

270

**City of Carson City
Agenda Report**

Date Submitted: May 12, 2009

Agenda Date Requested: May 21, 2009
Time Requested: 10 minutes

To: Mayor and Board of Supervisors

From: Public Works - Planning Division

Subject Title: Action to approve and authorize the Mayor to sign an amendment to the Carson City 2008-09 CDBG Annual Action Plan to add projects to be funded by the Community Development Block Grant-Recovery Act (CDBG-R) program, and forward a recommendation of approval of the plan to the Department of Housing and Urban Development (HUD).

Summary: A total of \$118,516 is allocated to Carson City for the CDBG program through the American Recovery and Reinvestment Act of 2009 (ARRA). An amendment to the 2008-09 CDBG Annual Action Plan is required to receive these funds. The use of the funds must comply with specific requirements of the ARRA in addition to regular CDBG program requirements.

Type of Action Requested:

- Resolution
- Formal Action/Motion
- Ordinance-First Reading
- Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to approve and authorize the Mayor to sign an amendment to the Carson City 2008-09 CDBG Annual Action Plan and forward a recommendation of approval of the plan to the Department of Housing and Urban Development.

Explanation for Recommended Board Action: (Refer to the attached memo for additional information and justification.)

Applicable Statute, Code, Policy, Rule or Regulation: CCMC 17.09.055 (Planned Unit Developments, Time Limits for Filing Applications for Final Approval); NRS 278A.510 (Planned Development, Specification of time for filing application for final approval)

Fiscal Impact: \$118,516 in grant funds will be used in Carson City; CDBG-R grant funds will be administered by existing staff managing the CDBG program. No matching City funds are required.

Explanation of Impact: N/A

Funding Source: N/A

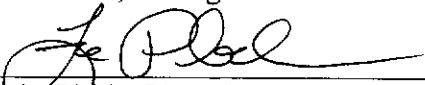
Alternatives: 1) The Board of Supervisors may amend the proposed Action Plan to include distribution of funds to qualifying projects in accordance with CDBG-R requirements.

Supporting Material:

- 1) Staff Memo
- 2) CDBG 2008-09 Annual Action Plan Amendment
- 3) E-mail notice of CDBG-R requirements from HUD
- 4) Memo from HUD Secretary on CDBG-R spending
- 5) Memo from President Obama on responsible spending of Recovery Act funds
- 6) HUD Notice of CDBG-R Program Requirements

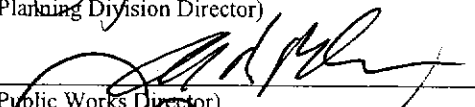
Prepared By: Janice Brod, Management Assistant V

Reviewed By:



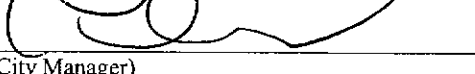
 (Planning Division Director)

Date: 5-11-09



 (Public Works Director)

Date: 5-12-09



 (City Manager)

Date: 5/12/09



 (District Attorney's Office)

Date: 5-12-09

Board Action Taken:

Motion: _____

- 1) _____
- 2) _____

Aye/Nay

(Vote Recorded By)



Carson City Planning Division

2621 Northgate Lane, Suite 62

Carson City, Nevada 89706

(775) 887-2180

Plandiv@ci.carson-city.nv.us

www.carson-city.nv.us

MEMORANDUM

Board of Supervisors Meeting of May 21, 2009

TO: Mayor and Supervisors

FROM: Lee Plemel, Planning Director

DATE: May 13, 2009

SUBJECT: CDBG-R (Recovery Act) 2008-09 Action Plan Amendment

A total of **\$118,516** is allocated to Carson City for the Community Development Block Grant (CDBG) program by the American Recovery and Reinvestment Act of 2009 (ARRA). An amendment to the 2008-09 CDBG Annual Action Plan is required to receive these funds. The use of the funds must comply with specific requirements of the ARRA in addition to regular CDBG program requirements. This \$118,516 is known as CDBG-R (Recovery Act) funding.

Proposed CDBG-R Funding

Activity	Sub-grantee	Amount
Empire School Area Sidewalk-ADA Project	Public Works, Transportation Div.	\$100,739
Family Enrichment Program Case Coordinator*	Health and Human Services Dept.	\$17,777

* "Public service" activities are limited to a maximum of 15% of the total CDBG-R funds.

This memo is intended to give a brief overview of the requirements and rationale for the recommended Action Plan amendment. More detailed requirements of the Action Plan amendment and the use of the CDBG-R funds are attached in the form of a memo from the HUD Secretary, a memo from President Obama regarding responsible spending of Recovery Act funds, and a notice from HUD on the detailed requirements of the program.

A few highlights from the requirements for ARRA spending and specific CDBG-R requirements should be noted for the Board of Supervisors' consideration in selecting activities to be funded with CDBG-R funds:

- Per HUD representatives, the primary purpose of the CDBG-R funds is to create jobs to promote economic recovery. The ARRA states, "Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit."
- The HUD Program Requirements Notice states: "HUD strongly urges grantees to use CDBG-R funds for hard development costs associated with infrastructure activities that provide basic services to residents... While the full range of CDBG activities is available to grantees, [HUD] strongly suggests that grantees incorporate consideration of the public

perception of the intent of the Recovery Act in identifying and selecting project for CDBG-R funding.”

- HUD recommends that CDBG-R funds be used for discrete, “stand alone” activities, not activities that rely on commingling of other funds or contracts, for reporting purposes.
- If a city fails to submit an amended Action Plan to HUD by June 5, 2009, HUD may cancel and reallocate all or part the city's allocation. (Note: City staff first received notice of the requirements and deadline from HUD for accessing the CDBG-R funds via email on May 7, 2009.)

The two proposed CDBG-R activities are the only two qualifying activities that submitted applications but did not receive full funding for the 2009-10 regular CDBG program year. It was the recommendation of staff and the CDBG advisory panel for these two activities to receive any additional CDBG funding that was made available. Additionally, there is a very short time period in which to prepare the amended Action Plan for HUD approval, essentially prohibiting the City from being able to solicit new applications. Therefore, staff recommends that these activities receive the CDBG-R funds.

More detailed descriptions of the activities and compliance with the CDBG-R requirements are included within the attached CDBG-R Amendment to the 2008-09 Action Plan. Please contact Janice Brod, CDBG Coordinator, or Lee Plemel, Planning Director, with additional questions.

Attachments:

- 1) CDBG 2008-09 Annual Action Plan Amendment and Certifications
- 2) E-mail notice of CDBG-R requirements from HUD
- 3) Memo from HUD Secretary on CDBG-R spending
- 4) Memo from President Obama on responsible spending of Recovery Act funds
- 5) HUD Notice of CDBG-R Program Requirements



CDBG-R Amendment to 2008-09 Action Plan

The CPMP CDBG-R 2008-09 Action Plan Amendment includes the SF 424 and Narrative Responses to meet the requirements of the HUD Notice of Program Requirements for Community Development Block Grant Program Funding under the American Recovery and Reinvestment Act of 2009.

GENERAL

Executive Summary

The purpose of this amendment to the 2008-09 CDBG Annual Action Plan is to identify projects for the allocation of \$118,516 in Community Development Block Grant funds to Carson City authorized under the American Recovery and Reinvestment Act of 2009 (ARRA). These funds are also known as CDBG-R program funds.

While the use of CDBG-R funds must meet the basic requirements of the regular CDBG program, there are also specific ARRA requirements to facilitate the expeditious use of the funds and to meet the ARRA objectives.

Proposed Activities

This Action Plan amendment is to add two activities to be funded with the city's CDBG-R allocation. Project descriptions as required by HUD are below.

Activity	Total activity budget
Empire Elementary School Area ADA-Sidewalk Project	\$100,739
Family Enrichment Program Case Coordinator	\$17,777
Total Available CDBG-R funding:	\$118,516

1. Activity name: Empire Elementary School Area ADA-Sidewalk Improvement Project.

CDBG-R funds budgeted	Other funds budgeted	Total activity budget
\$100,739	\$0	\$100,739

Activity description: There are streets in the neighborhood surrounding the Empire Elementary School without adequate sidewalks or sidewalks that do not comply with Americans with Disabilities Act (ADA) standards. This presents a safety issue since the neighborhood children do not have school bus service and walk to school. This also presents an accessibility issue for those in the neighborhood with disabilities who are unable to navigate existing streets and sidewalks to services within and around the neighborhood.

The project will construct new sidewalks as well as ADA-compliant corner curb ramps. Disabled persons and school children will benefit from increased accessibility in the neighborhood. The city will contribute by designing the improvements, managing the construction project, and inspecting the improvements, leaving the full amount of CDBG-R funding to be used towards the actual construction of improvements.

Eligibility category: Low- to moderate-income area benefit.

National objective: Benefiting low- to moderate income persons; suitable living environment, accessibility.

2. Activity name: Family Enrichment Program Case Coordinator.

CDBG-R funds budgeted	Other funds budgeted	Total activity budget
\$17,777	\$0	\$17,777

Activity description: The Family Enrichment Program is designed to give housing assistance to low-income individuals and families in order to help them achieve self sufficiency. Currently, Human Services can only provide one-time emergency rental assistance and does not offer an opportunity for people to improve their current situation. Clients who meet eligibility criteria and agree to the guidelines of the program will receive case management, direct support services, and financial assistance with housing. The housing assistance will be designed to assist with rent up to six months, at a maximum of \$750 per month, or 30%, whichever is less. Clients will pay a percentage of the rent, which will gradually increase through their participation in the program, providing for a transition to total client pay within the six month program.

CDBG-R funds will be used to pay the salary and benefits of the Case Coordinator. The role of the Case Coordinator will be to mutually develop strategies for self-sufficiency while providing advocacy and referrals for the client. The ultimate outcome for the client is to leave the program with the skills they need to build a better life. The program will begin by assisting 10 families or individuals and increase to 20 by the end of the year. All of the participants of the program will be low-to-moderate income. The Health and Human Services Department will continue to seek grant and other funding opportunities to continue to fund the Case Coordinator position beyond the CDBG-R funding, as well as funding other aspects of the program.

Eligibility category: Low- to moderate-income clientele benefit.

National objective: Benefiting low- to moderate income persons; suitable living environment, availability.

Meeting ARRA Requirements

HUD requires the Action Plan to address ARRA Title XII of Division A and Section 1602 compliance as follows:

- Recipients shall give priority to projects that can award contracts based on bids within 120 calendar days from the date the funds are made available to the recipients.

Response: Design work for the Sidewalk-ADA Project has been completed by the City and it is anticipated that the contract can be awarded in mid-June. The City will use the pre-award cost reimbursement provisions of 24 CFR 570.200(h), allowing the project to go to bid before the grant funds are officially awarded and available, to ensure timely start of construction in compliance with the ARRA Title XII.

- For CDBG-R funds being used for infrastructure investments, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 calendar days after February 17, 2009.

Response: The city anticipates that the Sidewalk-ADA Project can be started and completed in the 2009 calendar year. The activity will be initiated within days after the Action Plan amendment is submitted to HUD in accordance with the pre-award cost reimbursement provisions of 24 CFR 570.200(h). It is further anticipated that funds for the Family Enrichment Program Case Coordinator will be fully expended by the end of the 2009 calendar year.

Maximizing Job Creation and Economic Benefit

HUD requires the amended Action Plan to address how the use of CDBG-R funds will maximize job creation and economic benefit in relation to the CDBG-R funds obligated, and will address the ARRA by:

- Preserving and creating jobs and promoting economic recovery;
- Assisting those most impacted by the recession;
- Providing investment needed to increase economic efficiency;
- Investing in transportation, environmental protection, or other infrastructure that will provide long-term economic benefits;
- Minimizing and avoiding reductions in essential services; or
- Fostering energy independence.

The use of CDBG-R funds for the Empire Elementary School Area ADA Sidewalk Improvement Project and Family Enrichment Program Counselor will meet one of the primary objectives of the ARRA by **preserving and creating jobs and promoting economic recovery**. Eighty-five percent of the CDBG-R funds will be used to pay contractors for the proposed Sidewalk-ADA work, creating and preserving jobs. The remainder of the funds will be used directly to fund the creation of a counselor/case manager position for the Family Enrichment Program. The funds will be spent on activities that would otherwise not receive funding this year. Therefore, the jobs that will be created or retained would not have otherwise existed. This will have direct impacts on the economy by paying salaries and purchasing materials. Keeping contractors and others employed helps sustain the economy and will help promote economic recovery.

Furthermore, the Family Enrichment Program will **assist those most impacted by the recession**. With fewer jobs available, it becomes more difficult for families to

transition out of poverty and into sustainable living arrangements. The Family Enrichment Program helps families achieve self-sufficiency.

Estimated Job Creation

The ARRA requires the reporting of the number of jobs created by all ARRA funds spent. HUD requires the amended Action Plan to estimate the number of full- and part-time jobs to be created and retained by the proposed activity (including permanent, construction and temporary jobs).

It is estimated that the Empire Elementary School Area ADA Sidewalk Improvement Project will create eight construction and temporary jobs. The funding of the Family Enrichment Program Case Coordinator will create one additional job, for an estimated total of **nine jobs created or retained as a result of CDBG-R funds.**

Implementing Smart Growth Principles

The ARRA and HUD require the amended Action Plan to provide a description of the activities that will be carried out with CDBG-R funds that promote:

- Energy conservation;
- "Smart growth" principles;
- Green building technologies; or
- Reduced pollution emissions.

The Empire Elementary School Area ADA Sidewalk Improvement Project helps implement one of the ten tenants of "smart growth," **to create walkable neighborhoods.** The Empire Elementary School area presently has piece-meal sidewalks, sidewalks that do not have ADA-compliant ramps, and no sidewalks in some areas. The project will help provided needed pedestrian connection to the Elementary School (a safety concern), bus stops and services surrounding and within the neighborhood.

Public Participation

HUD waives the regular CDBG program requirement to provide a 30-day public review and comment period for this Action Plan amendment in order to quickly implement the expenditure of CDBG-R funds. HUD is instead requiring no fewer than seven calendar days for citizen comment on the CDBG-R Action Plan amendment.

Carson City made the Action Plan amendment available to the public from May 13 to at least May 21, 2009. Notice was placed in the local newspaper of the availability of the amended Action Plan, and the Plan was placed on the Carson City Board of Supervisors public agenda for May 21, 2009. Carson City CDBG administrators will forward written public comments submitted within the comment period to HUD. Additionally, public comments will be posted on the Carson City CDBG (Planning Division) website along with the Amended Action Plan in compliance with HUD CDBG-R requirements.

CDBG Contact Information

For additional information on the regular CDBG or CDBG-R programs, or to make comments regarding the CDBG-R Action Plan amendment, contact:

Janice Brod, CDBG Administrator
2621 Northgate Lane, Suite 62
Carson City, NV 89706
775-887-2180 ext. 30069
Fax: 775-887-2278
jbrod@ci.carson-city.nv.us



SF 424

The SF 424 is part of the CPMP Annual Action Plan. SF 424 form fields are included in this document. Grantee information is linked from the 1CPMP.xls document of the CPMP tool.

SF 424

Complete the fillable fields (blue cells) in the table below. The other items are pre-filled with values from the Grantee Information Worksheet.

Date Submitted: 6/5/09	Applicant Identifier	Type of Submission	
Date Received by state	State Identifier	Application	Pre-application
Date Received by HUD	Federal Identifier	<input type="checkbox"/> Construction	<input type="checkbox"/> Construction
		<input checked="" type="checkbox"/> Non Construction	<input type="checkbox"/> Non Construction
Applicant Information			
Jurisdiction: Carson City Consolidated Municipality		NV320036 CARSON CITY	
Street Address Line 1: 201 N. Carson Street		Organizational DUNS 073787152	
Street Address Line 2: Suite 2		Organizational Unit: City Government	
City: Carson City	Nevada	Department: City Manager	
89701	Country U.S.A.	Division: Planning Division	
Employer Identification Number (EIN):		County: Carson City County	
88-6000189		Program Year Start Date (MM/DD): (
Applicant Type:		Specify Other Type if necessary:	
Local Government: City		Specify Other Type	
Program Funding		U.S. Department of Housing and Urban Development	
Catalogue of Federal Domestic Assistance Numbers; Descriptive Title of Applicant Project(s); Areas Affected by Project(s) (cities, Counties, localities etc.); Estimated Funding			
Community Development Block Grant		14.218 Entitlement Grant	
CDBG Project Titles: CDBG Public Services and Public Facilities Improvement Projects		Description of Areas Affected by CDBG Project(s): LMI areas within City	
\$CDBG Grant Amount:	\$Additional HUD Grant(s) Leveraged	Describe:	
\$118,516		None	
\$Additional Federal Funds Leveraged	\$Additional State Funds Leveraged		
None	None		
\$Locally Leveraged Funds	\$Grantee Funds Leveraged		
Approximately \$10,000	None		
\$Anticipated Program Income	Other (Describe)		
None	None		
Total Funds Leveraged for CDBG-based Project(s) None			
Home Investment Partnerships Program		14.239 HOME	
HOME Project Titles		Description of Areas Affected by HOME Project(s)	
Not applicable			
\$HOME Grant Amount	\$Additional HUD Grant(s) Leveraged	Describe	
\$Additional Federal Funds Leveraged	\$Additional State Funds Leveraged		
\$Locally Leveraged Funds	\$Grantee Funds Leveraged		

\$Anticipated Program Income		Other (Describe)	
Total Funds Leveraged for HOME-based Project(s)			
Housing Opportunities for People with AIDS		14.241 HOPWA	
HOPWA Project Titles Not applicable		Description of Areas Affected by HOPWA Project(s)	
\$HOPWA Grant Amount	\$Additional HUD Grant(s) Leveraged	Describe	
\$Additional Federal Funds Leveraged		\$Additional State Funds Leveraged	
\$Locally Leveraged Funds		\$Grantee Funds Leveraged	
\$Anticipated Program Income		Other (Describe)	
Total Funds Leveraged for HOPWA-based Project(s)			
Emergency Shelter Grants Program		14.231 ESG	
ESG Project Titles Not applicable		Description of Areas Affected by ESG Project(s)	
\$ESG Grant Amount	\$Additional HUD Grant(s) Leveraged	Describe	
\$Additional Federal Funds Leveraged		\$Additional State Funds Leveraged	
\$Locally Leveraged Funds		\$Grantee Funds Leveraged	
\$Anticipated Program Income		Other (Describe)	
Total Funds Leveraged for ESG-based Project(s)			
Congressional Districts of: Applicant Districts: 2nd Project Districts: 2nd		Is application subject to review by state Executive Order 12372 Process?	
Is the applicant delinquent on any federal debt? If "Yes" please include an additional document explaining the situation.		<input type="checkbox"/> Yes	This application was made available to the state EO 12372 process for review on DATE
<input checked="" type="checkbox"/> No		<input checked="" type="checkbox"/> No	
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> N/A	Program has not been selected by the state for review

Person to be contacted regarding this application		
First Name: Janice	Middle Initial	Last Name: Brod
Title: CDBG Coordinator	Phone: 775-887-2180 ext. 30069	Fax: 775-887-2278
eMail: jbrod@ci.carson-city.nv.us	Grantee Website: www.carson-city.nv.us	Other Contact: Lee Plemel 775-887-2180 ext. 30075
Signature of Authorized Representative Robert L. Crowell, Mayor		Date Signed



CPMP Non-State Grantee Certifications

Many elements of this document may be completed electronically, however a signature must be manually applied and the document must be submitted in paper form to the Field Office.

<input type="checkbox"/> This certification does not apply.
<input checked="" type="checkbox"/> This certification is applicable.

NON-STATE GOVERNMENT CERTIFICATIONS

In accordance with the applicable statutes and the regulations governing the consolidated plan regulations, the jurisdiction certifies that:

Affirmatively Further Fair Housing -- The jurisdiction will affirmatively further fair housing, which means it will conduct an analysis of impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard.

Anti-displacement and Relocation Plan -- It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24; and it has in effect and is following a residential antidisplacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG or HOME programs.

Drug Free Workplace -- It will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about --
 - a. The dangers of drug abuse in the workplace;
 - b. The grantee's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will --
 - a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted --
 - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

Jurisdiction

Anti-Lobbying -- To the best of the jurisdiction's knowledge and belief:

8. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
9. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
10. It will require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Authority of Jurisdiction -- The consolidated plan is authorized under State and local law (as applicable) and the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

Consistency with plan -- The housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

Section 3 -- It will comply with section 3 of the Housing and Urban Development Act of 1968, and implementing regulations at 24 CFR Part 135.

5/21/2009

Signature/Authorized Official

Date

Robert L. Crowell

Name

Mayor

Title

201 N. Carson Street

Address

Carson City, NV 89701

City/State/Zip

775-887-2100

Telephone Number

<input checked="" type="checkbox"/> This certification does not apply.
<input checked="" type="checkbox"/> This certification is applicable.

Specific CDBG Certifications

The Entitlement Community certifies that:

~~**Citizen Participation** — It is in full compliance and following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.105.~~

Community Development Plan -- Its consolidated housing and community development plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that provide decent housing, expand economic opportunities primarily for persons of low and moderate income. (See CFR 24 570.2 and CFR 24 part 570)

Following a Plan -- It is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.

Use of Funds -- It has complied with the following criteria:

11. Maximum Feasible Priority - With respect to activities expected to be assisted with CDBG funds, it certifies that it has developed its Action Plan so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight. The Action Plan may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available);

~~12. Overall Benefit — The aggregate use of CDBG funds including section 108 guaranteed loans during program year(s) 2008, 2009, 2010, (a period specified by the grantee consisting of one, two, or three specific consecutive program years), shall principally benefit persons of low and moderate income in a manner that ensures that at least 70 percent of the amount is expended for activities that benefit such persons during the designated period;~~

13. Special Assessments - It will not attempt to recover any capital costs of public improvements assisted with CDBG funds ~~including Section 108 loan guaranteed funds~~ by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements.

However, if CDBG funds are used to pay the proportion of a fee or assessment that relates to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds.

The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108, unless CDBG funds are used to pay the proportion of fee or assessment attributable to the capital costs of public improvements financed from other revenue sources. In this case, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. Also, in the case of properties owned and occupied by moderate-income (not low-income) families, an assessment or charge may be made against the property for public improvements financed by a source other than CDBG funds if the jurisdiction certifies that it lacks CDBG funds to cover the assessment.

Excessive Force -- It has adopted and is enforcing:

14. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

15. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction;

Jurisdiction

Compliance With Anti-discrimination laws -- The grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 USC 2000d), the Fair Housing Act (42 USC 3601-3619), and implementing regulations.

Lead-Based Paint -- Its activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K and R, of title 24;

Compliance with Laws -- It will comply with applicable laws.

5/21/2009

Signature/Authorized Official

Date

Robert L. Crowell

Name

Mayor

Title

201 N. Carson Street

Address

Carson City, NV 89701

City/State/Zip

775-887-2100

Telephone Number

<input checked="" type="checkbox"/> This certification does not apply.
<input type="checkbox"/> This certification is applicable.

**OPTIONAL CERTIFICATION
CDBG**

Submit the following certification only when one or more of the activities in the action plan are designed to meet other community development needs having a particular urgency as specified in 24 CFR 570.208(c):

The grantee hereby certifies that the Annual Plan includes one or more specifically identified CDBG-assisted activities, which are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.

<hr/>	<input type="text"/>
Signature/Authorized Official	Date
<input type="text"/>	
Name	
<input type="text"/>	
Title	
<input type="text"/>	
Address	
<input type="text"/>	
City/State/Zip	
<input type="text"/>	
Telephone Number	

This certification does not apply.
 This certification is applicable.

Specific HOME Certifications

The HOME participating jurisdiction certifies that:

Tenant Based Rental Assistance -- If the participating jurisdiction intends to provide tenant-based rental assistance:

The use of HOME funds for tenant-based rental assistance is an essential element of the participating jurisdiction's consolidated plan for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing.

Eligible Activities and Costs -- it is using and will use HOME funds for eligible activities and costs, as described in 24 CFR § 92.205 through 92.209 and that it is not using and will not use HOME funds for prohibited activities, as described in § 92.214.

Appropriate Financial Assistance -- before committing any funds to a project, it will evaluate the project in accordance with the guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other Federal assistance than is necessary to provide affordable housing;

Signature/Authorized Official	<input type="text"/>
<input type="text"/>	Date
Name	
<input type="text"/>	
Title	
<input type="text"/>	
Address	
<input type="text"/>	
City/State/Zip	
<input type="text"/>	
Telephone Number	

<input checked="" type="checkbox"/> This certification does not apply.
<input type="checkbox"/> This certification is applicable.

HOPWA Certifications

The HOPWA grantee certifies that:

Activities -- Activities funded under the program will meet urgent needs that are not being met by available public and private sources.

Building -- Any building or structure assisted under that program shall be operated for the purpose specified in the plan:

1. For at least 10 years in the case of assistance involving new construction, substantial rehabilitation, or acquisition of a facility,
2. For at least 3 years in the case of assistance involving non-substantial rehabilitation or repair of a building or structure.

Signature/Authorized Official	<input type="text"/>
<input type="text"/>	Date
Name	
<input type="text"/>	
Title	
<input type="text"/>	
Address	
<input type="text"/>	
City/State/Zip	
<input type="text"/>	
Telephone Number	

- This certification does not apply.
 This certification is applicable.

ESG Certifications

I, _____, Chief Executive Officer of **Error! Not a valid link.**, certify that the local government will ensure the provision of the matching supplemental funds required by the regulation at 24 *CFR* 576.51. I have attached to this certification a description of the sources and amounts of such supplemental funds.

I further certify that the local government will comply with:

1. The requirements of 24 *CFR* 576.53 concerning the continued use of buildings for which Emergency Shelter Grants are used for rehabilitation or conversion of buildings for use as emergency shelters for the homeless; or when funds are used solely for operating costs or essential services.
2. The building standards requirement of 24 *CFR* 576.55.
3. The requirements of 24 *CFR* 576.56, concerning assurances on services and other assistance to the homeless.
4. The requirements of 24 *CFR* 576.57, other appropriate provisions of 24 *CFR* Part 576, and other applicable federal laws concerning nondiscrimination and equal opportunity.
5. The requirements of 24 *CFR* 576.59(b) concerning the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
6. The requirement of 24 *CFR* 576.59 concerning minimizing the displacement of persons as a result of a project assisted with these funds.
7. The requirements of 24 *CFR* Part 24 concerning the Drug Free Workplace Act of 1988.
8. The requirements of 24 *CFR* 576.56(a) and 576.65(b) that grantees develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted with ESG funds and that the address or location of any family violence shelter project will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter.
9. The requirement that recipients involve themselves, to the maximum extent practicable and where appropriate, homeless individuals and families in policymaking, renovating, maintaining, and operating facilities assisted under the ESG program, and in providing services for occupants of these facilities as provided by 24 *CFR* 76.56.
10. The requirements of 24 *CFR* 576.57(e) dealing with the provisions of, and regulations and procedures applicable with respect to the environmental review responsibilities under the National Environmental Policy Act of 1969 and related

authorities as specified in 24 *CFR* Part 58.

11. The requirements of 24 *CFR* 576.21(a)(4) providing that the funding of homeless prevention activities for families that have received eviction notices or notices of termination of utility services will meet the requirements that: (A) the inability of the family to make the required payments must be the result of a sudden reduction in income; (B) the assistance must be necessary to avoid eviction of the family or termination of the services to the family; (C) there must be a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and (D) the assistance must not supplant funding for preexisting homeless prevention activities from any other source.
12. The new requirement of the McKinney-Vento Act (42 *USC* 11362) to develop and implement, to the maximum extent practicable and where appropriate, policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons. I further understand that state and local governments are primarily responsible for the care of these individuals, and that ESG funds are not to be used to assist such persons in place of state and local resources.
13. HUD's standards for participation in a local Homeless Management Information System (HMIS) and the collection and reporting of client-level information.

I further certify that the submission of a completed and approved Consolidated Plan with its certifications, which act as the application for an Emergency Shelter Grant, is authorized under state and/or local law, and that the local government possesses legal authority to carry out grant activities in accordance with the applicable laws and regulations of the U. S. Department of Housing and Urban Development.

Signature/Authorized Official

Date

Name

Title

Address

City/State/Zip

Telephone Number

This certification does not apply.
 This certification is applicable.

APPENDIX TO CERTIFICATIONS

Instructions Concerning Lobbying and Drug-Free Workplace Requirements

Lobbying Certification

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

Drug-Free Workplace Certification

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification.
2. The certification is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio stations).
5. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph three).
6. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant: Place of Performance (Street address, city, county, state, zip code) Check if there are workplaces on file that are not identified here. The certification with regard to the drug-free workplace is required by 24 CFR part 21.

Place Name	Street	City	County	State	Zip
Planning Division Office	2621 Northgate Ln	Carson City	Carson City	NV	89706
City Hall	201 N. Carson St.	Carson City	Carson City	NV	89701

7. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules: "Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15); "Conviction" means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes; "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any

Jurisdiction

controlled substance; "Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including:

- a. All "direct charge" employees;
- b. all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and
- c. temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Note that by signing these certifications, certain documents must completed, in use, and on file for verification. These documents include:

- 1. Analysis of Impediments to Fair Housing
- 2. Citizen Participation Plan
- 3. Anti-displacement and Relocation Plan

5/21/2009

Signature/Authorized Official

Date

Robert L. Crowell

Name

Mayor

Title

201 N. Carson Street

Address

Carson City, NV 89701

City/State/Zip

775-887-2100

Telephone Number

American Recovery and Reinvestment Act (ARRA) Certifications

1. The jurisdiction will comply with Title XII (Transportation and Housing and Urban Development, and Related Agencies) of Division A of the American Recovery and Reinvestment Act of 2009.
2. In selecting projects to be funded, the grantee will give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available to the recipients, and will ensure maximum job creation and economic benefit.
3. When CDBG-R funds are being used for infrastructure investments, the grantee will give preference to quick-start and finish activities, including a goal to use at least 50 percent of the funds for activities within 120 days of enactment of the Recover Act.
4. All iron, steel and manufactured goods used in construction, alteration, repair, or maintenance of a public building or public work project assisted with CDBG-R funds under the Recover Act must be produced in the United States unless the Secretary finds that: (1) the requirement is inconsistent with public interest; (2) those goods are not reasonably available or produced in sufficient quantity in the U.S.; (3) or the use of the goods will increase the project cost by more than 25 percent.
5. Any infrastructure investments have received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayers dollars.
6. The aggregate use of CDBG-R funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent of the grant is expended for activities that benefit such persons over the life of the CDBG-R grant.

Robert L. Crowell, Mayor
201 N. Carson Stree
Carson City, NV 89701
775-887-2100

Date

From: "Roman, Lorena C" <Lorena.C.Roman@hud.gov>
To: "abusch@yubacity.net" <abusch@yubacity.net>, "adrienne.pon@sfgov.org" <adrienne.pon@sfgov.org>
CC: "Cremer, Maria F" <maria.f.cremer@hud.gov>
Date: 5/6/2009 11:39 AM
Subject: Recovery Act CDBG Funds
Attachments: CDBG-R Notice Issued 5-5-09.pdf; CDBG-R letter from Sec Donovan 5-5-09.pdf; Responsible Spending Memo FR version 3-25-09.pdf

To HUD's Community Development Block Grant Partners

I am pleased to forward to you the Notice that establishes operating procedures and guidance for the \$1 billion in Community Development Block Grant (CDBG) funds appropriated by the American Recovery and Reinvestment Act (Recovery Act). HUD is identifying these funds as CDBG-R. The Recovery Act directed HUD to distribute the funds to CDBG grantees that received funds in FY 2008 and announced the CDBG-R allocations on February 25, 2009. They can be found on the HUD's website at www.hud.gov/recovery<<http://www.hud.gov/recovery>>. The CDBG-R allocation to each grantee is approximately 27% of the FY 2008 CDBG allocation.

I am also forwarding an open letter from HUD Secretary Shaun Donovan to CDBG grantees that discusses responsible and prudent uses of Recovery Act CDBG funds. Further, I am including President Obama's March 20, 2009, memorandum on responsible spending (as reprinted in the Federal Register on March 25, 2009) as it is referenced in Secretary Donovan's letter. I urge you review and share Secretary Donovan's letter and President Obama's memorandum with your elected and appointed officials before developing or finalizing your jurisdiction's action plan amendment.

To obtain the funds, grantees will be required to submit a substantial action plan amendment to their approved FY 2008 action plan. For entitlement communities, amendments will be due not later than Friday, June 5, 2009. For states, amendments will be due not later than Monday, June 29, 2009. Amendments should be submitted in hard copy format to the appropriate HUD field office but the required spreadsheet identifying the proposed activities must be sent electronically to the email address identified in the Notice. The spreadsheet will be available for download from www.hud.gov/recovery<<http://www.hud.gov/recovery>>.

The Department realizes that the timeframe for response to this Notice is relatively brief but many grantees have been considering how these funds will be deployed since the Recovery Act was signed into law on February 18, 2009. HUD will be issuing further guidance in the next few weeks on a range of issues relating to implementation of the CDBG-R program.

Thank you for your patience as HUD has developed this Notice and we look forward to working with you to quickly put CDBG-R funds to work in our nation's communities.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
THE SECRETARY
WASHINGTON, DC 20410-0001

May 5, 2009

Dear CDBG Grantee:

In these difficult economic times, the U.S. Department of Housing and Urban Development is pleased to announce additional funding for the Community Development Block Grant (CDBG) program under the American Recovery and Reinvestment Act of 2009 (Recovery Act). The attached CDBG Recovery Act (CDBG-R) Notice provides your community with a significant opportunity to address critical employment and economic development needs. In accepting these funds, it is imperative, however, that you be good stewards of these precious taxpayer dollars by focusing your efforts on the Recovery Act goals of investing in infrastructure that will create or sustain jobs in the near-term and generate maximum economic benefits in the long-term.

HUD is fully committed to implementation of the guidance provided by President Obama in his March 20, 2009, memorandum regarding the need for responsible spending of Recovery Act funds. The CDBG-R funding presents a unique set of challenges because of the wide range of activities allowable under the CDBG program, as compared to the more narrow range of activities allowable under the CDBG-R program. The goals of the Recovery Act are focused on stimulating job creation and long-term economic benefit. In an effort to ensure responsible spending of Recovery Act funds, a number of actions have been taken.

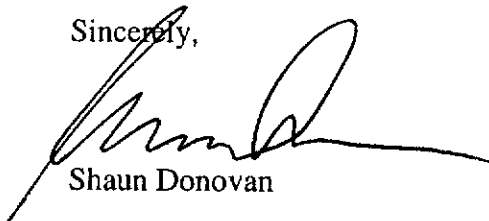
First, Section 1604 of the Recovery Act prohibits the use of funds for certain types of projects including aquariums, casinos, golf courses, swimming pools, and zoos. This prohibition is clear and direct, and HUD's guidance on the use of CDBG-R funds reflects these prohibitions. In addition, HUD is:

1. Conducting extensive outreach to housing and community development officials through such groups as the National League of Cities, the U.S. Conference of Mayors, the National Association of County Officials, and the National Governors Association to underscore the importance of focusing on the key elements of the Recovery Act as they examine projects proposed for CDBG-R funding.
2. Adding a "terms and conditions" to all grant agreements that clearly reflect the obligation of the grantee to comply with the Recovery Act in carrying out its responsibilities.

3. Providing detailed guidance to grantees regarding expectations for projects and activities accomplished under the Recovery Act.
4. Encouraging grantees to engage with their auditors early in the planning process, as HUD has been doing with the Office of the Inspector General, to ensure that major risks to responsible spending are quickly identified, and mitigation strategies established, upfront.
5. Requiring grantees to identify, upfront, the specific activities and projects that they intend to fund with CDBG-R funds. The CDBG citizen participation process will apply, with the additional requirement that grantees post their plans on their own websites in order to receive a greater level of public comment and scrutiny. Through these efforts, HUD expects that imprudent projects will be identified and weeded out and that CDBG-R funds will be used in a manner consistent with the purposes and goals of the Recovery Act.
6. Posting all proposed grantee projects on the HUD Recovery website to provide complete transparency and encourage greater scrutiny.

The economic crisis has resulted in many critical needs in our nation's communities. In order to respond to the core issues of job creation and long-term economic benefit, we must be disciplined in spending Recovery Act funds. Through the actions outlined above, the Department intends to reinforce President Obama's message of responsible spending of critical Recovery Act resources.

Sincerely,



Shaun Donovan

Attachment

Presidential Documents

Title 3—

Memorandum of March 20, 2009

The President

Ensuring Responsible Spending of Recovery Act Funds**Memorandum for the Heads of Executive Departments and Agencies**

My Administration is committed to ensuring that public funds are expended responsibly and in a transparent manner. Last month, I signed into law the "American Recovery and Reinvestment Act of 2009," Public Law 111-5 (the "Recovery Act" or "Act"), an investment package designed to provide a necessary boost to our economy in these difficult times and to create jobs, restore economic growth, and strengthen America's middle class. The Recovery Act is designed to stimulate the economy through measures that, among other things, modernize the Nation's infrastructure, jump start American energy independence, expand high-quality educational opportunities, preserve and improve access to affordable health care, provide middle-class tax relief, and protect those in greatest need. It is not intended to fund projects for special interests.

In implementing the Recovery Act, we have undertaken unprecedented efforts to ensure the responsible distribution of funds for the Act's purposes and to provide public transparency and accountability of expenditures. We must not allow Recovery Act funds to be distributed on the basis of factors other than the merits of proposed projects or in response to improper influence or pressure. We must also empower executive department and agency officials to exercise their available discretion and judgment to help ensure that Recovery Act funds are expended for projects that further the job creation, economic recovery, and other purposes of the Recovery Act and are not used for imprudent projects.

To these ends, I hereby direct that for any further commitments, obligations, or expenditures of funds under the Recovery Act, the head of each executive department or agency shall immediately take all necessary steps, to the extent consistent with the Act and other applicable law, to comply with this memorandum.

Section 1. Ensuring Merit-Based Decisionmaking for Grants and Other Forms of Federal Financial Assistance Under the Recovery Act. (a) Executive departments and agencies shall develop transparent, merit-based selection criteria that will guide their available discretion in committing, obligating, or expending funds under the Recovery Act for grants and other forms of Federal financial assistance. Such criteria shall be consistent with legal requirements, may be tailored to the particular funding activity, and shall be formulated to ensure that the funding furthers the job creation, economic recovery, and other purposes of the Recovery Act. To this end, merit-based selection criteria shall be designed to support particular projects, applications, or applicants for funding that have, to the greatest extent, a demonstrated or potential ability to: (i) deliver programmatic results; (ii) achieve economic stimulus by optimizing economic activity and the number of jobs created or saved in relation to the Federal dollars obligated; (iii) achieve long-term public benefits by, for example, investing in technological advances in science and health to increase economic efficiency and improve quality of life; investing in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; fostering energy independence; or improving educational quality; and (iv) satisfy the Recovery Act's transparency and accountability objectives.

(b) No considerations contained in oral or written communications from any person or entity concerning particular projects, applications, or applicants for funding shall supersede or supplant consideration by executive departments and agencies of such projects, applications, or applicants for funding pursuant to applicable merit-based criteria.

Sec. 2. Avoiding Funding of Imprudent Projects. (a) Funds under the Recovery Act shall not be committed, obligated, or expended by any executive department or agency, and shall not be used by any State or local governmental or private grantee or awardee, to support projects of the type described in section 1604 of Division A of the Recovery Act, which states that “[n]one of the funds appropriated or otherwise made available in this Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.”

(b) In exercising their available discretion to commit, obligate, or expend funds under the Recovery Act for grants and other forms of Federal financial assistance, executive departments and agencies, to the extent permitted by law, shall not approve or otherwise support funding for projects that are similar to those described in section 1604 of Division A of the Recovery Act.

(c) In exercising their available discretion to commit, obligate, or expend funds under the Recovery Act for grants and other forms of Federal financial assistance, executive departments and agencies, to the extent permitted by law, shall not approve or otherwise support any project, application, or applicant for funding that is imprudent or that does not further the job creation, economic recovery, and other purposes of the Act. To this end, executive departments and agencies shall exercise their available discretion to decline approving or otherwise supporting particular projects, applications, or applicants for funding unless the department or agency has affirmatively determined, in advance, that the project, application, or applicant has a demonstrated or potential ability to: (i) deliver programmatic results; (ii) achieve economic stimulus by optimizing economic activity and the number of jobs created or saved in relation to the Federal dollars obligated; (iii) achieve long-term public benefits by, for example, investing in technological advances in science and health to increase economic efficiency and improve quality of life; investing in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; fostering energy independence; or improving educational quality; or (iv) satisfy the Recovery Act's transparency and accountability objectives.

(d) Where executive departments or agencies lack discretion under the Recovery Act to refuse funding for projects similar to those described in section 1604 of Division A of the Act, or other projects that the executive department or agency deems imprudent or as not furthering the job creation, economic recovery, or other purposes of the Act, the department or agency shall consult immediately with the Office of Management and Budget (OMB) about the project and its funding requirements. Where legally permissible, the department or agency shall:

(i) delay funding of the project for 30 days, or the longest period permitted by law if less than 30 days, in order to ensure adequate opportunity for public scrutiny of the project prior to commitment of funds; and

(ii) publish a description of the proposed project (or project plan) and its funding requirements on the agency's recovery website as soon as practicable before or after commitment, obligation, or expenditure of funds for the project.

(e) Executive departments and agencies, including their respective Offices of Inspector General, shall monitor compliance with the prohibition in section 1604 of Division A of the Recovery Act, referenced in paragraph (a) above, by contractors, grantees, and other recipients of Federal financial assistance (recipients). If a department or agency believes that a recipient has not complied with section 1604, then the department or agency shall (i) promptly

notify the Recovery Accountability and Transparency Board; and (ii) take appropriate corrective action that may include, but not be limited to, disallowing or otherwise recovering improperly spent amounts, imposing additional requirements on the recipient to ensure compliance with section 1604 (and other applicable prohibitions and obligations), initiating a proceeding for administrative civil penalties, and initiating a proceeding for suspension and debarment.

Sec. 3. Ensuring Transparency of Registered Lobbyist Communications. (a) An executive department or agency official shall not consider the view of a lobbyist registered under the Lobbying Disclosure Act of 1995, 2 U.S.C. 1601 *et seq.*, concerning particular projects, applications, or applicants for funding under the Recovery Act unless such views are in writing.

(b) Upon the scheduling of, and again at the outset of, any oral communication (in-person or telephonic) with any person or entity concerning particular projects, applications, or applicants for funding under the Recovery Act, an executive department or agency official shall inquire whether any of the individuals or parties appearing or communicating concerning such particular project, application, or applicant is a lobbyist registered under the Lobbying Disclosure Act of 1995. If so, the lobbyist may not attend or participate in the telephonic or in-person contact, but may submit a communication in writing.

(c) All written communications from a registered lobbyist concerning the commitment, obligation, or expenditure of funds under the Recovery Act for particular projects, applications, or applicants shall be posted publicly by the receiving agency or governmental entity on its recovery website within 3 business days after receipt of such communication.

(d) An executive department or agency official may communicate orally with registered lobbyists concerning general Recovery Act policy issues; provided, however, that such oral communications shall not extend to or touch upon particular projects, applications, or applicants for funding, and further that the official must contemporaneously or immediately thereafter document in writing: (i) the date and time of the contact on policy issues; (ii) the names of the registered lobbyists and the official(s) between whom the contact took place; and (iii) a short description of the substance of the communication. This writing must be posted publicly by the executive department or agency on its recovery website within 3 business days of the communication.

(e) Upon the scheduling of, and again at the outset of, any oral communications with any person or entity concerning general Recovery Act policy issues, an executive department or agency official shall inquire whether any of the individuals or parties appearing or communicating concerning such issues is a lobbyist registered under the Lobbying Disclosure Act. If so, the official shall comply with paragraph (d) above.

Sec. 4. General Provisions. (a) The Director of OMB shall assist and, as appropriate, issue guidance to the heads of executive departments and agencies to carry out their responsibilities under this memorandum. Within 60 days of the date of this memorandum, the Director of OMB shall review the implementation of this memorandum by executive departments and agencies and shall forward to me any recommendations for modifications or revisions to this memorandum.

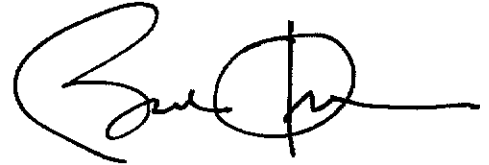
(b) This memorandum does not apply to tax-related provisions in Division B of the Recovery Act.

(c) Nothing in this memorandum shall be construed to impair or otherwise affect: (i) authority granted by law or Executive Order to an executive department, agency, or the head thereof; or (ii) functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(d) This memorandum shall be implemented consistent with applicable law and all OMB implementing guidance, and shall be subject to the availability of appropriations.

(e) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 5. *Publication.* The Director of OMB is hereby authorized and directed to publish this memorandum in the *Federal Register*.

A handwritten signature in black ink, appearing to be "G. E. O'Connell", written in a cursive style.

THE WHITE HOUSE,
Washington, March 20, 2009

[FR Doc. E9-6754

Filed 3-24-09; 8:45 am]

Billing code 3110-01-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5309-N-01]

**Notice of Program Requirements for
Community Development Block Grant Program
Funding Under the American Recovery and Reinvestment Act of 2009**

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

ACTION: Notice.

SUMMARY: This notice advises the public of the statutory and regulatory waivers granted to grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act).

The Recovery Act appropriated \$1 billion in Community Development Block Grant (CDBG) funds to states and local governments to carry out, on an expedited basis, eligible activities under the CDBG program. HUD is authorized by statute to specify alternative requirements and make regulatory waivers for this purpose. This notice also explains statutory issues affecting program design and implementation. The Department is also using this notice to provide grantees information about other ways in which the requirements for this grant vary from regular CDBG program rules. Except as described in this Notice, the statutory and regulatory provisions governing the CDBG program apply to this program.

DATES: Entitlement grantees, Insular Areas, and non-entitlement counties in Hawaii are to submit the substantial amendments to their program year (PY) 2008 action plans to their HUD field office by June 5, 2009. States are to submit the substantial amendments to their PY2008 action plans to their HUD field office by June 29, 2009. The deadline for the Homelessness Prevention and Rapid Re-housing Program (HPRP) funding pursuant to

HUD's March 19, 2009, Federal Register notice is May 18. Grantees that wish to submit a single substantial amendment for both programs must do so by May 18, 2009.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW, Room 7286, Washington, DC 20410; telephone 202-708-3587 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339. Interested parties may also visit the CDBG-R web page on HUD's Recovery Act website, <http://www.hud.gov/recovery/>, for updated information and resources. Questions regarding the CDBG-R program may be submitted to HudRecoveryAct@hud.gov.

SUPPLEMENTARY INFORMATION:

Authority to Provide Alternative Requirements and Grant Regulatory Waivers

Title XII of Division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-005, approved February 17, 2009) appropriates \$1 billion to carry out the CDBG program under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.) (the HCDA) on an expedited basis. These funds will be distributed to grantees that received CDBG funding in Fiscal Year (FY) 2008 in accordance with the provisions of 42 U.S.C. 5306. The grant program under Title XII is commonly referred to as the CDBG Recovery (CDBG-R) program. When referring to a provision of the appropriations statute itself, this notice will refer to the Recovery Act; when referring to the grants, grantees, assisted activities, and implementation rules, this notice will use the term CDBG-R.

In administering CDBG-R funds, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use by the recipient of these funds except for requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding that such waiver is necessary to expedite or facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute. Such regulatory relief as HUD deemed necessary and is authorized to provide under 24 CFR 5.110 and 24 CFR 91.600 to permit implementation of CDBG-R is provided in this notice.

The Secretary finds that the alternative requirements outlined in Section II. of this notice are necessary to expedite the use of these funds for their required purposes.

Except as described in this notice, statutory and regulatory provisions governing the CDBG program, including those at 24 CFR part 570 subpart I for states and those at 24 CFR part 570 subparts A, C, D, E, F, J, K, and O for CDBG entitlement communities, as appropriate, shall apply to the use of these funds. Subpart M, concerning the Section 108 Loan Guarantee program, is not applicable to CDBG-R. Other sections of the notice will provide further details of the changes, the majority of which deal with adjustments necessitated by Recovery Act provisions to expedite the use of CDBG-R funds.

Ensuring Responsible Spending of Recovery Act Funds

Funding available under the Recovery Act has clear purposes – to stimulate the economy through measures that modernize the Nation’s infrastructure, improve energy efficiency, and expand educational opportunities and access to health care. In implementing the Recovery Act, Federal agencies are undertaking unprecedented measures to ensure transparency and accountability in the use of the funds. Concurrently, Federal agencies must

ensure that the funds are employed in a prudent manner consistent with applicable program requirements.

The Department desires that CDBG-R grantees carefully evaluate proposed projects for consistency with the overarching goals of the Recovery Act, especially the above-cited purposes. To this extent, HUD strongly urges grantees to use CDBG-R funds for hard development costs associated with infrastructure activities that provide basic services to residents or activities that promote energy efficiency and conservation through rehabilitation or retrofitting of existing buildings. While the full range of CDBG activities is available to grantees, the Department strongly suggests that grantees incorporate consideration of the public perception of the intent of the Recovery Act in identifying and selecting projects for CDBG-R funding.

On March 20, 2009, President Obama issued a memorandum to the heads of executive branch agencies, entitled "Ensuring Responsible Spending of Recovery Act Funds". (This memorandum was published in the Federal Register on March 25 at 74 FR 12531.) This memorandum lays out principles and steps that federal agencies are to take to ensure responsible distribution and use of Recovery Act funds. Grantees should ensure that the activities that they select for CDBG-R funding adhere to the expectations of this notice, particularly those of Section 2(c).

The Department must emphasize the following points to recipients of CDBG-R funds. Certain specified activities and/or projects may not be funded with CDBG-R funds pursuant to the Recovery Act and this includes swimming pools, golf courses, zoos, aquariums, and casinos or other gambling establishments. Other activities generally prohibited under regulations governing the regular CDBG program are also prohibited under CDBG-R. This

includes prohibitions on the construction of buildings for the general conduct of government, political activities, purchase of equipment, and operating and maintenance expenses. Other CDBG restrictions may also apply including bans on assistance to professional sports teams, recreational facilities that serve a predominantly higher income clientele, and general promotional activities for the grantee.

Table of Contents

I. ALLOCATIONS

- A. Formula: Allocation
- B. Formula: Reallocation

II. ALTERNATIVE REQUIREMENTS AND REGULATORY WAIVERS

- A. Pre-Grant Process
 - 1. General
 - 2. Contents of a CDBG-R Action Plan Substantial Amendment
 - 3. Citizen Participation Alternative Requirement
 - 4. Submission Deadlines
 - 5. Program Design Considerations
- B. Reimbursement For Pre-Award Costs
- C. Recovery Act Requirements For CDBG-R Expenditures
- D. Program Income Requirements
- E. Eligibility, Allowable Costs, and National Objective Waivers
- F. Timeliness of Use and Expenditure of CDBG-R funds
- G. Reporting
- H. Certifications
- I. Paperwork Reduction Act
- K. Environmental Impact

I. ALLOCATIONS

A. Formula: Allocation. The Recovery Act appropriates \$1 billion of CDBG funding and is distributing \$980 million to grantees that received CDBG funding in FY2008. Pursuant to provisions of the Recovery Act, HUD has reserved \$10 million to address its administrative costs and has allocated \$10 million to the Indian CDBG program, as required by 42 U.S.C.

5306(a). Any unit of local government that did not apply for its FY2008 funds is not eligible to receive CDBG-R funding. The formulas for the allocation of CDBG-R funds are the same as the formulas used for the annual allocation of CDBG funds to the states, entitlement grantees, and Insular Areas. On February 25, 2009, HUD announced the list of the CDBG-R allocations, and these may be found at <http://www.hud.gov/recovery/cdblock.cfm>.

B. Formula: Reallocation. To expedite the use of CDBG-R funds, the Department is specifying alternative requirements to 42 U.S.C. 5306(c) and 42 U.S.C. 5306(d)(3)(C). The Department has determined that it is necessary to employ an alternative reallocation process in order to expedite grantees' timely use of any reallocated funds. Under the existing provisions of 42 U.S.C. 5306, funds that become available for reallocation would be reallocated as part of the process for allocating the next fiscal year's appropriation of regular CDBG funding; this means any unawarded CDBG-R funds would not get reallocated until sometime in federal fiscal year 2010. To expedite the reallocation process, HUD is adopting the following procedure instead.

If a unit of general local government, State, or Insular Area receiving an allocation of CDBG-R funds under this notice fails to submit a substantial amendment to its program year 2008 action plan for its grant allocation by the deadlines specified in Section II.A.4. of this notice, or submits an application for less than the total allocation amount, or if HUD is unable to approve any entity's submission, HUD may notify the jurisdiction of the cancellation of all or part of its allocation amount. Once HUD determines the amount of funds (if any) that are not awarded to any jurisdictions, the Secretary will establish performance criteria by which to award these funds to other entities. These criteria will be

published in the Federal Register. However, these criteria will be established only if funds become available for reallocation.

II. ALTERNATIVE REQUIREMENTS AND REGULATORY WAIVERS

This section of the notice provides a justification for alternative requirements and describes the necessary basis for each regulatory waiver. The section also highlights some of the statutory provisions applicable to the grants. This background narrative is followed by the CDBG-R requirement(s).

Each grantee eligible for a CDBG-R grant has already received an annual allocation of FY2008 CDBG funds, has carried out needs hearings, has a consolidated plan, an annual action plan, a citizen participation plan, a monitoring plan, an analysis of impediments to fair housing choice, and has made CDBG certifications. The consolidated plan already discusses housing needs related to up to four major grant programs: CDBG; Home Investment Partnerships Program (HOME); Emergency Shelter Grants (ESG); and Housing Opportunities for Persons With AIDS (HOPWA). A grantee's annual action plan describes the activities budgeted under each of those annual programs.

The CDBG-R grant is a supplemental appropriation. As such, HUD is treating a grantee's use of its CDBG-R grant to be a substantial amendment to its current approved consolidated plan and PY2008 annual action plan. (For grantees that received an allocation under the Neighborhood Stabilization Program (NSP), this will constitute a second substantial amendment to the PY2008 annual action plan.) Treating the CDBG-R as a substantial amendment and requiring grantees to amend the PY2008 annual action plan will expedite the distribution of CDBG-R funds, while ensuring citizen participation on the specific use of the funds. HUD is also waiving the consolidated plan regulations to the

extent necessary to adjust the reporting requirements for the use of CDBG-R funds to comply with the Recovery Act.

These waivers and alternative requirements apply only to the grant funds appropriated under the Recovery Act and not to the use of regular formula allocations of CDBG funds, even if they are used in conjunction with CDBG-R funds for a project. The waivers and alternative requirements provide expedited program implementation and implement statutory requirements unique to this supplemental appropriation.

A. Pre-Grant Process

Pursuant to Recovery Act provisions, HUD is treating CDBG-R funds as a special allocation of CDBG funding. HUD is requiring grantees to provide a substantial amendment to their PY2008 annual action plans. To receive CDBG-R funding, each CDBG grantee must submit to HUD a substantial amendment to its action plan in accordance with this notice, by the deadlines specified in Section II.A.4. of this notice. This submission will include a signed standard federal form SF-424, signed certifications, and a substantial action plan amendment meeting the requirements of paragraph 2. below. Grantees may immediately begin to prepare and submit substantial amendments to their action plans for CDBG-R funds, in accordance with this notice.

HUD will consider any existing cooperation agreements between a local government and an urban county governing FY2008 CDBG funding (for purposes of either an urban county or a joint program) to automatically cover CDBG-R funding as well. These cooperation agreements will continue to apply to the use of CDBG-R funds for the duration of the CDBG-R grant. For example, a local government presently has a cooperation agreement covering participation in an urban county for federal FYs 2007, 2008, and 2009.

The local government may choose to discontinue its participation with the county at the end of the applicable qualification period for purposes of regular CDBG entitlement funding. However, the county will still be responsible for any CDBG-R projects funded in that community, and for any CDBG-R funding the local government receives from the county, until those funds are expended and the funded activities are completed.

Each grantee will have until the deadlines specified in paragraph 4. below to complete and submit a substantial amendment to its annual action plan. HUD encourages grantees, during development of their action plan amendments, to contact HUD field offices for guidance in complying with these requirements.

In the regular CDBG program, a grantee is required to provide 30 calendar days for soliciting comments from its citizens before it submits an annual action plan to HUD. Then, HUD has 45 calendar days to accept or reject the plan. To expedite the process and to ensure that the CDBG-R grants are awarded in a timely manner, while preserving a reasonable citizen participation process, HUD is waiving the requirement that the grantee follow its citizen participation plan for this substantial amendment. HUD is shortening the minimum time for citizen comments to 7 calendar days and requiring the substantial amendment materials to be posted on the grantee's official website as the materials are developed, published, and submitted to HUD. Grantees are cautioned that, despite the expedited application and plan process, they are still responsible for ensuring that all citizens have equal access to information about activities assisted with CDBG-R funds. In addition, grantees must ensure that non-English speaking persons and persons with disabilities have access to copies of substantial amendments. Since not all citizens have internet access, HUD

encourages grantees to make copies of substantial amendments available in public places such as libraries and government buildings.

HUD will not require states to follow their existing citizen participation plan requirements, either for the state's development of this substantial amendment or for the development of funding proposals by units of general local government. The citizen participation pursuant to CDBG-R will be conducted at the state level and must assure that citizens and units of general local government have an opportunity to comment on all proposed activities to be undertaken with these funds. HUD is therefore waiving the provisions of 24 CFR 91.115(e) and 24 CFR 570.486(a). However, states are encouraged to establish alternative procedures for units of general local government that will provide reasonable citizen access to information and participation in the local decision-making process. To facilitate the timely development of states' substantial amendments, HUD is waiving 42 U.S.C. 5306(d)(2)(C)(1)(iv) and 24 CFR 91.110 to the extent necessary to eliminate the requirement that a state must consult with units of local government in determining the expected use of CDBG-R funds.

Pursuant to the overall objectives of the Recovery Act to assure that funds are in communities assisting in economic recovery, HUD is waiving 24 CFR 91.320 (d) and 24 CFR 91.320(k)(1)(i) to the extent necessary to require states to submit a list of activities in lieu of developing a method of distribution.

Substantial amendments to grantees' action plans are not normally approved by HUD, but may be submitted to HUD as they occur or at the end of the program year. 24 CFR 91.505(c) is waived to the extent necessary to require submission of the substantial

amendment to the action plan to HUD for approval in accordance with this notice no later than the deadlines specified in paragraph 4. below.

HUD is waiving provisions of 24 CFR 91.500(b) and (d) to provide for the following modified action plan approval procedures. HUD will review each grantee's submission for completeness and consistency with the purposes of the Cranston-Gonzalez National Affordable Housing Act, the Recovery Act and the requirements of this notice, and will disapprove incomplete or inconsistent action plan amendments. 24 CFR 91.500(d) permits jurisdictions to revise or resubmit a plan within 45 days after written notification of disapproval; it also states that HUD must respond to approve or disapprove the plan within 30 days of receiving the resubmission. HUD will allow revision and resubmission of a disapproved action plan in accordance with 24 CFR 91.500 so long as the resubmission is received by HUD 15 calendar days or less following the date of first disapproval, and any further resubmissions in response to subsequent disapprovals are received no later than close of business on July 20, 2009 for entitlement communities, Insular Areas or non-entitlement counties in Hawaii. The deadline for states is August 13, 2009.

The substantial amendment to the action plan and citizen participation alternative requirement will permit an expedited grant-making process, but one that still provides for public notice, appraisal, examination, and comment on the activities proposed for the use of CDBG-R grant funds.

Requirement

1. General.

- a. Except as described in this notice, statutory and regulatory provisions governing the CDBG program for states, entitlement communities, Insular Areas, and non-entitlement

counties in Hawaii, as applicable, shall apply to the use of these funds. Non-entitlement counties in the state of Hawaii and Insular Areas should follow the requirements for entitlement communities.

b. To receive its grant allocation, a grantee must submit to HUD, by the deadlines in paragraph 4. below, a substantial amendment to its PY2008 action plan, in accordance with the consolidated plan procedures for a substantial amendment under the annual CDBG program as modified by this notice, or HUD may cancel the entire amount allocated for that grantee and reallocate the funds. 24 CFR 91.505(c) is waived to the extent necessary to require submission of the substantial amendment to HUD for approval.

c. 24 CFR 91.500(b) and (d) are waived to the extent necessary to implement alternative procedures for HUD review and approval of grantees' action plan amendments. In addition to the criteria in 24 CFR 91.500(b), HUD may disapprove a plan if it is inconsistent with the requirements of the Recovery Act or the requirements of this notice. HUD may disapprove a plan if it determines that the description of activities, as required in paragraphs 2.a. and 2.b. below, does not adequately describe how an activity will address the Recovery Act. This alternative requirement will allow revision and resubmission of a disapproved action plan in accordance with 24 CFR 91.500(d) so long as the first resubmission is received by HUD 15 calendar days or less following the date of first disapproval, and any further resubmissions in response to subsequent disapprovals are received no later than close of business on July 20, 2009 for entitlement communities, Insular Areas or non-entitlement counties in Hawaii. The deadline for states is August 13, 2009.

d. After HUD processes and approves the plan amendment and both HUD and the grantee have signed the grant agreement, HUD will establish the grantee's line of credit in the amount of the grantee's CDBG-R funds included in the action plan amendment.

2. Contents of a CDBG-R Action Plan Substantial Amendment.

a. The required elements in the CDBG-R substantial amendment to the annual action plan for entitlement communities, Insular Areas, and non-entitlement counties in Hawaii are:

- i. Pursuant to 24 CFR 91.220(d), (e) and (l), a description of the activities the jurisdiction will undertake with these funds to address priority needs and objectives. 24 CFR 91.220(l)(ii) is waived. The grantee shall instead identify any other Recovery Act funding to be used in conjunction with each activity and total activity budget from all funding sources. In addition, grantees must provide information concerning CDBG-R assisted activities in an electronic spreadsheet provided by HUD. The information that must be reported in the spreadsheet includes activity name, activity description, CDBG-R dollar amount budgeted, eligibility category, national objective citation, additional Recovery Act funds for the activity received from other programs, and total activity budget. An electronic copy of the spreadsheet and the format will be available on HUD's recovery website at <http://www.hud.gov/recovery>. Grantees must include a paper copy of the spreadsheet in their substantial amendment and must submit an electronic version of the completed spreadsheet to CDBG-R@hud.gov.
- ii. A description of how the distribution and uses of the grantee's CDBG-R funds will meet the requirements of Title XII of Division A and Section 1602 of the Recovery Act: that, in selecting projects to be funded, recipients shall give

priority to projects that can award contracts based on bids within 120 calendar days from the date the funds are made available to the recipients; and that for CDBG-R funds being used for infrastructure investments, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 calendar days after February 17, 2009.

- iii. For each activity, a written description of how the use of CDBG-R funds for the activity will maximize job creation and economic benefit in relation to the CDBG-R funds obligated, and will address the Recovery Act, by:
 - (A) Preserving and creating jobs and promoting economic recovery;
 - (B) Assisting those most impacted by the recession;
 - (C) Providing investment needed to increase economic efficiency;
 - (D) Investing in transportation, environmental protection, or other infrastructure that will provide long-term economic benefits;
 - (E) Minimizing or avoiding reductions in essential services; or
 - (F) Fostering energy independence.
- iv. For each activity, the number of full- and part-time jobs estimated to be created and retained by the activity (including permanent, construction and temporary jobs).
- v. A description of the activities that will be carried out with CDBG-R funds that promote energy conservation, smart growth, green building technologies, or reduced pollution emissions.
- vi. Information on how to contact grantee program administrators, so that citizens and other interested parties know who to contact for additional information.

- vii. A signed standard federal form SF-424, and signed certifications as specified in section II.H. of this notice.
- b. The required elements in the CDBG-R substantial amendment to the annual action plan required for States are:
- i. A description of the activities that will be undertaken with these funds to address priority needs and objectives, and outcome measures pursuant to 24 CFR 91.320(c). The grantee shall identify any other Recovery Act funding to be used in conjunction with each activity and total activity budget from all funding sources. In addition, grantees must provide information concerning CDBG-R assisted activities in an electronic spreadsheet provided by HUD. The information that must be reported in the spreadsheet includes activity name, activity description, CDBG-R dollar amount budgeted, eligibility category, national objective citation, additional Recovery Act funds for the activity received from other programs, and total activity budget. An electronic copy of the spreadsheet and the format will be available on HUD's recovery website at <http://www.hud.gov/recovery>. Grantees must include a paper copy of the spreadsheet in their substantial amendment and must submit an electronic version of the completed spreadsheet to CDBG-R@hud.gov. HUD waives 24 CFR 91.320(d) and 24 CFR 91.320(k)(1)(i) to the extent necessary to require states to provide a list of activities it intends to fund with the CDBG-R allocation.
 - ii. A description of how the distribution and uses of the grantee's CDBG-R funds will meet the requirements of Title XII of Division A and Section 1602 of the Recovery Act: that, in selecting projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 120 days from the date the funds are

made available to the recipients; and that for CDBG-R funds being used for infrastructure investments, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 calendar days after February 17, 2009.

iii. For each activity, a written description of how the use of CDBG-R funds for the activity will maximize job creation and economic benefit in relation to the CDBG-R funds obligated, and will address the Recovery Act, by:

- (A) Preserving and creating jobs and promoting economic recovery;
- (B) Assisting those most impacted by the recession;
- (C) Providing investment needed to increase economic efficiency;
- (D) Investing in transportation, environmental protection, or other infrastructure that will provide long-term economic benefits;
- (E) Minimizing or avoiding reductions in essential services; or
- (F) Fostering energy independence.

- iv. For each activity, the number of full- and part-time jobs estimated to be created and retained by the activity, which will include permanent, construction and temporary jobs.
- v. A description of activities that will be carried out with CDBG-R funds to promote energy conservation, smart growth, green building techniques or reduced pollution emissions.
- vi. Information on how to contact grantee or unit of general local government program administrators so that citizens and other interested parties will know who

to contact for additional information.

- vii. A signed standard federal form SF-424, and signed certifications as specified in section II.H. of this notice.

3. Citizen Participation Alternative Requirement. HUD is providing an alternative requirement to 42 U.S.C. 5304(a)(2) and (3), to expedite distribution of grant funds and to provide for expedited citizen participation for the CDBG-R substantial amendment.

Provisions of 24 CFR 570.302, 24 CFR 570.486(a), 24 CFR 91.105(k) and 91.115(i), with respect to following the citizen participation plan, are waived to the extent necessary to allow implementation of the requirements below. In addition, for States, 24 CFR 91.110 is waived to the extent necessary to eliminate the requirement that a state must consult with units of local government in determining the state's method of distribution in its substantial amendment.

- a. 24 CFR 91.105(k) and 24 CFR 91.115(i) are being waived to specify that the grantee will provide no fewer than 7 calendar days for citizen comment (rather than 30 days) for its CDBG-R substantial amendment. At the time of submission to HUD, each grantee will post its action plan amendment and any subsequent CDBG-R amendments on its official website along with a summary of citizen comments received within the 7-day comment period. HUD encourages the grantee to make copies of the substantial amendment available in public places such as libraries and government buildings. In addition, the grantee must ensure that non-English speaking persons and persons with disabilities have access to copies of substantial amendments.

- b. The regulation at 24 CFR 91.505(c)(1) states that a grantee may submit a copy of an amendment to its action plan to HUD as it occurs or at the end of the program year. 24 CFR

91.505 is waived to require each grantee to submit the substantial amendment to its action plan for CDBG-R funds no later than the deadlines specified in paragraph 4. below.

4. Submission Deadlines. Except as otherwise provided in this paragraph, entitlement grantees, Insular areas and non-entitlement counties in Hawaii are to submit their substantial amendments to their 2008 action plans to their HUD field office by June 5, 2009. States are to submit the substantial amendments to their PY2008 action plans to their HUD field office by June 29, 2009. The deadline for the substantial amendment for HPRP is May 18, 2009; therefore, grantees that wish to submit a single substantial amendment for both programs must do so by May 18, 2009.

Any grantee that will be submitting its program year 2009 action plan between the date of this notice and June 5, 2009, may wish to consider ways in which it can combine the citizen participation and submission steps for its CDBG-R substantial amendment with those for its 2009 action plan. Any entitlement grantee or non-entitlement county in Hawaii with a program year start date of July 1 or earlier, and which has not yet submitted its program year 2009 action plan to its field office as of the date of this notice, may submit its CDBG-R substantial amendment to its 2008 action plan simultaneously with the submission of its program year 2009 action plan. However, in no case can such an entitlement grantee or non-entitlement county in Hawaii submit its CDBG-R action plan amendment later than June 5, 2009. States that submit their substantial amendment to 2008 action plans by June 29, 2009, will need to submit the 2009 action plan by its original deadline. However, the abbreviated citizen participation process provided in this notice applies only to CDBG-R substantial amendments, not to the submission of program year 2009 action plans. Existing regulatory citizen participation requirements continue to apply to action plans submitted for regular

CDBG funding, even if a grantee wishes to submit its CDBG-R substantial amendment simultaneously with its program year 2009 action plan.

A grantee's failure to meet the submission deadlines for CDBG-R, as applicable, may constitute grounds for the Department to cancel the grantee's CDBG-R funding allocation pursuant to the provisions of section I.B. of this notice.

5. Program Design Considerations

Although the Recovery Act applies additional or alternative requirements upon CDBG-R funding that do not exist in the regular CDBG program, this additional appropriation is otherwise subject to all regular CDBG program requirements. HUD has minimized the number of additional changes between CDBG-R and regular CDBG program requirements, to maximize grantees' flexibility in administering these funds. The Recovery Act also contains language which, while not stating explicit mandates, makes clear that Congress intends the use of Recovery Act appropriations to be targeted to address current economic conditions. For example, Section 1602 of the Recovery Act states that, "Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit." While grantees have the full range of CDBG eligible activities at their disposal for CDBG-R, Congress clearly intends that CDBG-R funds should primarily be invested in economic development, housing, infrastructure and other public facilities activities that will quickly spur further economic investment, increased energy efficiency, and job creation or retention. In selecting activities for CDBG-R funding, grantees should keep in mind that some eligible activities under the Housing and Community Development Act are unlikely to substantively address the intent of the Recovery Act.

At the same time, the broad purpose language of the Recovery Act does not expand the list of eligible activities beyond those specified by the Housing and Community Development Act. Some uses of funds suggested by the Recovery Act's broad purpose language do not necessarily fit into any CDBG eligible activity category, and may not be eligible for CDBG-R funding. However, HUD has determined that the purpose language and overall intent of the Act, particularly regarding local fiscal stabilization, supersedes the requirement at 42 U.S.C. 5301(c) that CDBG funding not be used to substantially replace the amount of local financial support previously provided to community development activities.

The Recovery Act also makes clear that grantees are to identify projects that can achieve the Recovery Act purposes AND can be quickly implemented. Language at Title XII of Division A of the Recovery Act, which appropriates the CDBG-R funds, states that, "...in selecting projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available to the recipients." Section 1602 of the Recovery Act further states, "In using funds made available in this Act for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of this Act."

Grantees should not assume that their normal CDBG funding distribution procedures can meet the goals for obligation of funds described above. For example, if a grantee's existing activity selection process mandates a lengthy Request For Proposals, lengthy procurement actions, or other process that would take months to produce funding recommendations, grantees should explore what local waiver authority or emergency

procedures they can implement to expedite the process. This may particularly be necessary with some states, for which deviations from existing procedures could require state rule-making. Some Urban County funding procedures that distribute funds on a proportional basis among all participating jurisdictions could result in funding awards that are too small to be used expeditiously and productively by the participating jurisdictions.

Grantees may have already identified activities that were approved to receive funding out of the grantee's FY2009 funding allocation. Grantees should consider whether any of these activities meet the additional CDBG-R requirements, and if so, whether their implementation schedules could be accelerated so that they could instead be funded with CDBG-R funds. However, moving an activity from a grantee's 2008 or 2009 program year regular CDBG program to the CDBG-R program, and replacing that moved activity with a new activity, would trigger a substantial amendment to a grantee's already-approved 2008 or 2009 action plan. This would trigger additional citizen participation requirements beyond those required for the CDBG-R substantial amendment.

States should consider whether their existing method of distribution processes can be employed to fund worthwhile activities that fell below the funding cut-off line from their program year 2008 distribution process, or to fund applications already submitted for their program year 2009 distribution process.

HUD encourages grantees to use CDBG-R funds for discrete, stand-alone activities whenever possible. As noted elsewhere in this notice, final guidance on reporting requirements and applicability of the Davis-Bacon Wage Rate Act has not yet been issued. Amending a construction contract to add CDBG-R funding to an existing project (particularly one that is not otherwise federally funded) may subject the entire project to

Recovery Act reporting and other compliance requirements. Grantees should also avoid using CDBG-R funds to initiate a new project that cannot be completed within the expenditure deadline for the CDBG-R program or that will require the commitment of future years' allocations of regular CDBG funds.

However, HUD recognizes that the additional increment of CDBG-R funding may not be enough for some grantees to fully fund a new activity. (The amount of additional funding allocated to grantees equals about 27 percent of their FY2008 regular CDBG allocation.) Grantees should consider whether it is possible to issue a new contract to use CDBG-R funds to fund an additional increment of work or services beyond that which is already under contract or otherwise underway. For example:

- A grantee may have performed engineering and environmental review work on a project to replace sanitary sewers, but scaled back the project before awarding a construction contract due to funding constraints. Because engineering work has already been done, it may be time- or cost-effective for the grantee to issue a separate construction contract for the blocks of sewers that were excluded from the existing contract.
- A grantee may use CDBG-R funds to finance the rehabilitation of several apartment buildings that are on the waiting list for assistance under the grantee's CDBG rental housing rehabilitation loan program.
- A grantee might consider physical improvements to a water treatment plant that will reduce the energy costs of the plant's operations or will conserve water resources.
- A grantee that had to pare back funding for an activity (compared to the subrecipient's original funding request or prior levels of service) might execute a subrecipient agreement to provide CDBG-R funds that will restore the activity to "full funding" levels.

CDBG-R funding will be tracked separately from a grantee's regular CDBG funding in the Integrated Disbursement and Information System (IDIS), will have separate funding contract language, and will have a different grant number from a grantee's regular CDBG funding. Grantees are cautioned against commingling regular CDBG and CDBG-R funds. However, this does not prevent a grantee from using CDBG-R funding in conjunction with an existing activity funded with regular CDBG funds, where the additional funding will be covered under a new contract or subrecipient agreement. Grantees will need to set up this additional increment of funding as a separate activity in IDIS.

Grantees who wish to use CDBG-R funds to expand an ongoing or already-under-construction project should keep the following additional considerations in mind.

Environmental review procedures: HUD legislation and regulations (24 CFR 58.22) prohibit CDBG grantees and any party to the development process from committing HUD or non-HUD assistance to a project until the environmental compliance review process has been successfully completed. In adding CDBG-R funds to an existing project, grantees must carefully consider the implications of the Part 58 definition of a commitment of federal funds. No new environmental review is required when a CDBG-R project has been reviewed previously by the same responsible entity, no change to the project activities or location or size results from additional funding, and no new environmental conditions have been discovered. HUD regulations and law prohibit the commitment of HUD and non HUD assistance to a project until the environmental compliance review is successfully completed. Therefore, because Recovery Act projects must expend their CDBG-R funds in such a short timeframe, it is very important to begin and complete your environmental compliance review as soon as possible. Grantees are urged to contact their Field Environmental Officer, and to

visit the HUD environmental website for more detailed information on environmental clearance: <http://www.hud.gov/offices/cpd/energyenviron/environment/compliance/qa/clearance.cfm>

Labor Standards applicability: HUD will issue guidance concerning the applicability of prevailing wage requirements at a later date. For more information about the federal labor standards requirements in HUD programs, please visit the Office of Labor Relations website at www.hud.gov/offices/olr.

B. Reimbursement for Pre-Award Costs

Background

CDBG-R grantees will need to move forward rapidly to prepare the CDBG-R substantial amendment and to undertake other administrative actions, including environmental reviews. Therefore, HUD is granting permission to states and entitlement jurisdictions receiving a direct allocation of CDBG-R funds to incur pre-award costs associated with the development of the substantial amendment to the action plan as if each was a new grantee preparing to receive its first allocation of CDBG funds.

Grantees may also take advantage of the provisions of 24 CFR 570.200(h) regarding activity-specific pre-award costs. Grantees may incur costs prior to grant award for specific activities, as of the date the grantee submits its CDBG-R action plan substantial amendment to HUD. Where a grantee amends an existing construction contract or issues a new contract in order to use CDBG-R funding to expand an existing activity, the date on which the CDBG-R costs are considered incurred for purposes of 24 CFR 570.200(h) will generally be the date of the new or amended contract, not the date that funds were initially obligated for the original project.

A number of entitlement grantees have used the provisions of 24 CFR 570.200(h)(1)(v) to incur pre-award costs against their regular CDBG program, where payments will be made from future years' CDBG allocations. HUD has determined that it is not consistent with the requirements of the Recovery Act to allow CDBG-R funds to be used as payment for pre-award activity costs that grantees incurred under their regular CDBG funds. HUD therefore finds good cause to waive 24 CFR 570.200(h) to the extent necessary to implement this prohibition.

Requirement

24 CFR 570.200(h) is waived to the extent necessary to allow entitlement jurisdictions receiving a direct CDBG-R allocation under this notice to incur pre-award costs as if each was a new grantee preparing to receive its first allocation of CDBG funds. In accordance with OMB Circular A-87, Attachment B, paragraph 31, 24 CFR 570.200(h) is similarly applied to States. A CDBG-R grantee will be allowed to incur costs necessary to develop the CDBG-R substantial amendment to its action plan and undertake other administrative actions necessary to receive its grant, prior to the costs being included in the final plan, and to incur activity-specific costs as of the date the substantial is submitted to HUD, provided that the other conditions of 24 CFR 570.200(h) are met. For units of general local governments funded by a state, 24 CFR 570.489(b) applies unmodified. 24 CFR 570.200(h) is waived to the extent necessary to prohibit a grantee from using CDBG-R funds for reimbursement of pre-award costs incurred against the grantee's regular CDBG funding.

C. Recovery Act Requirements for CDBG-R Expenditures

Title XII of Division A of the Recovery Act requires that in selecting CDBG-R projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 120 calendar days from the date the funds are made available to the recipients.

Section 1602 of the Recovery Act requires that grantees shall use grant funds in a manner that maximizes job creation and economic benefit. Section 1602 also states that, when CDBG-R funds are being used for infrastructure investments, grantees must give preference to activities that can be started and completed expeditiously, including a goal to obligate at least 50 percent of the funds for activities that can be initiated within 120 days of enactment of the Recovery Act.

HUD has defined the term "use" for purposes of these requirements to mean obligation of funds. HUD is adopting the definition of "obligation" as it appears in 24 CFR 85.3 for all grantees, including states, to mean the amount of orders placed, contracts and sub-grants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

Section 1605 of the Recovery Act requires that all iron, steel and manufactured goods used in construction, alteration, repair, or maintenance of a public building or public work project assisted with funds under the Recovery Act must be produced in the United States, unless the Secretary finds that: the requirement is inconsistent with public interest; those goods are not reasonably available or produced in sufficient quantity in the U.S.; or the use of the goods will increase the project cost by more than 25 percent. Grantees must request a waiver of this provision if, in the process of carrying out an eligible activity, one of these conditions arises. If the Secretary determines that it is necessary to waive this requirement, he must publish in the Federal Register a detailed written justification why the requirement

was waived; therefore, all grantees are expected to adhere to these provisions. These requirements must be applied consistent with U.S. obligations under international agreements. To streamline compliance with the provision of Section 1605 in determining the project cost using American-made materials, grantees may want to consider acquiring two cost estimates with bids: one with only American-made materials and the other with any materials.

Section 1604 of the Recovery Act prohibits CDBG-R funds from being used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. In applying this prohibition, HUD will interpret the definitions of these terms broadly. This requirement is further discussed in section II.E. of this notice.

Section 1512 of the Recovery Act requires that for each activity carried out with CDBG-R funds, grantees must report on the number of jobs estimated to be created or retained. This reporting requirement applies to all activities, and is unrelated to the reporting of jobs for purposes of meeting the low- and moderate-income benefit national objective requirements. This requirement is further discussed under section II.G of this notice.

As part of the CDBG-R substantial amendment, grantees will be required to submit certifications regarding these requirements.

D. Program Income Requirements

Any program income generated from the use of CDBG-R funds will be treated as program income to the regular CDBG program, not as program income to the CDBG-R program. HUD is waiving a number of statutory and regulatory provisions to implement this requirement, many of which are described in Section F. below. 24 CFR 85.21 and 24 CFR 570.504 (for entitlements) and 24 CFR 570.489(e)(3) and 31 CFR part 205 (for states),

require grantees and subrecipients to disburse program income before requesting additional cash withdrawals of regular CDBG funds from the U.S. Treasury. Those requirements will not apply to the drawdown of CDBG-R funds.

In the regular CDBG program, 24 CFR 570.301(b) provides for float-funded activities and guarantees, a short-term financing mechanism which allows a grantee to use undisbursed funds in its line of credit and CDBG program account that are budgeted in action plans for one or more other activities that do not need the funds immediately. Each activity carried out using the float must meet all CDBG requirements and must be expected to produce program income in an amount at least equal to the amount of float so used. Because program income generated from CDBG-R activities will not be treated as program income to the CDBG-R program, grantees may not use CDBG-R funds to assist any float-funded activity or guarantee. 24 CFR 570.301(b) is therefore waived.

E. Eligibility, Allowable Costs, and National Objective Waivers

Background

Overall low- and moderate-income benefit alternative requirements: The requirement that 70 percent of funds are for activities that benefit low- and moderate-income persons [found at 42 U.S.C. 5301(c), 42 U.S.C. 5304(b)(3)(A), 24 CFR 570.200(a)(3) and 24 CFR 570.484] will apply to the use of CDBG-R funds. A grantee must ensure that 70 percent of its CDBG-R grant be expended for activities that benefit low- and moderate-income persons. Compliance with the overall benefit requirement must be demonstrated separately for the CDBG-R grant and not in combination with regular CDBG funding or commitments under the Section 108 Loan Guarantee program; thus, there is no option for selecting the timeframe for compliance.

Urgent need national objective criteria: In the regular CDBG program, to meet the urgent need national objective pursuant to 24 CFR 570.208(c) and 24 CFR 570.483(d), the recipient must certify: that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health and welfare of the community which are of recent origin or recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funds are not available. In the regular State CDBG program, the local government provides this certification and the State makes the determination of the same. For CDBG-R, HUD is eliminating the recordkeeping requirement that grantees document the nature, degree and timing of seriousness of the condition to be addressed by the activity if the urgent need is based on current economic conditions. HUD will accept a grantee's certification that current economic conditions are of recent origin and constitute a serious and immediate threat to the welfare of the community. However, the grantee must still demonstrate that it is unable to finance the activity on its own, and that other sources of funding are not available. For the State CDBG program, states may make this certification on behalf of units of general local government.

Limitations on public services activities: In the regular CDBG program, entitlement grantees are permitted to obligate no more than 15 percent of their annual CDBG allocation plus 15 percent of the prior program year's program income for public service activities. States are permitted to expend no more than 15 percent of each annual CDBG allocation plus program income for public service activities. HUD is providing an alternative requirement because there will be no program income attributed to CDBG-R, and because CDBG-R is to be treated as a separate appropriation of funds. Compliance with the public service cap must be demonstrated separately based on each grantee's total CDBG- R grant allocation and not

in combination with its regular CDBG funding or program income. For both states and entitlements, compliance will be demonstrated based on expenditures of CDBG-R funds, not on obligations as in the regular CDBG entitlement program. HUD is waiving 42 U.S.C. 5305(a)(8) to exclude program income from the amount of funds on which the cap is based. Other provisions of that section remain in place.

Limitations on planning and general administration activities: Pursuant to 24 CFR 570.200(g), in the regular CDBG program, a CDBG entitlement grantee is permitted to obligate no more than 20 percent of its annual CDBG allocation plus program income for planning and administrative costs as defined in 24 CFR 570.205 and 24 CFR 570.206. Pursuant to 24 CFR 570.489(a)(3), a state and its funded units of general local government are, in aggregate, permitted to expend no more than 20 percent of the state's annual grant plus program income for planning and administrative costs as defined at 42 U.S.C. 5305(a)(12), 5305(a)(13) and 5306(d)(3). HUD is providing an alternative requirement because there will be no program income attributed to CDBG-R, and because CDBG-R is to be treated as a separate appropriation of funds. Compliance with the planning and administration costs cap must be demonstrated separately based on each grantee's total CDBG- R grant allocation and not in combination with its regular CDBG funding or program income. For CDBG-R, up to 10 percent of a CDBG-R grant directly provided to a jurisdiction (State, entitlement community, Insular Area or non-entitled county in Hawaii) may be used for general administration and planning activities. For all grantees, including states, the 10 percent limitation applies to the grant as a whole. States should note that the 10 percent limitation includes any funds the State expends for technical assistance to units of general local government and non-profit organizations pursuant to 42 U.S.C. 5306(d)(5) and

(6). Consistent with Recovery Act provisions to expedite the use of CDBG-R funds, HUD is waiving the requirement for matching State administrative funds. Requiring states to match administrative funds may considerably slow down the expenditure of CDBG-R funds in states struggling to stabilize their budgets.

Public benefit standards: In the regular CDBG program, the public benefit standards at 24 CFR 570.209(b), (c) and (d) (for entitlement grantees) and 24 CFR 570.482(f) and (g) (for states) apply to economic development projects under the authority of 24 CFR 570.203, 24 CFR 570.204, 24 CFR 570.208(a)(4)(vi)(F)(2), 24 CFR 570.483(b)(4)(vi)(F)(2), and 42 U.S.C. 5305(a)(2), (14), (15), or (17), respectively. HUD is waiving portions of these regulations to expedite the timely use of funds by grantees. HUD will presume that activities that meet the requirements and Congressional intent of the Recovery Act provide sufficient public benefit. Grantees are still encouraged to provide economic assistance at the lowest possible cost per job, or cost per low- and moderate-income beneficiary.

Activities identified in these regulations as providing insufficient public benefit remain ineligible for CDBG-R funding: general promotion of the community as a whole; assistance to professional sports teams; assistance to privately-owned recreational facilities that serve a predominantly higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons; acquisition of land for which the specific proposed use has not yet been identified; and assistance to a for-profit business while that business or any other business owned by the same person(s) or entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient. (Those ineligible activities are in

addition to those which the Recovery Act specifically prohibits: casinos, other gambling establishments, aquariums, zoos, golf courses, or swimming pools.) Furthermore, HUD is not waiving the provisions of 24 CFR 570.209(a) (for entitlement grantees) and 24 CFR 570.482(e) (for states) regarding underwriting guidelines.

Relationship of CDBG-R to the Section 108 Loan Guarantee program: In the Section 108 program, 24 CFR 570.705(a)(2)(i) permits a CDBG grantee to borrow an amount of up to five times of its most recent CDBG grant for a Section 108 loan. 24 CFR 570.705(b) permits CDBG funds to be used as a pledge of security for the repayment of Section 108 loans. 24 CFR 570.705(c) permits the use of CDBG funds to repay funds borrowed under the Section 108 program. The Section 108 program is intended to provide longer-term project financing and requires a pledge of CDBG future funds over the life of the loan guarantee, whereas CDBG-R is a one-time appropriation of funds of limited duration. CDBG-R funds may not be used as a pledge of security for the repayment of Section 108 loans, may not be used to securitize borrowing under the Section 108 program, may not be used as repayment for funds borrowed under the Section 108 program, and may not be counted toward a grantee's maximum Section 108 borrowing authority.

Requirements

1. 42 U.S.C. 5304(b)(3)(A), 24 CFR 570.200(a)(3) and 24 CFR 570.484 are waived to the extent necessary to require that CDBG-R funds shall principally benefit persons of low and moderate income in a manner that ensures that not less than 70 percent of such funds are used for activities that benefit such persons, exclusive of any other funds received by the

grantee under 42 U.S.C. 5306 or as a result of a guarantee or a grant under 42 U.S.C. 5308.

A grantee must meet this requirement over the life of its CDBG-R grant.

2. 24 CFR 570.506(b)(12)(i) and (iii) are waived, and 24 CFR 570.208(c), 24 CFR 570.483(d), and 24 CFR 570.490(a) and (b) are waived to the extent necessary to allow grantees to certify that an activity is designed to address current economic conditions which pose a serious and immediate threat to the welfare of the community. HUD has determined that current economic conditions are of recent origin and pose a serious and immediate threat to the economic welfare of communities. States may provide this certification on behalf of units of general local government. Grantees must maintain other documentation specified in these regulations.

3. 42 U.S.C. 5306(a)(8), 24 CFR 570.201(e)(1) and 24 CFR 570.201(e)(2) are waived to the extent necessary to require that no more than 15 percent of CDBG-R funds shall be expended for eligible public service activities, exclusive of any other funds received by the grantee under 42 U.S.C. 5306. A grantee must meet this requirement over the life of this grant.

4. 42 U.S.C. 5306(d)(3), (5) and (6), 24 CFR 570.200(g) and 24 CFR 570.489(a) are waived to the extent necessary to establish the following requirement: No more than 10 percent of CDBG-R funds shall be expended for eligible planning and general administration activities as defined in 42 U.S.C. 5305(a)(12), 5305(a)(13) and 5306(d)(3), and in 24 CFR 570.205 and 24 CFR 570.206, exclusive of any other funds received by the grantee under 42 U.S.C. 5306. For states, this 10 percent limitation includes technical assistance eligible under 42 U.S.C. 5306(d)(5) and (6). A grantee must meet this requirement over the life of this grant. For states, this requirement applies in total to the state and all entities it funds.

5. The requirements at 42 U.S.C. 5306(d)(3)(A) and 24 CFR 570.489(a) are waived to the extent necessary to eliminate the state match requirement for general administrative costs.
6. 42 U.S.C. 5305(e)(3), 24 CFR 570.209, 24 CFR 570.482(f), 24 CFR 570.490(a) and 24 CFR 570.506(c) are waived to the extent necessary to permit grantees to carry out economic development projects without meeting the public benefit standards, except that 24 CFR 570.209(b)(3)(ii)(A) through (E) and 24 CFR 570.482(f)(4)(ii)(A) through (E) are not waived.
7. 42 U.S.C. 5308 and Subpart M of 24 CFR Part 570 are waived to the extent that they are not applicable to the use of CDBG-R funds.
8. Uses of grant funds must constitute an eligible use under the Recovery Act. In addition to being an eligible CDBG-R use of funds, each activity funded under this notice must also be eligible under 42 U.S.C. 5305(a) and Subparts C and I of Part 570, and meet a CDBG national objective under Subparts C and I of Part 570, as modified by this notice. Activities not listed as eligible under 42 U.S.C. 5305(a), and activities that are specifically listed as ineligible under 24 CFR 570.207 and 24 CFR 570.482, are ineligible for CDBG-R funding. The last sentence of 42 U.S.C. 5301(c) is waived.
9. Pursuant to Section 1604 of the Recovery Act, CDBG-R funds may not be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

F. Timeliness of Use and expenditure of CDBG-R funds

Background

In accordance with the Recovery Act, HUD has imposed a grant period and expenditure deadline of September 30, 2012, to ensure that the use of CDBG-R funds is expedited. To that end, HUD has waived a number of regulatory and statutory provisions.

The timely expenditure regulatory requirements for the entitlement CDBG program will not apply to CDBG-R funds. These funds will not be included in determining compliance with the requirements of 24 CFR 570.902. However, income generated from CDBG-R activities will be treated as program income to grantees' regular CDBG program, and thus will be included in timely expenditure compliance determinations. In selecting and designing activities for CDBG-R funding, grantees should consider the indirect effects on their compliance with the timely expenditure requirements for their regular CDBG funding. The timely distribution regulatory requirements for states will not apply to CDBG-R funds.

Requirement

The timely distribution or expenditure requirements of 42 U.S.C. 5304(e) and 24 CFR 570.494 and 570.902 are waived to the extent necessary to allow the following alternative requirement: All CDBG-R grantees must expend their entire allocation of CDBG-R funds by September 30, 2012. Any funds not expended by September 30, 2012, will be recaptured by HUD and returned to the U.S. Treasury.

G. Reporting

Background

HUD requires timely and accurate reporting on each CDBG-R grant in IDIS. HUD will use the information from IDIS to exercise oversight for compliance with the requirements of this notice and for prevention of fraud, waste, and abuse of funds. The Recovery Act imposes greater (and more frequent) reporting requirements than those that apply to grantees' regular CDBG funding.

Section 1512 of the Recovery Act requires that not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a federal agency shall

submit a report to that agency that contains: (1) the total amount of recovery funds received from that agency; (2) the amount of recovery funds received that were expended or obligated to projects or activities; and (3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including the name of the project or activity; a description of the project or activity; an evaluation of the completion status of the project or activity; an estimate of the number of jobs created and the number of jobs retained by the project or activity; and for infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under the Recovery Act and name of the person to contact at the agency if there are concerns with the infrastructure investment. Not later than 30 calendar days after the end of each calendar quarter, each agency that made Recovery Act funds available to any recipient shall make the information in reports submitted publicly available by posting the information on a website.

Grantees' agreements with subrecipients or units of general local government must contain a special contract condition requiring them to comply with the reporting requirements established for CDBG-R funding. All grantees, subrecipients and contractors desiring to participate in the CDBG-R program must obtain a Data Universal Numbering System (DUNS) number. A DUNS number may be requested via the web at: http://www.grants.gov/applicants/request_duns_number.jsp. HUD will post guidance on its website regarding how to obtain a DUNS number.

Title XV, Section 1512 of the Recovery Act states that funding recipients that are required to report information per subsection (c)(4) of the Recovery Act (detailed information on any subcontracts or subgrants awarded by the recipient to include the data

elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 allowing aggregate reporting on awards below \$25,000 or to individuals) must register with the Central Contractor Registration (CCR) database. CCR is the primary registrant database for the U.S. Federal government. CCR collects, validates, stores, and disseminates data in support of agency acquisition missions. Registration information on the CCR website can be found at <http://www.ccr.gov/startregistration.aspx>. A CCR User Account Guide can be found at <http://www.ccr.gov/doc/UserAccount.pdf>. CCR frequently asked questions can be found at <http://www.ccr.gov/FAQ.aspx#accounts>.

Additional information regarding subrecipients, other organizations, and contractors receiving CDBG-R funding will also be required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109–282) and to ensure accountability and transparency as cited in Title XV of the Recovery Act. This may include, but is not limited to, address and contact information as well as more detailed information about the entity and its award under this activity.

The regular CDBG reporting requirements as well as the additional CDBG-R reporting requirements will be strictly enforced. HUD reserves the right to restrict access to grantees' CDBG-R funds for delinquent, incomplete, or inaccurate reporting. Each CDBG-R activity, regardless of eligibility category and national objective, will not only report on the regular CDBG accomplishments and performance measures for that activity but also on the number of jobs created and retained, if applicable. (Grantees should note that this jobs reporting requirement applies to all activities and has nothing to do with low- and moderate-income benefit national objective compliance based on job creation or retention.)

The Recovery imposes additional reporting requirements including, but not limited to, information on the environmental review process, the expected completion of the activity, the type of activity, and the location of the activity. The Department has not yet determined how these reporting requirements will be implemented. HUD will establish and disseminate reporting requirements for CDBG-R assisted activities at a later date.

To collect these data elements and to meet its reporting requirements, HUD is requiring each grantee to report on its CDBG-R funds to HUD using IDIS.

Requirements

1. Performance report alternative requirement. The Secretary may specify the form and timing of reports provided by the grantee under both 42 U.S.C. 5304(e) (the HCD Act) and 42 U.S.C. 12708 (NAHA). Therefore, the consolidated plan regulation at 24 CFR 91.520 is waived and the alternative reporting form and timing for the CDBG-R funds is that:
 - a. For infrastructure investments made by State and local governments, report the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act and name of the person to contact at the agency if there are concerns with the infrastructure investment.
 - b. Provide detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.
 - c. Information must be submitted using HUD's IDIS system. Pursuant to Section 1512 of the Recovery Act, grantees must enter the data into IDIS on a quarterly basis for generation of

reports by HUD or other entities. 24 CFR 570.495 and 24 CFR 570.910 are waived to the extent necessary to allow HUD to restrict access to funds in IDIS for any grantee that fails to fully comply with CDBG-R reporting requirements.

d. Throughout 24 CFR parts 91 and 570, all references to “annual” requirements such as submission of plans and reports are waived to the extent necessary to allow the provisions of this notice to apply to CDBG-R funds, with no recurring annual requirements other than those related to civil rights and fair housing certifications and requirements.

H. Certifications

Background

Because this is a separate appropriation of funds, the certifications that are required for the CDBG program must also be submitted for the CDBG-R program; they are listed at 24 CFR 91.225 for entitlement communities and 24 CFR 91.325 for States. HUD is waiving the requirements that grantees follow their existing citizen participation plan, and that a state consult with units of general local government in preparation of its substantial amendment. Therefore, HUD is also waiving the certifications associated with these requirements.

HUD is requiring additional certifications in addition to the certifications that are normally required. The additional certifications are tailored to CDBG-R grants. Although the CDBG-R is being implemented as a substantial amendment to the 2008 annual action plan, HUD is requiring submission of this additional set of certifications.

Requirements

Certifications for states and for entitlement communities.

1. Each jurisdiction will sign and submit the certifications at 24 CFR 91.225(a) and (b), or 24 CFR 91.325(a) and (b) as applicable, except that 24 CFR 91.225(b)(1), 24 CFR

91.225(b)(4)(ii), 24 CFR 91.325(b)(1), 91.325(b)(2)(i) and (v), and 24 CFR 91.325(b)(4)(ii) are waived. 24 CFR 91.225(b)(4)(iii) and 24 CFR 91.325(b)(4)(iii) are waived to the extent necessary to eliminate the phrase "including Section 108 loan guarantee funds" from the certifications.

2. Each jurisdiction will also sign and submit the following certifications:

- a. a certification that the jurisdiction will comply with Title XII of Division A of the American Recovery and Reinvestment Act of 2009.
- b. a certification that in selecting projects to be funded, the grantee will give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available to the recipients, and will ensure maximum job creation and economic benefit.
- c. a certification that when CDBG-R funds are being used for infrastructure investments, the grantee will give preference to quick-start and finish activities, including a goal to use at least 50 percent of the funds for activities within 120 days of enactment of the Recovery Act.
- d. a certification that all iron, steel and manufactured goods used in construction, alteration, repair, or maintenance of a public building or public work project assisted with CDBG-R funds under the Recovery Act must be produced in the United States unless the Secretary finds that: (1) the requirement is inconsistent with public interest; (2) those goods are not reasonably available or produced in sufficient quantity in the U.S.; (3) or the use of the goods will increase the project cost by more than 25 percent.
- e. a certification from the Governor, mayor, or other chief executive, as appropriate, that any infrastructure investments have received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate

use of taxpayer dollars. Alternatively, a grantee's chief elected official may certify that infrastructure investments will receive the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars.

f. a certification that, for activities carried out with CDBG-R funds using the urgent need national objective where the urgent need is the current economic conditions, the activity is alleviating current economic conditions which pose a threat to the economic welfare of the community in which the activity is being carried out, the recipient is unable to finance the activity on its own, and other sources of funding are not available.

g. a certification stating that the aggregate use of CDBG-R funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent of the grant is expended for activities that benefit such persons over the life of the CDBG-R grant.

I. Paperwork Reduction Act

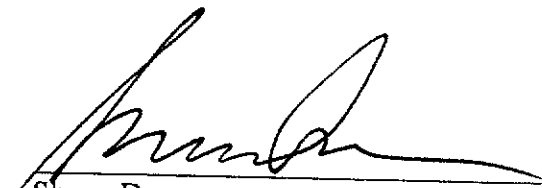
The information collection requirements in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Number 2506-0184. In accordance with the Paperwork Reduction Act, HUD may not

conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

J. Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made for this issuance in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between the hours of 8:00 a.m. and 5:00 p.m. weekdays in the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the FONSI by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877-8339.

Dated: 5/4/09


Shaun Donovan
Secretary

[FR-5309-N-01]