

# **federal register**

**Tuesday  
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## **Part IV**

### **Department of Housing and Urban Development**

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

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**Community Development Block Grant  
Program for Indian Tribes and Alaskan  
Native Villages; Notice of Fund  
Availability**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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

[Docket No. N-92-3369; FR-3180-N-01]

### Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages; Notice of Fund Availability

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

**ACTION:** Notice of fund availability for fiscal years 1991 and 1992.

**SUMMARY:** This Notice of Fund Availability (NOFA) announces HUD's funding for the Community Development Block Grant Program for Indian tribes and Alaskan native villages for Fiscal Years 1991 and 1992. In the body of this document is information concerning the following:

(a) The purpose of the NOFA, and information regarding eligibility, available amounts, and selection criteria;

(b) Application processing, including how to apply and how selections will be made; and

(c) A checklist of steps and exhibits involved in the application process.

**DATES:** Applications may be mailed to HUD, provided that they are postmarked no later than midnight on the deadline date: **July 31, 1992.** Applications that are physically delivered to HUD must be received by the appropriate Office of Indian Programs (OIP) no later than the close of business July 31, 1992. Application materials will be available from each field OIP.

**FOR FURTHER INFORMATION CONTACT:** Applicants should contact the Office of Indian Programs serving their geographic area.

Isaac Pimentel, Chicago Regional Office, Office of Indian Programs, Housing and Community Development Division, 77 West Jackson Blvd., Chicago, Illinois 60604. Telephone (312) 353-1884.

Jules Valdez, Oklahoma City Office, Indian Programs Division, CPD Branch, Murrah Federal Building, 200 NW 5th St., Oklahoma City, OK 73102-3202. Telephone (405) 231-5968.

Gloria Dale Lewis, Denver Regional Office, Office of Indian Programs, Housing and Community Development Division, Executive Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349. Telephone (303) 844-6481.

Gerald Hammon, Office of Indian Programs, Region IX, CPD Division, Two Arizona Center, suite 1650, 400 N. Fifth Street,

Phoenix, Arizona 85004-2361. Telephone (602) 379-4197.

Robert Barth, Office of Indian Programs, CPD Division, Program Management Team, (San Francisco) Phillip Burton Federal Bldg. and U.S. Courthouse, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102-3448. Telephone (415) 556-9200.

Jeanne McArthur, Seattle Regional Office, Office of Indian Programs, CPD Division, Arcade Plaza Bldg., 1321 Second Ave., Seattle, WA 98101-2054. Telephone (206) 553-0760.

Colleen Craig, Anchorage Office, CPD Division room A-19, Module G, 222 W. 8th Avenue, #84, Anchorage, AK 99513-7537. Telephone (907) 271-4684.

With general program questions, contact Stephen M. Rhodeside, State and Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, room 7184, 451 Seventh Street SW., Washington, DC 20410. Telephone (202) 708-1322. The Telecommunications Device for the Deaf (TDD) number is (202) 708-2565. (These are not toll-free numbers.)

#### SUPPLEMENTARY INFORMATION:

#### Paperwork Requirements

The information collection requirements contained in this notice have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and have been assigned OMB control number 2506-0043.

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#### I. Purpose and Substantive Description

##### (a) Authority

Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); 24 CFR part 571.

##### (b) Funding

Amendments to title I of the Housing and Community Development Act of 1974 have required that the allocation

for Indian Tribes be on a competitive basis in accordance with selection criteria contained in a regulation promulgated by the Secretary after notice and public comment. Because of this required process the Community Development Block Grant Program for Indian tribes and Alaskan native villages (ICDBG) program has not been funded since the Summer of 1990. The interim regulation containing the selection criteria has been issued today. In order to get the funding back on its regular cycle, this Notice of Fund Availability (NOFA) will distribute funds for both FY 1991 and FY 1992.

All of the Regions have larger grant ceilings which will allow grantees to accomplish larger projects than they have been able to fund in the past. However, the Department has determined that only quality projects are to be funded. In addition, 24 CFR 571.100(b)(2) requires the Regions to not fund applications that do not meet a serious need or which do not impact on the needs identified in the application. Accordingly, even if funds were available to fund a project based on its rating, if that project did not meet this

criteria, it would not be funded. The funds would be used to fund the next highest ranking project or could be carried forward to the next funding cycle, if none of the lower ranking projects met a serious need or impacted on the needs identified in the application.

Documentation and Public Access Requirements; Applicant/Recipient Disclosures: HUD Reform Act

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

NOFA in its quarterly Federal Register notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

*Disclosures.* HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

#### 1. Allocations

	FY 91	FY 92	Total
Region 5 (Chicago).....	\$2,317,000	\$2,442,000	\$4,759,000
Region 6 (Oklahoma City).....	5,322,000	5,655,000	10,977,000
Region 8 (Denver).....	5,160,000	5,482,000	10,642,000
Region 9 (Phoenix).....	14,255,000	15,206,000	29,461,000
Region 10 (Seattle).....	1,701,000	1,785,000	3,486,000
Anchorage.....	3,175,000	3,360,000	6,535,000
TOTAL.....	31,830,000	33,930,000	65,860,000

#### 2. Grant Ceilings

Region/field offices	Population	Ceiling
Region 5 (Chicago).	All .....	\$300,000
Region 6 (OK City).	5,001 + .....	700,000
	1,001-5,000.....	500,000
	1,000 or less.....	400,000
Region 8 (Denver)..	All .....	800,000
Region 9 (Phoenix).	50,001 + .....	9,000,000
	10,501-50,000.....	4,500,000
	9,001-10,500.....	3,600,000
	7,501-9,000.....	2,700,000
	6,001-7,500.....	1,800,000
	4,501-6,000.....	1,350,000
	3,001-4,500.....	1,107,000
	1,501-3,000.....	990,000
Region 10 (Seattle).	All .....	325,000
Anchorage.....	All .....	500,000

#### 3. Imminent Threats

The criteria for grants to alleviate or remove imminent threats to health or safety that require immediate solution are described at subpart E of part 571.

The following field offices are setting aside funds for imminent threats:

Region 9 (Phoenix) \$400,000. These funds will be available until the Phoenix Office receives its FY 1993 ICDBG allocation.

Seattle \$250,000. These funds will be available until Seattle completes the rating and ranking process for funds distributed under this NOFA.

Anchorage \$500,000. These funds will be available until the Anchorage Office receives its FY 1993 ICDBG allocation.

#### (c) Eligibility of Activities

Activities that are eligible for CDBG funds are identified at 24 CFR part 570 subpart C. The National Affordable Housing Act (NAHA) (Pub. L. 101-625, approved November 28, 1990) amended the Housing and Community Development Act (HCD) of 1974 in two ways, with respect to eligible activities:

#### 1. Economic Development—Section 105(a)(17)

In the event CDBG assistance to a for-profit entity involves displacement of existing businesses and jobs in neighborhoods, such displacement shall be minimized. Grantees must determine whether assistance to a for-profit entity will result in the displacement of existing businesses and jobs in neighborhoods, and if so, grantees must document what steps were taken to minimize such displacement.

Section 571.305 of ICDBG regulations requires that assistance may be provided to a business only when a financial analysis is done which shows that (a) the assistance is needed to make the project financially feasible, (b) public benefit commensurate with the assistance to the business can reasonably be expected to result from the assisted project, and (c) the project has a reasonable chance of success. This section covers all businesses

including for-profits, non-profits and tribally owned entities.

## 2. Home Ownership Assistance— Section 105(a)(20)

NAHA added to Title I a new activity: direct assistance to persons of low and moderate income to facilitate and expand home ownership. Assistance provided under this provision shall not be considered as a public service for purposes of the 15 percent cap on the use of CDBG funds.

Under this provision, CDBG funds may be used to (a) subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers, (b) finance the acquisition of housing that is occupied by low- and moderate-income homebuyers, (c) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that assistance under title I of the HCD Act may not be used by recipients or subrecipients to directly guarantee such mortgage financing), (d) provide up to 50 percent of the downpayment required from low- and moderate-income buyers, and (e) pay any reasonable closing costs associated with the purchase of a home incurred by a low- and moderate-income homebuyer. This provision will be terminated on October 1, 1992 unless the Secretary extends it to October 1, 1993.

### (d) Applicant Eligibility

To apply for funding in a given fiscal year, an applicant must be eligible as an Indian tribe or Alaskan native village, or as a tribal organization by the application submission date. (See 24 CFR 571.5 for a complete description of eligible applicants.)

### (e) Selection Criteria/Rating Factors

#### 1. Rating and Ranking System

Prior to the rating process, field offices will screen applications to ensure that they meet the acceptance criteria in 24 CFR 571.301(a). Field offices will review each application that passes the screening to ensure that each proposed project meets all of the requirements in 24 CFR 571.302(a), as implemented by this NOFA.

The field office will determine the proper category and component (e.g., Housing Rehabilitation) under which to rate each project. Each component is worth 100 points, which is the maximum that a project can receive.

All projects that meet the acceptance criteria and threshold requirements will be reviewed and rated by a field office rating team of at least three voting members. The rating team will normally

consist of representatives from the Indian CDBG staff. Voting members may be selected from other HUD divisions, such as the non-CPD portion of the Office of Indian Housing, and non-Indian CPD. The rating panel may solicit technical advice from experts such as attorneys, economists and cost analysts. Experts may be voting or non-voting members.

After each of the applications has been rated, the projects will be ranked in order of the point totals they received, regardless of the rating category or component under which the points were awarded. Projects will be selected for funding based on their ranking, in accordance with the requirements of §§ 571.100(b) and 571.302(c).

#### 2. Thresholds

The ICDBG regulation (24 CFR part 571) contains two types of general thresholds: Those that relate to applicants, and those that address overall community development appropriateness. Project-specific definitions and thresholds will be addressed within the pertinent project selection criteria categories.

Applicant thresholds focus on the administrative capacity of the applicant to undertake the proposed project(s), and on its past performance in the ICDBG and Housing programs. An applicant that has participated in the ICDBG program previously must have performed adequately. In cases of previously documented deficient performance, the applicant must have taken appropriate corrective action to improve its performance prior to submitting an ICDBG application to HUD.

In order for the project(s) contained in applications that have passed the initial screening tests outlined in § 571.301 to be rated and ranked, field offices must determine that the proposed project(s) meets the community development appropriateness thresholds, and

- (a) Has costs that are reasonable,
- (b) Is appropriate for the intended use,
- (c) Will normally be completed within two years, and
- (d) Has necessary commitments of tribal and other resources.

If an applicant fails to meet the applicant-specific thresholds, its application cannot be accepted for rating and ranking. Project(s) that do not meet the community development appropriateness or project-specific threshold will not be considered for funding.

**A. Applicant-specific thresholds—capacity and performance—(1) Capacity.** The field office will assume, absent evidence to the contrary, that the

applicant possesses, or can obtain the managerial, technical or administrative capability necessary to carry out the proposed project(s). The application should address who will administer the project(s) and how the applicant plans to handle the technical aspects of executing the project(s). If the field office determines, based on substantial evidence, that the applicant does not have or cannot obtain the capacity to undertake the proposed project(s), the project(s) will be rejected from further consideration.

**(2) Performance.** If an applicant has participated in the ICDBG Program previously, the field office shall determine whether the applicant has performed adequately in grant administration and management. Where an applicant was found to be performing inadequately, the field office shall determine whether the applicant is following a schedule to correct performance, to which the applicant and HUD have agreed. In cases of previously documented deficient performance, the field office must determine that the applicant has taken appropriate corrective action to improve its performance.

**a. Community development.** The applicant is presumed to be performing adequately unless the field office makes a performance determination to the contrary by monitoring.

**b. Housing assistance.** The applicant must not take actions to impede the provision of housing assistance for low- and moderate-income members of the tribe or village. Any action that is known to HUD to prevent or obstruct the provision or operation of assisted housing for low- and moderate-income persons shall be evaluated in terms of whether it constitutes inadequate performance by the applicant.

In addition, tribes have certain responsibilities and obligations to Indian Housing Authorities (IHAs), outlined in Article VIII of HUD's Model Tribal Ordinance. In instances where a tribe has established or joined an IHA, and has obtained housing assistance from HUD, its compliance with the resolution set forth in article VIII will be a performance consideration.

Applicants will not be held accountable for the poor performance of Indian Housing Authorities (IHAs). However, if inadequate performance is found to be a direct result of the applicant's action or inaction, the application will be rejected from further consideration. Applicants who are members of "umbrella" IHAs will be judged only on their individual performance and will not be held

accountable for the poor performance of other tribes that are represented by the IHA.

In the case of tribes that have not established or are not members of housing authorities, HUD will consider in making its determination, whether the tribe received CDBG funds for the provision of new housing, and if so:

(i) Whether the proposed units were constructed;

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

(iii) Whether the tribe followed the provisions of its housing plan and procedures; and

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

c. *Audits.* This threshold requires the applicant to meet the following performance criteria:

(i) The applicant cannot have an outstanding ICDBG obligation to HUD that is in arrears, or it must have agreed to a repayment schedule. An applicant that has an outstanding ICDBG obligation to HUD that is in arrears, or one that has not agreed to a repayment schedule, will be disqualified from the current competition and from subsequent competitions, until the obligations are current. If a grantee that was current at the time of application submission becomes delinquent during the review period, the application may be rejected.

(ii) The applicant cannot have an overdue or unsatisfactory response to an audit finding(s). If there is an overdue or unsatisfactory response to an audit finding(s), the applicant will be disqualified from current and subsequent competition until the applicant has taken final action necessary to close the audit finding(s). The field office director may provide exceptions to this disqualification in cases where the applicant has made a good faith effort to clear the audit finding(s). Only when a satisfactory arrangement for repayment of the debt has been made, and payments are current, will an exception be granted when funds are due HUD.

(iii) The grantee must not be more than one year behind in obtaining a required audit unless an exception is granted by the field office or cognizant agency, for good cause.

*B. Community development appropriateness.—(1) Costs are reasonable.* HUD will ensure that costs are reasonable by determining that:

a. The funds request from the CDBG program and all other sources are

adequate to complete the proposed activity(ies);

b. The method(s) proposed for addressing the identified need(s) is cost effective, taking into account initial construction, operation and maintenance costs, as well as durability and site constraints.

c. The cost estimates fairly and accurately indicate the costs required to complete the activity, based on the costs of comparable projects.

d. The cost estimates are prepared by a qualified individual and are in sufficient detail.

(2) The project(s) is appropriate for the intended use.

(3) The project(s) is usable or achievable in a timely manner, generally within a two-year period. The applicant must indicate its timetable for project implementation and completion. A period of more than two years is acceptable in certain circumstances, which are beyond the applicant's control. For example, a construction season may be limited by severe weather, or extra time may be required to coordinate different funding dates for other entities assisting the same project.

(4) Commitment of tribal and other funds and resources. To the extent that the applicant will be committing its own funds or resources (e.g., services or staff), a current Tribal Council resolution, passed within one year of the application deadline, committing such funds and resources should be submitted. If the applicant expects funds or resources from other sources, letters of commitment must be submitted.

### 3. Tiebreakers

When rating results in a tie among projects, field offices shall approve projects that can be fully funded over those that cannot be fully funded. When that does not resolve the tie, the following factors should be used in the order listed to resolve the tie:

A. *Chicago office.* (1) The application that benefits the highest percentage of low- and moderate-income persons.

(2) The application that benefits the most low- and moderate-income persons.

B. *Oklahoma City office.* (1) The application that benefits the highest percentage of low- and moderate-income persons.

(2) The applicant with the fewest active grants.

(3) The application that benefits the most low- and moderate-income persons.

C. *Denver office.* (1) The application that benefits the highest percentage of low- and moderate-income persons.

(2) The application that benefits the most low- and moderate-income persons.

D. *Phoenix office.* (1) The applicant with the fewest active grants.

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

(3) The application that benefits the highest percentage of low- and moderate-income persons.

E. *Seattle office.* (1) The applicant that has not received a block grant over the longest period of time.

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

(3) The application that benefits the highest percentage of low- and moderate-income persons.

F. *Anchorage office.* (1) The applicant that has not received a block grant over the longest period of time.

(2) The application that benefits the highest percentage of low- and moderate-income persons.

(3) The application that benefits the most low- and moderate-income persons.

### 4. General Definitions

*Adopt.* To approve by formal tribal resolution no more than one year prior to the application deadline.

*Assure.* To comply with a specific NOFA requirement. The applicant should state its compliance or its intent to comply in its application.

*Document.* To supply supporting written information and/or data in the application, which satisfies the NOFA requirement.

*Leverage.* Resources the grantee can use in conjunction with CDBG funds to achieve the objectives of the project. Resources include, but are not limited to: Tribal trust funds, loans from individuals or organizations, state or federal loans or guarantees, other grants, as well as noncash contributions and donated services. Funds from any source must be documented by a written commitment and may be contingent on approval of the CDBG award. Resources will be counted only if they are currently available or will be available within 3 months of grant notification. If delays in the Federal funding process preclude an agency from making a firm funding commitment, resources will be counted if the agency issues a written statement indicating that it is extremely likely that the applicant will be funded within 6 months of the date of grant notification. For projects in the Economic Development category, land value will be counted as a contribution only where the land was acquired to support the

project. Land value will be counted as a contribution for all other grant categories if it meets the criteria set forth in this definition. Donated services will be accepted, provided:

(1) The costs are demonstrated and determined necessary and directly attributable to the actual development of the project; and

(2) Comparable costs and time estimates are submitted which support the donation.

**Project Cost.** Total cost to implement the project. Project cost includes both CDBG and non CDBG funds.

**Tribe.** Indian tribe, band, group or nation, including Alaskan Indians, Aleuts, Eskimos and Alaskan native villages.

#### 5. Project Definitions, Thresholds and Selection Criteria

##### A. Housing. (1) Definition

**Section 8 standards.** Standards contained in the Section 8 Housing Assistance Payments Program—Existing Housing (24 CFR 882.109).

(2) General thresholds. a. There are no impediments known to HUD to delay or prevent project implementation.

b. Households that have been evicted from HUD housing within the past 5 years may not be assisted, except in emergency situations, which will be reviewed by field offices on a case-by-case basis.

##### (3) Rehabilitation. a. Thresholds.

(i) All single-family units to be rehabilitated must be occupied by low- and moderate-income households. If a structure contains two units, at least one must be occupied by a low- or moderate-income household. If a structure contains more than 2 units, at least 51 percent of the units must be occupied by low- and moderate-income households. When two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered a single structure for the purpose of calculating low- and moderate-income occupancy. Low- and moderate-income tenants shall pay no more than 30 percent of their household income in rent to meet this threshold.

(ii) All applicants for housing rehabilitation grants shall adopt by current tribal resolution, rehabilitation standards and rehabilitation policies, prior to submitting an application.

(iii) Any units to be rehabilitated must be the permanent non-seasonal residence of the occupant(s). The resident(s) must live in the unit at least 9 months per year.

(iv) Housing units slated for eventual replacement may only receive repairs essential for health and safety.

(v) The applicant shall provide an assurance that it will use project funds to rehabilitate HUD assisted units only where the tenant/homeowner's payments are current or the tenant/homeowner is current in a repayment agreement that is subject to approval by the field office. The field office may grant exceptions on a case-by-case basis, to the requirement that beneficiaries be current to permit housing rehabilitation in emergency situations. Houses that have received comprehensive rehabilitation assistance from any CDBG or federal grant within the past 8 years cannot receive CDBG funds to make the same repairs if the repairs are needed as a result of abuse or neglect.

##### b. Grant limits.

(i) Region 5 (Chicago).	60% of replacement cost.
(ii) Region 6 (OK City).	\$15,000.
(iii) Region 8 (Denver).	\$33,500.
(iv) Region 9 (Phoenix).	\$25,000.
(v) Region 10 (Seattle).	\$18,000.
(vi) (Anchorage).	Lesser of \$35/square feet or \$25,000.

##### c. Selection criteria.

(i) Project Need and Design. (45 points)

a The percentage of CDBG funds committed to bring the housing up to standard condition as defined by the applicant. Standard condition is defined as adoption of standards at least as stringent as section 8. Exceptions, which must be approved by the field office, may be made when local conditions make the use of section 8 standards infeasible. For example, units may be too remote to make the provision of electricity and running water economically feasible, or section 8 standards may not be met for historic preservation reasons. In all cases, to be considered in standard condition, a home must be in safe, sanitary, and physically sound condition with all systems performing their intended functions.

Administration and technical assistance expenditures are excluded in computing the percentage of CDBG funds committed to bring housing up to standard condition. The percentage of CDBG funds not used to bringing housing up to standard condition should be used for emergency repairs, demolition of substandard units,

planning related to the particular project or another purpose closely related to the housing rehabilitation project.

Percentage of CDBG funds committed to bring housing up to standard condition	Points
1 91-100 .....	25
2 81-90 .....	10
3 80 and less .....	0

b The applicant's selection criteria give priority to the neediest households. "Neediest" may be defined as households whose current residences are in the greatest disrepair in the project area, or very low-income households.

1 Yes (10 points)

2 No (0 points)

c Documentation of project need with a housing survey of all of the units to be rehabilitated with CDBG funds. This survey should include standard housing data on each unit surveyed (e.g. age, size, type, rooms, type of heating). The survey should show the number of standard units, the number of substandard units suitable for rehabilitation with the deficiencies listed for each unit, and the number of substandard units unsuitable for rehabilitation. A definition of "suitable for rehabilitation" should be included. At a minimum, this definition should not include units that need only minor repairs, or units that need such major repairs that rehabilitation is structurally or financially infeasible.

Submission of acceptable survey of deficiencies.

1 Yes (10 points)

2 No (0 points)

(ii) Planning and Implementation. (45 points)

a Rehabilitation Policies including:

1 Adopted rehabilitation standards. Adopted rehabilitation standards should be at least equal to Section 8 standards except that the field office can approve lesser standards as provided in Paragraph 1(i). Tribes may submit their request for lesser standards prior to the application due date. If the request is submitted with the application, applicants should not assume automatic approval from the field office.

• Yes (5 points).

• No (9 points).

2 Rehabilitation selection criteria.

Rehabilitation selection criteria include property selection standards, cost limits, type of financing (e.g., loan or grant), homeowner costs and responsibilities, procedures for selecting households to

be selected, and income verification procedures.

- Maximum (11 points). The application contains all the selection criteria listed above.

- Moderate (5 points). The application does not contain all the selection criteria listed above, but a sufficient number to enable the project to proceed effectively; OR the application contains all the selection criteria listed above, but in insufficient detail.

- Unsatisfactory (0 points). The submission does not meet the MODERATE criteria.

3 Project planning documents and applicable policies and procedures. Project planning documents include surveys, time schedules, and work priorities. Policies and procedures include: Inspections, contractor payment (an inspection to ensure the work is successfully completed before the contractor is paid), household involvement in the rehabilitation (e.g., helping select the contractor and signing off on inspections), contractor selection, contractor forms, complaints, contract or dispute resolution, and repayment provisions for early sale, (i.e., before 5 years).

- Maximum (5 points). The application contains all the documents and applicable policies listed above.
- Moderate (3 points). The application does not contain all the documents and applicable policies listed above, but it contains a sufficient number to enable the project to proceed effectively; OR the application contains all the documents and applicable policies listed above, but in insufficient detail.

- Unsatisfactory (0 points). The submission does not meet the Moderate criteria.

b Post rehabilitation maintenance policies, including counseling and training homeowners on maintenance.

1 Maximum (7 points). The policy contains a well-planned counseling and training program. Training will be provided for assisted households, and provision is made for households unable to do their own maintenance (e.g., elderly and handicapped). The policy includes follow-up inspections after rehabilitation is completed to ensure the unit is being maintained.

2 Moderate (4 points). The policy contains a well-planned home ownership maintenance training and counseling program.

3 Unsatisfactory (0 points). The submission does not meet the Moderate criteria.

c Quality of cost estimates. Cost estimates have been prepared by a qualified individual.

1 Maximum (12 points). Costs must be documented on a per unit basis and must be justified. Applicants must include work write-ups based on tribal specifications or estimates by a qualified individual. Work write-ups state what needs to be done to correct the deficiency (e.g., provide an oil heater to correct a deficiency of an inadequate heating system). The tribal specifications state the quality and the dimensions of the improvements (e.g., the heating unit must be capable of putting out x BTU's in order to heat the unit to a temperature of 70 degrees when the outside temperature is 0 degrees).

2 High (6 points). Cost estimates developed by a qualified individual have been prepared on each dwelling unit to be rehabilitated to determine the total rehabilitation cost. Costs to rehabilitate each house are documented by a deficiency list.

3 Moderate (3 points). A qualified individual has prepared cost estimates only for the project based on surveys, but not for individual units.

4 Unsatisfactory (0 points). The submission does not meet the criteria in paragraph 3.

d Cost effectiveness of the rehabilitation program. This measures the efficiency of the expenditures that are made for housing rehabilitation, considering the needs of the unit. Projects should propose rehabilitation that is needed to bring units up to standard in the most efficient manner and at a reasonable cost. Cost savings may be realized through efforts such as energy conservation, or a partnership or affiliation with technical experts to develop an innovative approach.

1 Rehabilitation project is cost effective. (5 points)

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

(iii) Leveraging (10 points). Points under this component will be awarded based on the definition of "leverage" under General Definitions, and the following breakdown;

Non-CDBG percentage of project cost	Points
25 and over.....	10
20-24.....	8
15-19.....	6
10-14.....	4
5-9.....	2
0-4.....	0

(4) Land to support new housing. a. Thresholds.

(i) There are no outstanding reasons why the IHA cannot receive housing units from HUD if units are to be provided by HUD Indian Housing.

(ii) There should be a reasonable ratio between the number of net usable acres for housing to be acquired and the number of families to be served.

(iii) Where a dwelling(s) currently exists on the land to be acquired, and the tribe plans to use that unit for housing for qualified households, the applicant must submit with the application a proposed plan that contains a method for selecting the recipient(s), housing maintenance and a description of the type of housing being acquired. If the unit(s) can be rehabilitated or can be occupied without rehabilitation, the unit(s) must meet tribal or Section 8 standards, whichever is higher.

(iv) Housing assistance needs must be clearly demonstrated, for example, with a survey or an IHA-approved waiting list.

(v) If the CDBG funding cycle is before the Housing Development funding cycle (for housing projects proposed to be constructed with HUD Housing Development funds), successful applicants in Land Acquisition for Housing will be issued a contract for the full amount of the grant. The contract will contain a condition that until the project receives Housing Development approval, CDBG funds may be expended only to secure an option. If the IHA is not selected for Housing Development Program funds, the balance of the CDBG grant will be canceled.

(vi) If it can be demonstrated that a commitment has been made by the Bureau of Indian Affairs (BIA) under the Home Improvement Program (HIP) for funding new housing construction, the 2-year time period for project completion may be extended to be consistent with the commitment identified. The commitment should indicate that the funds committed will be used to build housing on the land to be acquired.

b. Selected Criteria.

(i) Project Need (40 Points)

a Maximum (40 points). The applicant has no suitable land to construct new housing and needed amenities (e.g., water and sewer) for new housing.

b High (30 points). The applicant has land suitable for housing construction and infrastructure, but the land is officially dedicated to another purpose.

c Moderate (25 points). The applicant is acquiring land to construct new housing and to provide needed amenities (e.g., water and sewer) to both new housing and existing housing.

d Low (15 points). The applicant is acquiring land to construct amenities (e.g., water and sewer) for existing housing.

*e* Unsatisfactory (0 points). The submission does not meet the criteria in paragraph *d*.

(ii) Planning and Implementation. (60 points)

*a* Suitability of land to be acquired. A preliminary investigation has been conducted by a qualified entity independent of the applicant (e.g., BIA or IHS). Based on the preliminary investigation, the land appears to meet all applicable requirements, soil conditions appear to be suitable for individual and/or community septic systems, if appropriate, and the land has adequate drainage and access to water, electricity and community sewer collection systems. Land has adequate access, and appears to comply with environmental requirements. Land is available at a reasonable price. Future land development costs are expected to be consistent with other area subdivision costs. (Subdivision costs include the cost of constructing each unit, plus the land, water and sewer service, electrical service and roads required to serve the subdivision.) The site complies with all applicable requirements.

1 Yes (18 points).

2 No (0 points).

*d* Housing resources are committed at the time of project application.

1 Conditional commitment or approvable application submitted. (5 points)

2 No Conditional commitment or approvable application submitted. (0 points)

*c* Availability/accessibility of supportive services and employment opportunities. Upon completion of construction, fire and police protection, road accessibility and utilities will be available to the site, and medical and social services, schools, employment opportunities, and shopping will be accessible from the site, i.e., according to the community's established norm.

1 Yes (8 points).

2 No (0 points).

*s* Commitment that families will move into the new housing.

1 Documented commitment from families that they will move into new housing. (5 points)

2 No documented commitment. (0 points)

*e* Land can be taken into trust or provisions have been made for taxes and fees. There must be a written assurance from the BIA that the land will be taken into trust within one year, or the applicant must be able to show the financial capability and commitment to pay the property taxes and fees on the land for the foreseeable future. This commitment should take the form of a

resolution by the governing body indicating that the applicant will pay or guarantee that all taxes and fees on the land will be paid.

1 Documentation that land can be taken into trust or provisions made for taxes and fees. (4 points)

2 Inadequate or no documentation. (0 points)

*f* A plan for any infrastructure needed to support housing to be developed. This includes a conditional commitment for funds to develop necessary water, sewer, electricity and roads to support the housing to be developed.

1 Financial commitment provided or infrastructure is in place. (10 points)

2 A plan, but no financial commitment, is in place. (5 points)

3 No financial commitment. (0 points)

*g* The extent to which the proposed site meets the applicant's housing needs. The application shows that the tribe has examined and assessed the appropriateness of alternative sites. The applicant submits comparable sales that show the cost is reasonable.

1 Yes (10 points).

2 No (0 points).

(5) New housing construction/direct home ownership assistance. *a*. New construction.

(i) Thresholds.

*a* New housing construction can only be implemented through a nonprofit organization that is eligible under § 571.202 or is otherwise eligible under § 570.207(b)(3).

*b* All applicants for new housing construction grants must document the following in their application:

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

2 No other funding sources can meet the needs of the household(s) to be served.

3 Rehabilitation of the unit occupied by the family to be housed is not economically feasible, or the family to be housed is currently in an overcrowded unit (sharing unit with other household(s)), or the family to be housed has no current residence.

*c* All applicants for housing construction grants shall adopt by current tribal resolution, construction standards and construction policies, prior to submitting an application. Applicants must identify the building code they will use to construct the unit(s). The building code may be a locally adopted tribal building code or a nationally recognized model code. If the code is a locally adopted code, it must regulate all of the areas and subareas identified in 24 CFR 200.925(b), and it

must be reviewed and approved by the HUD field office. If the code is recognized nationally, it must be the latest edition of one of the codes incorporated by reference in 24 CFR 200.925(c).

*d* Any units to be constructed must be the permanent non-seasonal residences of the recipient. The residents must live in the unit at least nine months per year.

*e* The applicant shall assure that it will use project funds to construct units only where the tenant's/homeowner's payments are current or the tenant/homeowner is current in a repayment agreement that is subject to approval by the field office. The field office may grant exceptions, on a case-by-case basis, to the requirement that beneficiaries be current to permit new construction, in emergency situations.

(ii) Selection Criteria

*a* New construction under Section 248 of the National Housing Act will be rated under the Direct Home Ownership Assistance Selection criteria. The New Construction thresholds will be used for Section 248 New Construction.

*b* Project Need and Design. (45 points)

1 The applicant either is not a member of an IHA, or the umbrella IHA to which it belongs has not provided assistance to the applicant in a substantial period of time, or the IHA serving the applicant has not received HUD Public and Indian Housing new construction or modernization assistance in a substantial period of time, due to a lack of funds. The period of time during which the IHA serving the applicant does not receive funding for inadequate or poor performance does not count towards the period of time that no assistance has been provided by HUD.

Or—

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

- No assistance from IHA for 6–9.9 years. (10 points)

- No assistance from IHA for 0–5.9 years. (0 points)

2 Adopted housing construction policies and plan. The plan should include a description of the proposed subrecipient and its relationship to the tribe. In addition, the policies and plan should include:

- A selection system that gives priority to the neediest households. Neediest shall be defined as households whose current residences are in the greatest disrepair, or very low-income households, or households without permanent housing.



- A system effectively addressing long-term maintenance of the constructed units.
  - Estimated costs and identification of the responsible entity for paying utilities, fire hazard insurance and other normal maintenance costs.
  - Policies governing ownership of the units, including the status of the land.
  - Description of a comprehensive plan or approach being implemented by the tribe to meet the housing needs of its members.
  - Policies governing disposition or conversion to non-dwelling uses of substandard units that will be vacated.
- Acceptable policies and plan. (20 points)
- Unacceptable policies and plan. (0 points)
- 3 Beneficiary identification** (all beneficiaries are low- and moderate-income).
- Beneficiaries to be housed are identified. (10 points)
  - Beneficiaries are not identified. (0 points)
- c Planning and Implementation.** (45 points)
- 1 Occupancy Standards.** The proposed housing will be designed and built according to adopted reasonable standards that govern the size of the housing in relation to the size of the occupying family (minimum and maximum number of persons allowed for the number of sleeping rooms); the minimum and maximum square footage allowed for major living spaces (bedrooms, living room, kitchen and dining room).
- Applicant has adopted reasonable occupancy standards. (10 points)
  - Applicant has no occupancy standards or standards are inappropriate. (0 points)
- 2 Site Acceptability.** This includes consideration of land control, access, utilities, infrastructure, physical characteristics, and whether the site is held in trust.
- The applicant has control of the land. The applicant has written assurance from the BIA that the land is (or will be) taken into trust within one year, or the applicant must be able to show the financial capability and commitment to pay the property taxes and fees on the land for the foreseeable future. This commitment should take the form of a resolution by the governing body within one year of the application deadline indicating that the applicant will pay or guarantee that all taxes and fees on the land will be paid.
- A preliminary investigation has been conducted by a qualified entity independent of the applicant (e.g., BIA

or IHS). Based on the preliminary investigation, the land appears to meet all applicable requirements, soil conditions appear to be suitable for individual and/or community septic systems, if appropriate, land has adequate drainage and accessibility to water, electricity and community sewer collection systems. Land has adequate access, and appears to comply with environmental requirements.

- Yes (15 points)
- No (0 points)

**3 Energy Conservation Design.** The project is designed so that energy consumption will meet or exceed state conservation standards for similar units in the same general area. Special design features and methodology should be described in detail.

- Yes (5 points)
- No (0 points)

**4 Housing Survey.** The survey should include all of the units in the service area for the new housing. The survey should include standard housing data on each unit surveyed (e.g., age, size, type, rooms, type of heating), as well as the components listed below.

- A** Total number of existing housing units in the community.
- B** Number of occupied units.
- C** Number of vacant units (line A minus line B).
- D** The number of standard units.
- E** The number of substandard units suitable for rehabilitation with the deficiencies listed for each unit. A definition of "suitable for rehabilitation" should be included.
- F** The number of substandard units unsuitable for rehabilitation.
- G** Number of vacant units that are in standard condition available and affordable to low- and moderate-income families.
- H** Number of Indian/native families living with other families resulting in overcrowded conditions.
- I** Number of Indian/native families living in units which are below standard and that are not cost effective to rehabilitate.
- J** Number of homeless Indian/native families.
- K** Number of families living in below standard conditions (Lines H, plus I, plus J, equal line K).
- Acceptable survey. (10 points)
  - Unacceptable survey. (0 points)
- 5 Cost effectiveness of new housing construction.** This measures the efficiency of the expenditures. Projects should provide new units in the most efficient manner and at a reasonable cost. Cost savings may be realized through efforts such as the use of cost effective construction techniques, a

partnership or affiliation with technical experts to develop an innovative approach, or a repayment provision.

- New Housing Construction is Cost Effective. (5 points)
- New Housing Construction is not Cost Effective. (0 points)
- Leveraging. (10 points)

Applicants must provide documentation of the amount and sources of additional funds. Sources may include private contributions including equity and loans, applicant and other non-CDBG governmental funding.

Non-CDBG % of project cost	Points
25 and over.....	10
20-24.....	8
15-19.....	6
10-14.....	4
5-9.....	2
0-4.....	0

**b. Direct Home Ownership Assistance.**

(i) Thresholds.

**a** No other funding sources can meet the needs of the household(s) to be served.

**b** The unit occupied by the family to be housed does not meet Section 8 standards, and rehabilitating the unit is not economically feasible, or the family to be housed currently is in an overcrowded unit (sharing unit with other household(s), or the family to be housed has no current residence.

**c** Any units to be occupied must be the permanent non-seasonal residences of the recipient. The residents must live in the unit at least nine months per year.

**d** The applicant shall assure that it will use project funds to provide direct homeownership assistance only where the tenant's payments are current or the tenant is current in a repayment agreement that is subject to approval by the field office. The field office may grant exceptions, on a case-by-case basis, to the requirement that beneficiaries be current to permit direct homeownership assistance in emergency situations.

(ii) Selection Criteria.

**a** Project Need and Design (45 points)

**1** Adopted housing policies and plan. The plan should include a description of the proposed subrecipient (if applicable) and its relationship to the tribe. In addition, the policies and plan should include:

- A selection system that gives priority to the neediest qualified households. Neediest may be defined as households whose current residences

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

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

- Policies governing disposition or conversion to non-dwelling uses of substandard units that will be vacated.

- A system effectively addressing long-term maintenance of the units.

- Estimated costs of utilities, fire hazard insurance and other normal maintenance costs.

- Policies governing ownership of the units, including the status of the land.

- The units will meet section 8 standards or another standard approved by the field office.

(a) The policies and plan contain all of the items listed above. [30 points]

(b) The policies and plan contain only the first three items listed above. (20 points)

(c) The policies and plan contain only the last four items listed above. (10 points)

(d) The policies and plan do not meet the criteria of paragraphs a), b), or c). (0 points)

2 Beneficiary identification. (All beneficiaries are low and moderate income.)

- Beneficiaries are identified. (15 points)

- Beneficiaries are not identified. (0 points)

b Planning and implementation (45 points)

1 Occupancy Standards. The housing units will meet adopted reasonable standards that govern the size of the housing in relation to the size of the occupying family (minimum and maximum number of persons allowed for the number of sleeping rooms); the minimum and maximum square footage allowed for major living spaces (bedrooms, living room, kitchen and dining room).

- Applicant has appropriate occupancy standards. (13 points)

- Applicant has no occupancy standards or standards are inappropriate. (0 points)

2 Site Acceptability. This includes consideration of land control, access, utilities, infrastructure, physical characteristics, whether the site is held in trust, and available services, such as fire and police protection.

The applicant or prospective homeowner has control of the land. Applicant has a written assurance from the BIA that the land is (or will be) taken into trust within one year, or the applicant must be able to show the financial capability and commitment to

pay the property taxes and fees on the land for the foreseeable future.

A preliminary investigation has been conducted by a qualified entity independent of the applicant (e.g., BIA or IHS). Based on the preliminary investigation, the land appears to meet all applicable requirements, soil conditions appear to be suitable for individual and/or community septic systems, if appropriate, land has adequate drainage and accessibility to water, electricity and community sewer collection systems. Land has adequate access, and appears to comply with environmental requirements.

- Yes (20 points)

- No (0 points)

3 Energy Conservation Design. The project is designed so that energy consumption will be no greater than that of similar units in the same general area. Special design features and methodology should be described in detail.

- Yes (6 points)

- No (0 points)

4 Cost effectiveness of program. This measures the efficiency of the expenditures that are made for direct home ownership. Cost savings may be realized through efforts such as the use of cost effective construction techniques, a partnership or affiliation with technical experts to develop an innovative approach, provision of the least amount of assistance necessary for each homeowner to acquire the unit, or a provision for the homeowner to repay the tribe.

- Yes (6 points)

- No (0 points)

c Leveraging. (10 points)

Points under this component will be awarded based on the definition of "leverage" under General Definitions, and the following breakdown:

Non-CDBG % of project cost	Points
70 and over.....	10
60-69.....	8
50-59.....	6
40-49.....	4
30-39.....	2
0-29.....	0

B. Community Facilities. (1) General thresholds. a. The applicant shall describe the problem, the proposed project and the anticipated impact on the tribe/village if the problem is not solved immediately.

(2) Infrastructure. a. Thresholds.

(1) For all projects which include provision of water, waste water treatment or solid waste disposal

facilities, the applicant shall include with the application evidence that the project has been submitted to the Indian Health Service (IHS) for review and comment.

(ii) If the project consists of new or existing community water system improvements (defined as serving more than 25 persons or 15 households), the applicant must provide evidence that the project has been submitted to the Environmental Protection Agency (EPA) for review and comment. Community water systems serving fewer than 25 persons or 15 households are eligible for CDBG funding, but do not require EPA review.

b. Selection Criteria.

(i) Project Need and Design (60 points)

a Meets an essential community development need by addressing a basic need that is critical to the orderly development of the community and to the provision of basic human services. (Example: water/sewer, waste disposal)

1 Permanent solution. The project offers a long-term solution. (17 points)

2 Health and safety intermediate solution. The project responds to a health or safety problem by offering a solution which is not permanent (e.g., providing potable water from elsewhere). (15 points)

3 Intermediate solution. The project responds to a problem which is not related to health or safety by offering a solution which is not permanent (e.g., providing a gravel road to a reservation where no road exists). (12 points)

4 Inadequate solution. (0 points)

b Benefits the neediest segment of the population, as identified below. Applications must include tribal, BIA, IHS or other documentation that:

1 Maximum (22 points). More than 80 percent of the beneficiaries are very low income (50 percent of area median).

2 Moderate (13 points). 51-79.9 percent of the beneficiaries are very low income.

3 Unsatisfactory (0 points). Less than 51 percent of the beneficiaries are very low income.

c Provides infrastructure that does not currently exist for the area to be served OR replaces an existing facility that no longer functions adequately to meet the current needs OR eliminates or substantially reduces a health or safety problem. If the project addresses a health and safety problem, the applicant must provide documentation consisting of a signed study or letter from a reliable independent authority (e.g., state health officials, state fire marshals, BIA, IHS, EPA) verifying that:

(1) A threat to health and safety exists which has caused or has the potential to

cause serious illness, injury, disease or death; and

(2) The threat can be substantially eliminated if the CDBG project is funded.

1 Maximum (21 points). The infrastructure does not exist or no longer functions, or does not meet health and safety standards. (Examples: There is no sewage treatment plant; paved roads do not exist or must be reconstructed due to severe deterioration.)

2 Moderate (15 points). The infrastructure no longer functions adequately or does not meet current needs. (Example: Capacity of existing sewage treatment plant is insufficient to meet the demands of area residents.)

3 Unsatisfactory (0 points). The infrastructure does not meet the criteria of 1 or 2.

(ii) Planning and Implementation (30 points)

a A viable plan for maintenance and operation. The tribe must adopt by current resolution or ordinance a maintenance plan addressing maintenance, repair and replacement of items not covered by insurance, and operating resources, if applicable. The applicant must submit this plan. The plan must identify a funding source to assure that the facility will be properly maintained and operated. The resolution must identify the total annual dollar amount the tribe will commit, as well as the source and availability of funds, including evidence that funds will be available within sixty days of project completion. If an entity other than the Tribal Council commits to pay for maintenance and operation that entity must submit a letter of commitment which identifies the responsibilities the entity will assume and the amount of funds that will be provided annually to the project. Points will only be awarded if the field office is able to determine that the entity is financially able to assume the costs of maintenance and operation.

1 Yes (15 points)

2 No (0 points)

b An appropriate and effective design, scale and cost. The applicant shows that it has proposed the most appropriate and cost effective approach to address its identified need(s). The applicant shows that it has considered initial construction and lifetime operation costs, as well as the use of existing facilities and resources, and alternatives, including method of implementation and cost. If only one approach is feasible, the applicant should explain why.

1 Yes (15 points)

2 No (0 points)

(iii) Leveraging (10 points)

Points under this component will be awarded based on the definition of "leverage" under General Definitions, and the following breakdown:

	Non-CDBG % of project cost	Points
a	25+ .....	10
b	20-24 .....	8
c	15-19 .....	6
d	10-14 .....	4
e	5-9 .....	2
f	0-4 .....	0

(3) Buildings. a. Thresholds.

(i) Tribes proposing a facility which would provide health care services must assure the facility meets IHS requirements.

b. Selection Criteria.

(i) Project Need and Design (60 points)

a Benefits the neediest segment of the population, as identified below. Applications must include tribal, BIA, IHS or other documentation that:

1 Maximum (28 points). More than 80 percent of the beneficiaries are very low income (50 percent of area median).

2 Moderate (18 points). 51-79.9 percent of the beneficiaries are very low income.

3 Unsatisfactory (0 points). Less than 51 percent of the beneficiaries are very low income.

b Provides a building that serves a function that does not currently exist either within or outside (nearby) the community or reservation OR replaces an existing facility that no longer functions adequately to meet current needs. (Examples: health clinic; subsistence food processing facility, Alaska.)

1 Maximum (15 points). The building does not exist or does not meet health and safety standards.

2 Moderate (12 points). The building no longer functions adequately or does not meet current needs.

3 Unsatisfactory (0 points). The building does not meet the criteria of 1 or 2.

c Provides multiple uses or multiple benefits, or has services available 24 hours a day. The application must show that the proposed facility will house more than one broad category of activity. "Broad category" means a single activity or group of activities which serves a particular group of beneficiaries (e.g., senior citizens) or meets a particular need (e.g., literacy). No one category of activity will occupy more than 75 percent of the available space for more than 75 percent of the time. The use of space must be actually committed and documented in writing. Multipurpose buildings do not automatically meet these criteria, nor do

buildings that provide a variety of activities for one client group.

1 Yes (3 points)

2 No (0 points)

d Meets an essential community development need by addressing a basic need that is critical to the orderly development of the community and to the provision of basic human services; OR eliminates or substantially reduces a health or safety problem. If the project addresses a health or safety problem, the applicant must provide documentation consisting of a signed study or letter from a reliable independent authority (e.g., state health officials, state fire marshals, BIA, IHS, EPA) verifying that: (1) A threat to health and safety exists which has caused or has the potential to cause serious illness, injury, disease or death; and (2) the threat can be substantially eliminated if the CDBG project is funded.

1 Yes (14 points)

2 No (0 points)

(ii) Planning and Implementation (30 points)

a A viable plan for maintenance and operation. The tribe must adopt a maintenance plan addressing maintenance, repair and replacement of items not covered by insurance, and operating resources, if applicable. The applicant must submit this plan. The plan must show that adequate funds are available for future replacements and identify a funding source to assure that the facility will be properly maintained and operated. The adopted resolution must identify the total annual dollar amount the tribe will commit, as well as the source and availability of funds, including evidence that funds will be available within sixty days of project completion. If an entity other than the Tribal Council commits to pay for maintenance and operation that entity must submit a letter of commitment which identifies the responsibilities the entity will assume and the amount of funds that will be provided annually to the project. Points will only be awarded if the field office is able to determine that the entity is financially able to assume the costs of maintenance and operation.

1 Yes (15 points)

2 No (0 points)

b An appropriate and effective design, scale and cost. The applicant documents that it has proposed the most appropriate and cost effective approach to address its identified need(s). The applicant documents that it has considered initial construction and lifetime operation costs, as well as the use of existing facilities and resources,

and alternatives including, method of implementation and cost. If only one approach is feasible, the applicant should explain why.

- 1 Yes (15 points)
- 2 No (0 points)

(iii) Leveraging (10 points)

Points under this component will be awarded based on the definition of "leverage" under General Definitions, and the following breakdown:

Non-CDBG % of project cost	Points
a 25+ .....	10
b 20-24 .....	8
c 15-19 .....	6
d 10-14 .....	4
e 5-9 .....	2
f 0-4 .....	0

C. Public Services. (1) Thresholds.

a. Public services activities may comprise no more than 15 percent of the total grant award. Such projects must therefore be submitted with one or more other projects, which must comprise at least 85 percent of the total grant award. A public service project will be funded only if both the public service project itself and the other project(s) with which it is submitted rank high enough to be funded.

(2) Selection Criteria. a. Project Need and Design (45 points).

(i) Meets an essential community development need by addressing a basic need that is critical to the orderly development of the community and to the provision of basic human services.

- a Yes (15 points)
- b No (0 points)

(ii) Benefits the neediest segment of the population, as identified below. Applications must include tribal, BIA, IHS or other documentation that:

- a Maximum (27 points). More than 80 percent of the beneficiaries are very low income (50 percent of area median).
- b Moderate (16 points). 51-79.9 percent of the beneficiaries are very low income.
- c Unsatisfactory (0 points). Less than 51 percent of the beneficiaries are very low income.

(iii) Provides a service(s) that will eliminate or substantially reduce a health or safety problem. The applicant must provide documentation consisting of a signed study or letter from a reliable independent authority (e.g., state health officials, state fire marshals, BIA, IHS, EPA) verifying that: (1) a threat to health and safety exists which has caused or has the potential to cause serious illness, injury, disease or death; and (2) the threat can be substantially eliminated if the CDBG project is funded.

- a Yes (3 points)
  - b No (0 points)
- b. Planning and Implementation (45 points).

(i) A viable plan for continuing provision of the service(s). The tribe must adopt a plan to address continuing provision of the service(s). The applicant must submit this plan. The plan must identify a funding source to assure that the public service(s) will be properly carried out. The resolution must identify the total annual dollar amount the tribe will commit, as well as the source and availability of funds, including evidence that funds will be available within sixty days of project completion.

- a Yes (15 points)
  - b No (0 points)
- (ii) An appropriate and effective design, scale and cost. The applicant shows that it has proposed the most appropriate and cost effective approach to address its identified need(s). The applicant shows that it has considered initial and long-term costs, as well as the use of existing services and resources, or has submitted an analysis from a qualified authority addressing alternatives, method of implementation and cost. If only one approach is feasible, the applicant should explain why.

- a Yes (15 points)
  - b No (0 points)
- (iii) An innovative method of using the public service to resolve the problem (e.g., original treatment methods, program delivery system, or use of technology).

- a Yes (15 points)
  - b No (0 points)
  - c Leveraging (10 points).
- Points under this component will be awarded based on the definition of "leverage" under the General Definitions, and the following breakdown:

Non-CDBG % of project cost	Points
(i) 25+ .....	10
(ii) 20-24 .....	8
(iii) 15-19 .....	6
(iv) 10-14 .....	4
(v) 5-9 .....	2
(vi) 0-4 .....	0

D. Economic Development. (1) Thresholds.

a. Economic development assistance may be provided only when a financial analysis is done which shows that the assistance to the business does not exceed the level of financial assistance necessary to make the project financially feasible, public benefit commensurate with the assistance to the

business can reasonably be expected to result from the assisted project, and the project has a reasonable chance of success. In making this determination, the example, if the analysis of the financial information indicates an ability to repay the assistance, a grant would not be warranted if the financial assistance is going to a nongovernmental entity. The applicant shall demonstrate the need for grant assistance by providing documentation to support a determination that the assistance is appropriate to implement an economic development project.

b. All economic development projects must meet one of the national objectives. A general claim of cash flow or benefit to the tribe as a whole does not demonstrate low- and moderate-income benefit.

c. The applicant shall submit a project description which includes the following information:

- (i) The product or service: What the enterprise will do or produce.
- (ii) The location and physical facilities: Regional, local and site-specific location; description of existing and proposed facilities. If land is to be acquired for the specific economic development project, the applicant must either submit evidence that the land will be taken into trust, or demonstrate compliance with zoning and other local requirements, and show that the tribe or the entity operating the business, has the ability to pay all required taxes on the land.
- (iii) Key production factors: Requirements relating to utilities, transportation access, special technical and/or equipment requirements, market, raw materials, and labor force.
- (iv) Jobs/labor available: Justification that the number of permanent full time equivalent jobs proposed to be created or retained by the project (full and part-time) is realistic, evidence that the project can support job costs/salaries.
- (v) The developmental entity: Identification of entity to be used (e.g., local development corporation, tribe/village, private developer, joint venture).
- (vi) Equipment: Projects that include the purchase of equipment must demonstrate the appropriateness and cost effectiveness of purchasing versus leasing. The use of lease financing is encouraged wherever possible to help contain development costs.
- (vii) Financial information: Applicants shall submit a detailed cost summary, evidence of funding sources, five year operating or cash flow financial projections and business financial statements for the most recent three year period. Financial statements

include the balance sheet, income statement and statement of retained earnings. For new start-up businesses, current financial or net worth statements on the principal business owners or officers are needed unless the tribe or Alaskan Native Village will be the owner of the business.

(viii) Economic strategy and objectives: The applicant shall demonstrate how the proposed project will meet the tribe's/village's economic development strategy and objectives (e.g., to create or retain permanent, private sector jobs or provide a product and service needed and affordable to native members).

(2) Selection criteria. a. Project Viability. (55 points). The application will be rated on the adequacy and the quality of the following subparts:

(i) Market analysis.

a. Maximum (10 points). An independent third party feasibility/market analysis, generally not older than two years, which identifies the market and demonstrates that the proposed activities are highly likely to capture a fair share of the market.

b. Moderate (6 points). Feasibility/Market Analysis which identifies the market and demonstrates that the proposed activities are reasonably likely to capture a fair share of the market.

c. Low (0 points). The submission does not meet the criteria in paragraph b.

(ii) Management capacity.

a. Maximum (10 points). A management team with qualifying specialized training or technical/managerial experience in the operation of a similar business has been identified. If the grant is approved, the business will hire the identified team or persons with similar training and experience. Applicants must submit job descriptions of key management positions as well as resumes showing qualifying specialized technical/managerial training or experience of the identified management team.

b. Moderate (6 points). A management team with qualifying general business training or experience will be hired if the grant is approved. Applicants must submit job descriptions of key management positions.

c. Unsatisfactory (0 points). The submission does not meet the criteria in paragraph b.

(iii) Organization.

a. Maximum (8 points)

1 The tribe or entity that will operate the business has an on-going successful business enterprise. The applicant must describe this enterprise and provide documentation of its healthy financial

condition (e.g., audited financial statements for the past three years); and

2 The tribe or entity that operates the business has an acceptable business management system for project development and operation.

b. Moderate (5 points). The tribe or entity that will develop and operate the business has an acceptable business management system for project development and operation.

c. Unsatisfactory (0 points). The submission does not meet the criteria in paragraph b.

(iv) Viability of the Business (excluding microenterprises). The viability of an economic development project will be determined by an analysis of financial and other project related information. Components of the financial analysis are: Costs, sources of funds; cash flow projections and financial statements. The applicant must submit: A detailed cost summary, evidence of funding sources; five year operating or cash flow financial projections; and business financial statements for the most recent three year period. For start-up businesses, that are not owned by the grantee, current financial or net worth statements on principal business owners or officers are needed. Financial statements include the balance sheet, income statement and statement of retained earnings.

The information derived from the analysis will be reviewed and compared to local or national industry standards to assess reasonableness of development costs, financial need, profitability, and risk as factors in determining overall project viability. In determining whether a project is viable, the field office will also consider current and projected market conditions and profitability measures such as cash flow return on equity, cash flow return on total assets and the ratio of new profit before taxes to total assets. Sources of industry standards include Marshall and Swift Publication Company, Robert Morris Associates, Dun and Bradstreet, the Chamber of Commerce, etc. Local standards may also be used.

a. Maximum (15 points). Based on the analysis, the project has excellent prospect of achieving viability.

b. Moderate (7 points). The project has an average prospect of achieving viability.

c. Low (0 points). The project has a minimal prospect of achieving viability.

(v) Viability of the Microenterprise. Microenterprises employ three or fewer employees, including the entrepreneur. The viability of a microenterprise will be determined by an analysis of financial and other project related

information. Components of the financial analysis are: Costs, sources of funds, cash flow projections and financial statements. The applicant must submit: A detailed cost summary, evidence of funding sources; five year operating or cash flow financial projections and monthly projections until the cash flow is positive; and business financial statements for the most recent three year period. For start-up businesses, current financial or net worth statements on principal business owners or officers are needed. Financial statements include balance sheet, income statement and statement of retained earnings.

In determining whether a project is viable the field office will also consider current and projected market conditions and profitability measures such as net profit to total assets ratio, as well as other information that the field office has that will have an effect on the project's potential viability.

a. Maximum (15 points)

1 The project will generate income for the entrepreneur, over a minimum of five years, at or above 125 percent of the annual county average individual income; and

2 Based on the analysis, the project has excellent prospect of achieving viability.

b. Moderate (7 points)

1 The project will generate income for the entrepreneur at or above 100 percent of the annual county average individual income; and

2 The project has an average prospect of achieving viability.

c. Unsatisfactory (0 points). The submission does not meet the criteria in paragraph b.

(vi) Leveraging. Points under this component will be awarded based on the definition of "leverage" under General Definitions, and the following breakdown:

Office	Points	Non-CDBG % of total project cost
Chicago.....	12	80+
	8	40-79
	4	10-39
	0	less than 10
	0	less than 10
OK City.....	12	30+
	8	20-29
	4	10-19
	0	less than 10
	0	less than 10
Denver.....	12	30+
	8	20-29
	4	10-19
	0	less than 10
	0	less than 10
Phoenix.....	12	30+
	8	20-29
	4	10-19
	0	less than 10
	0	less than 10
Seattle.....	12	80+
	8	60-79
	0	less than 10

Office	Points	Non-CDBG % of total project cost
Anchorage.....	4	40-59
	0	less than 40
	12	30+
	8	20-29
	4	10-19
	0	less than 10

b. *Permanent Full-Time Equivalent Job Creation.* Provide total number of permanent full-time jobs expected to be created and/or retained as a result of the project. Provide a summary of job descriptions and skills required. Identify the number and kind(s) of jobs expected to be available to low and moderate-income persons. (30 points)

- (i) CDBG cost per job  
 a Maximum (13 points). \$15,000 or less.  
 b Moderate (10 points). \$15,001-25,000.  
 c Low (7 points). \$25,001-35,000.  
 d Unsatisfactory (0 points). \$35,0001+.

(ii) CDBG cost per job targeted to low and moderate-income persons.

- a Maximum (13 points). \$15,000 or less.  
 b Moderate (10 points). \$15,001-25,000.  
 c Low (7 points). \$25,001-35,000.  
 d Unsatisfactory (0 points). \$35,001+

(iii) Quality of jobs targeted to low and moderate-income persons.  
 a The jobs offer wages and benefits comparable to area wage and benefits for similar jobs, provide opportunity for advancement, and teach a transferrable skill; OR

b The employer commits to provide training opportunities (submit a description of planned training program.

- 1 Yes (4 points)  
 2 No (0 points)  
 c. *Additional Considerations.* (15 Points) A project must meet three of the following criteria to receive 15 points. Maximum 15 points.

(i) Use, improve or expand members' special skills. Special skills are those that members have developed through education, training or traditional cultural experiences (e.g., technical expertise in electronic assembly; making traditional native crafts).

- a Yes (5 points)  
 b No (0 points)  
 (ii) Provide spin-off benefits beyond the initial economic development benefits to employees or to the community (e.g., creates new investment opportunities in the area; provide a consumer product or service not currently available on or near the reservation, or provide an available

consumer product or service at a significant reduction in cost).

- a Yes (5 points)  
 b No (0 points)  
 (iii) Provide special opportunities for residents of federally-assisted housing (e.g., employ residents for maintenance services).

a Yes (5 points)  
 b No (0 points)  
 (iv) Provide benefits to other businesses owned by Indians or Alaska natives (e.g., increase their sales).

- a Yes (5 points)  
 b No (0 points)  
 (v) Loan Repayment/Reuse of CDBG funds. If the business is not tribally owned at least 50% of the CDBG assistance to the business will be repaid to the grantee within a 10 year period. If the business is tribally owned, the tribe agrees within a 10 year period to use funds equal to 50% of the CDBG assistance for eligible activities that meet a national objective. These funds should come from the profits of the tribally owned business.

- a Yes (5 points)  
 b No (0 points)

## II. Application Process

(a) An application package may be obtained from the HUD Field Offices of Indian Programs in the following geographic locations:

Region V—Chicago Regional Office, Office of Indian Programs, Housing and Community Development Division, 77 West Jackson Blvd., Chicago, Illinois 60604, Telephone: (312) 353-1884 (all states east of the Mississippi River, plus Iowa and Minnesota).

Region VI—Oklahoma City Office, Indian Programs Division, CPD Branch, Murrah Federal Bldg., 200 NW. 5th Street, Oklahoma City, OK 73102-3202, Telephone: (405) 231-5968, (Louisiana, Kansas, Oklahoma, and Texas, except West Texas).

Region VIII—Denver Regional Office, Office of Indian Programs, Housing and Community Development Division, CPD Staff, Executive Tower Bldg., 1405 Curtis Street, Denver, CO 80202-2349, Telephone: (303) 844-8481, (Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming).

Region IX—Indian Programs Office, Region IX, CPD Division, Two Arizona Center, suite 1650, 400 N. Fifth Street, Phoenix, Arizona 85004-2361, Telephone: (602) 379-4197, (Arizona, New Mexico, Southern California, West Texas).

Indian Programs Office, CPD Division, Program, Management Team (San Francisco), Phillip Burton Federal Bldg. and U.S. Courthouse, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102-3448, Telephone: (415) 558-9200, (Northern California and Nevada).

Region X—Seattle Regional Office, Office of Indian Programs, CPD Division, Arcade Plaza Bldg, 1321 Second Ave., Seattle, WA

98101-2054, Telephone: (206) 553-0760, (Idaho, Oregon, Washington). Anchorage Office, CPD Division, room A-19, Module C, 222 W. 8th Avenue, #84, Anchorage, AK 99513-7537, Telephone: (907) 271-4884, (Alaska).

(b) Completed applications should be submitted to the appropriate HUD Field Offices of Indian Programs, listed above, from which application information and packages were obtained.

(c) Applications may be mailed to HUD, provided that they are postmarked no later than midnight on the deadline date: July 31, 1992. Applications that are physically delivered to HUD must be received by the appropriate Office of Indian Programs (OIP) no later than the close of business July 31, 1992.

## III. Checklist of Pre-Application and Application Submission Requirements

### (a) Citizen Participation

Prior to submitting an application, the applicant shall certify, by an official tribal resolution, that it has:

1. Furnished residents with information concerning amounts of funds available and the range of activities to be undertaken;
2. Held one or more public meetings to obtain the views of residents;
3. Developed and published or posted a community development statement which gives affected residents an opportunity to review it and comment on it;
4. Given residents an opportunity to review and comment on the applicant's performance under any active community development block grant;
5. Considered public comments and, if the applicant deems it appropriate, modified the application accordingly; and
6. Made the modified application available to residents.

(b) Applicants shall submit an application to the appropriate field office. In accordance with the requirements of Section 571.300(f) the application should include:

1. Standard Form 424;
2. Community Development Statement which includes:

A. A brief description or an updated description of community development needs (form HUD-4121);

B. A brief description of proposed projects to address needs, including scope, magnitude, and method of implementing the project, as well as a schedule for implementing the project (forms HUD-4122 and HUD-4125);

C. Cost information by project, including specific activity costs, administration, planning, and technical

assistance, total HUD share (form HUD-4123); and

D. Components that address the relevant selection criteria.

3. A map showing project location, if appropriate;

4. If the proposed project will result in displacement or temporary relocation, include a statement that identifies

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

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

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

(D) The source of funds for relocation; and

(E) The organization that will carry out the relocation activities.

5. Citizen Participation. Certify, in the form of an official tribal resolution, that citizen participation requirements of section 571.604 have been met;

6. Form HUD-2880, Applicant/Recipient Disclosure/Update Report, as required under subpart C of 24 CFR part 12, Accountability in the Provision of HUD Assistance.

#### IV. Corrections to Deficient Applications

HUD will not accept unsolicited information from the applicant regarding the application after the application deadline has passed.

HUD may advise applicants of technical deficiencies in applications and permit them to be corrected. A technical deficiency would be an error or oversight which, if corrected, would not alter, in either a positive or negative fashion, the review and rating of the application. Examples of curable technical deficiencies would be a failure to submit proper certifications or failure to submit an application containing an original signature by an authorized official. The field office also may, at its discretion, request information to resolve inconsistencies or ambiguities in the application.

HUD will notify applicants in writing of any curable technical deficiencies in applications. Applicants will have 14 calendar days from the date of HUD's correspondence to reply and correct the deficiency. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete.

#### V. Other Matters

##### (a) Environmental Statement

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD

regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

##### (b) Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12812, Federalism, has determined that this NOFA will not have substantial, direct effects on states, on their political subdivisions, or on their relationship with the Federal Government, or on the distribution of power and responsibilities between them and other levels of government. While the NOFA will provide financial assistance to Indian tribes and Alaskan native villages, none of its provisions will have an effect on the relationship between the Federal Government and the states or their political subdivisions.

##### (c) Family Executive Order

The General Counsel, as the Designated Official for Executive Order 12606, The Family, has determined that the policies announced in this NOFA would not have the potential for significant impact on family formation, maintenance and general well-being and thus is not subject to review under the Order.

##### (d) Registration of Consultants

Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in *Federal Register* on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly

the examples contained in appendix A of the rule.

Any questions regarding the statute described above should be directed to Arnold J. Haiman, Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708-3815; TDD: (202) 708-1112. (These are not toll-free numbers.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

##### (e) Prohibition of Advance Disclosure of Funding Decisions

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of the applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics, (202) 708-3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

**Authority:** Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); 24 CFR 571.

Dated: February 21, 1992.

**Anna Kondratas,**  
Assistant Secretary for Community Planning and Development.

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