Area ONAP will notify you by facsimile or by return receipt requested. Your response must be submitted (postmarked) by no later than the date established by the Area ONAP. The Area ONAP must provide you at least 14 calendar days to respond to the request.

VII. Error and Appeals

Rating panel judgments made within the provisions of this NOFA and the program regulations (24 CFR 1003) are not subject to claims of error. You may bring arithmetic errors in the rating and ranking of applications to the attention of an Area ONAP within 30 days of being informed of your score. If an Area ONAP makes an arithmetic error in the application review and rating process which, when corrected, would result in the award of sufficient points to warrant the funding of an otherwise approvable project, the Area ONAP may fund that project in the next funding round without further competition.

VIII. Findings and Certifications

(A) *Paperwork Reduction Act Statement.* The information collection requirements contained in this Notice have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0191. *An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.*

(B) *Environmental Impact.* This NOFA provides funding under, and does not alter the environmental requirements of, regulations in 24 CFR part 1003. Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review

under the National Environmental Policy Act of 1969 (42 U.S.C. 4321), and a Finding of No Significant Impact (FONSI) is not required.

(C) *Recipient Compliance with Environmental Requirements.* In accordance with 24 CFR 1003.605, a recipient must comply with the environmental review requirements of 24 CFR part 58, including limitations on the commitment of ICDBG or non-HUD funds on an ICDBG project before HUD approval of the Request for Release of Funds and Certification. If you commit or expend ICDBG or non-HUD funds on a project activity that requires environmental review before HUD approves your certification that the review is complete and your Request for the Release of Funds, ICDBG funding for the project may be denied.

(D) *Federalism, Executive Order 12612.* 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 will provide financial assistance to Indian tribes, none of its provisions will have an effect on the relationship between the Federal Government and the states or their political subdivisions.

(E) *Prohibition Against Lobbying Activities.* Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of the Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), which prohibits 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. Applicants are required to certify, using the certification found at Appendix A to 24 CFR part 87, that they will not, and have not, used appropriated funds for any prohibited lobbying activities. In addition, applicants must disclose, using Standard Form LLL, "Disclosure of Lobbying Activities," any funds, other than Federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, and congressional staff regarding specific grants or contracts.

(F) *Section 102 of the HUD Reform Act; Documentation and Public Access Requirements.* Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42

U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 apply to assistance awarded under this NOFA as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations in 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(G) *Section 103—HUD Reform Act.* HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a), codified in 24 CFR part 4, apply to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by the regulations from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the

subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact HUD's Ethics Law Division (202) 708-3815. (This is not a toll-free number.) For HUD employees who have specific

program questions, the employee should contact the appropriate Area ONAP or Headquarters counsel.

(H) *Catalog of Federal Domestic Assistance Number*. The Catalog of Federal Domestic Assistance Number for the ICDBG Program is 14.862.

Dated: February 11, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

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