

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**[Docket No. FR-5318-N-01]**

**Notice of Funding Availability (NOFA) for HUD's  
Indian Community Development Block Grant Program under the American  
Recovery and Reinvestment Act of 2009**

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

**ACTION:** Notice of Funding Availability for HUD's Indian Community Development Block Grant (ICDBG) Program made available pursuant to the "American Recovery and Reinvestment Act of 2009" ("Recovery Act")(Public Law 111-5).

**SUMMARY:** This NOFA announces the availability of \$10 million for HUD's ICDBG. Eligible applicants are tribes and tribal organizations that received ICDBG Single-Purpose Grants in Fiscal Year (FY) 2008. Funds for this competition are authorized by the Recovery Act, Title I of the Housing and Community Development Act of 1974, and the ICDBG program regulations at 24 CFR part 1003.

**DATES:** Applications will be reviewed as they are received but will not be accepted after 5:00 p.m. on July 7, 2009.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding specific program requirements should be directed to your Area Office of Native American Programs (ONAP).

A contact list for each Area ONAP can be accessed at

<http://www.hud.gov/offices/pih/ih/codetalk/onap/map/nationalmap.cfm>. Questions may also be

directed to the ICDBG program at <http://www.hud.gov/recovery/questions.cfm>. Persons with

hearing or speech impairments may access these numbers via TTY by calling the Federal

Information Relay Service at 1-800-877-8339.

**OVERVIEW INFORMATION:**

**A. Federal Agency Name:** Department of Housing and Urban Development, Office of the Assistant Secretary for Public and Indian Housing, Office of Native American Programs (ONAP).

**B. Funding Opportunity Title:** Community Development Block Grant (ICDBG) Program for Indian Tribes and Alaska Native Villages.

**C. Announcement Type:** Initial Announcement.

**D. Funding Opportunity Number:** The Federal Register number is FR-5318-N-01. The OMB Approval Number is 2577-0263.

**E. Catalog of Federal Domestic Assistance (CFDA) Number(s):** The Catalog of Federal Assistance (CFDA) Number for the ICDBG program is 14.886.

**F. Dates:** Applications will be accepted at any time after publication of this NOFA but will not be accepted after 5:00 p.m. local ONAP time on July 7, 2009. Applications will be date and time stamped and reviewed and rated for minimum requirements until all funds are obligated. Please see Section IV of this NOFA for application submission and timely receipt requirements.

**G. Additional Information:**

1. Applicants for funding should carefully review the requirements described in this NOFA.
2. The total amount of funding available for the ICDBG program in this NOFA is \$10 million.
3. Eligible applicants are Indian tribes or tribal organizations on behalf of Indian tribes that received ICDBG grants in FY 2008.
4. Only one ICDBG application may be submitted for each area within the jurisdiction of an entity eligible under 24 CFR part 1003. An application may include more than one project, but it cannot exceed the grant ceilings listed in Section II.

5. Applications will be reviewed as they are received until all available funds have been obligated at which time HUD will post a notice on its website informing the public.

## **FULL TEXT OF ANNOUNCEMENT**

### **I. Funding Opportunity Description**

**A. General.** Title I of the Housing and Community Development Act of 1974, which authorizes Community Development Block Grants, requires that grants for Indian tribes be awarded on a competitive basis. All grant funds awarded in accordance with this NOFA are subject to the requirements of 24 CFR part 1003 except as waived or modified. Funds are only available for Single-Purpose Grants. No Imminent Threat Grants will be awarded. Applicants within an Area ONAP's geographic jurisdiction compete only against each other for that Area ONAP's allocation of funds.

**B. Authority.** The authority for this program is Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), the program regulations in 24 CFR part 1003, and the Recovery Act.

**C. Program Description.** The purpose of the ICDBG program is the development of viable Indian and Alaska Native communities, including the creation of decent housing, suitable living environments, and economic opportunities primarily for persons with low- and moderate-incomes as defined in 24 CFR 1003.4. The ONAP in HUD's Office of Public and Indian Housing administers the program. The purposes of the Recovery Act are to: (1) preserve and create jobs and promote economic recovery; (2) assist those most impacted by the recession; (3) provide investments needed to increase economic efficiency by spurring technological advances in science and health; (4) invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and (5) stabilize State and local

government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases. In accordance with the President's Memorandum on Ensuring Responsible Spending of Recovery Act Funds (March 20, 2009), executive departments and agencies must avoid funding imprudent projects.

Projects funded by the ICDBG program must meet the primary objective, defined at 24 CFR 1003.2, to principally benefit low- and moderate-income persons. Consistent with this objective, not less than 70 percent of the expenditures of each single-purpose grant shall be for activities that meet the regulatory criteria at 24 CFR 1003.208 for:

- a. Area Benefit Activities
- b. Limited Clientele Activities
- c. Housing Activities
- d. Job Creation or Retention Activities

ICDBG funds may be used to improve housing stock, provide community facilities, improve infrastructure, and expand job opportunities by supporting the economic development of the communities, especially by nonprofit tribal organizations or local development corporations.

ICDBG Single-purpose grants are distributed as competitive grants, in response to this NOFA.

#### **D. Definitions Used in this NOFA**

1. **Adopt.** To approve by formal tribal resolution.
2. **Document.** To supply supporting written information and/or data in the application that satisfies the NOFA requirement. Documentation should clearly and concisely support your response to the rating factor.
3. **Entity Other than Tribe.** Entities other than the tribe must have the following characteristics: (a) must be legally distinct from the tribal government; (b) their assets and

liabilities cannot be considered to be assets and liabilities of the tribal government; (c) claims against such entities cannot be made against the tribal government; and (d) must have governing boards, boards of directors, or groups or individuals similar in function and responsibility to such boards which are separate from the tribe's general council, tribal council, or business council, as applicable.

4. **Firm Commitment.** A letter of commitment from a partner by which an applicant's partner agrees to perform an activity specified in the application, demonstrates the financial capacity to deliver the resources necessary to carry out the activity, and commits the resources to the activity, either in cash or through in-kind contributions.

5. **Homeownership Assistance Programs.** Tribes may apply for assistance to provide direct homeownership assistance to low- and moderate-income households to: (a) subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers; (b) finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers; (c) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that ICDBG funds may not be used to guarantee such mortgage financing directly, and grantees may not provide such guarantees directly); (d) provide up to 50 percent of any down payment required from a low- and moderate-income homebuyer; or (e) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- and moderate-income homebuyer.

6. **Leveraged Resources.** Leveraged resources are resources that you will use in conjunction with ICDBG funds to achieve the objectives of the project. Leveraged resources include, but are not limited to: tribal trust funds, loans from individuals or organizations, business investments, private foundations, state or federal loans or guarantees, other grants, and non-cash contributions

and donated services. (See Rating Factor 4 for documentation requirements for leveraged resources.)

**7. Microenterprise Programs.** Tribes and tribal organizations may apply for assistance to operate programs to fund the development, expansion, and stabilization of microenterprises. Microenterprises are defined as commercial entities with five or fewer employees, including the owner. Microenterprise program activities may entail the following assistance to eligible businesses: (a) providing credit, including, but not limited to, grants, loans, loan guarantees, and other forms of financial support for the establishment, stabilization, and expansion of microenterprises; (b) providing technical assistance, advice, and business support services to owners of microenterprises and persons developing microenterprises; and (c) providing general support, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services to owners of microenterprises and persons developing microenterprises.

**8. Operations and Maintenance (O&M) for Public Facilities and Improvements.** There are items of expense related to the operation of the facility that must be addressed in an O&M plan if the tribe assumes responsibility or if an entity other than the tribe will assume these responsibilities. Although the tribe or other entity does not have to submit the O&M plan with the application, it must provide a written statement that the tribe has adopted (or the entity has developed) an O&M plan and that the plan addresses several items. These items include daily or other periodic maintenance activities, repairs such as replacing broken windows, capital improvements or replacement reserves for repairs such as replacing the roof, fire and liability insurance (may not be applicable to most types of infrastructure projects such as water and sewer lines), and security (may not be applicable to many types of infrastructure projects such as

roads). (Please note that while it is possible that the service provider may, in its agreement with a tribe, commit itself to cover certain or all facility O&M costs, these costs do not include the program service provision costs related to the delivery of services (social, health, recreational, educational, or other) that may be provided in a facility).

9. **Outcomes.** The ultimate impact you hope to achieve with the proposed project. Outcomes should be quantifiable measures or indicators and identified in terms of the change in the community, people's lives, economic status, etc. Common outcomes could include increases in percent of housing units in standard condition, homeownership rates, or employment rates.

10. **Outputs.** Outputs are the direct products of a program's activities. They are usually measured in terms of the volume of work accomplished, such as the number of low-income households served, number of units constructed or rehabilitated, linear feet of curbs and gutters installed, or number of jobs created or retained. Outputs should be clear enough to allow HUD to monitor and assess your proposed project's progress if funded.

11. **Project Cost.** The total cost to implement the project. Project costs may be covered by both ICDBG and non-ICDBG funds and resources.

12. **Standard Housing/Standard Condition.** Housing that meets the housing quality standards (HQS) adopted by the applicant. The HQS adopted by the applicant must be at least as stringent as the Section 8 HQS contained in 24 CFR 982.401 (Section 8 Tenant-Based Assistance: Housing Choice Voucher program) unless the Area ONAPs approve less stringent standards based on a determination that local conditions make the use of Section 8 HQS infeasible. You should submit a request for the approval of standards less stringent than Section 8 HQS to your Area ONAP. The adopted standards must provide for (a) a safe house, in physically sound condition with all systems performing their intended design functions; (b) a livable home

environment and an energy efficient building and systems that incorporate energy conservation measures; and (c) adequate space and privacy for all intended household members.

13. **Statement.** When a “written statement” is requested for any threshold, program requirement, or rating factor, the applicant must address in writing the specific item cited.

14. **Tribe.** The word “tribe” means an Indian tribe, band, group or nation, including Alaska Indians, Aleuts, Eskimos, Alaska Native Villages, Alaska Native Claims Settlement Act (ANCSA) Village Corporations, and ANCSA Regional Corporations.

## **II. Award Information.**

**A. Available Funds.** There is \$10 million available for this program.

**B. Allocations to Area ONAPs.** The requirements for allocating funds to Area ONAPs responsible for program administration are found at 24 CFR 1003.101. Following these requirements, based on an appropriation of \$10 million the allocations for this Recovery Act program are as follows:

Eastern/Woodlands:	\$ 1,430,885
Southern Plains:	\$ 1,879,025
Northern Plains:	\$ 1,559,692
Southwest:	\$ 2,579,743
Northwest:	\$ 1,153,033
Alaska:	\$ 1,397,622
Total	\$10,000,000

**C. Grant Ceilings.** The authority to establish grant ceilings is found at 24 CFR 1003.100(b)(1).

The grant ceiling for this program is \$600,000.

**D. Housing Rehabilitation Cost Limits.** Grant funds spent on rehabilitation must fall within the following per-unit limits for each Area ONAP jurisdiction:

Eastern/Woodlands:	\$35,000
Southern Plains:	\$35,000
Northern Plains:	\$50,000
Southwest:	\$50,000
Northwest:	\$50,000
Alaska:	\$75,000

**E. Compliance with Regulations, Guidelines, and Requirements.**

1. Applicants awarded a grant under this NOFA are required to comply with the regulations, guidelines, and requirements with respect to the acceptance and use of federal funds for this federally assisted program.
2. By accepting a grant, the chief executive officer or other official of the applicant approved by HUD:
  - a. Consents to assume the status of a responsible federal official under the National Environmental Policy Act of 1969 so far as the provisions of the Act apply to the applicant's proposed program pursuant to 24 CFR 1003.605.
  - b. Is authorized and consents on behalf of the applicant and him/herself to accept the jurisdiction of the federal courts for the purpose of enforcement of his/her responsibilities as such an official.

**Note:** Applicants for whom HUD has approved a claim of incapacity to accept the responsibilities of the federal government for purposes of complying with the environmental review requirements of 24 CFR part 58, pursuant to 24 CFR 1003.605, are not subject to the provision of paragraph 2. In such cases, HUD will conduct the environmental review in

accordance with 24 CFR 50.3(h) and the applicant must agree to assist HUD and refrain from acquisition, construction, and other actions until HUD approves the property.

3. The Recovery Act gave HUD the authority to waive or specify alternative requirements for any provision of any statute or regulation in connection with the use of ICDBG Recovery Act funds, except for requirements related to fair housing, nondiscrimination, labor standards and the environment upon a finding that such a waiver is necessary to expedite or facilitate the use of ICDBG Recovery Act funds. The following regulatory waivers have been approved for applications submitted pursuant to this NOFA.

a. *Housing Rehabilitation Standards.* The ICDBG regulation at 24 CFR 1003.302(a) requires applicants for housing rehabilitation projects to adopt, by tribal resolution, housing rehabilitation standards and policies before submitting an application for a project of this type. This waiver permits those tribal applicants who do not have standards and policies in place to submit an application and adopt such after the award. If awarded a grant under this Recovery Act program, submission of this documentation will become a grant condition. The requirement that project funds can be used to rehabilitate units where the homeowner's payments are current or the homeowner is current on an approved repayment period is not being waived. Area ONAP Administrators can still approve exceptions to this requirement on a case-by-case basis in accordance with the current regulatory requirement.

b. *New Construction Standards.* The ICDBG regulation at 24 CFR 1003.302(b) requires applicants for new housing construction projects to adopt, by current tribal resolution, new construction standards before submitting an ICDBG application for a project of this type. This waiver permits those tribal applicants who do not have standards and policies in place to submit

an application and adopt such after the award. If awarded a grant under this Recovery Act program, submission of this documentation will become a grant condition.

c. *Available Housing Stock.* The ICDBG regulation at 24 CFR 1003.302(b) requires applicants for new housing construction projects to demonstrate that: no other housing is available in the immediate reservation area; no other sources can meet the needs of the household; rehabilitation of the unit occupied by the household(s) to be assisted is not economically feasible; or the household/s to be assisted is in an overcrowded unit or has no current residence. If awarded a grant under this Recovery Act program, submission of this documentation will become a grant condition. The requirement that new construction can only be implemented through a non-profit organization may not be waived.

d. *Economic Development Project Analysis.* The ICDBG Regulation at 24 CFR 1003.302(c) requires that ICDBG applicants submitting applications for economic development projects provide an analysis which, among other things, shows public benefit commensurate with the ICDBG assistance requested will result from the assisted project. Although the analysis requests several components, the waiver is only applicable to the following components: showing public benefit commensurate to ICDBG assistance; financial support from non-federal sources committed prior to disbursement of federal funds; and not more than a reasonable rate of return on investment is provided to the owner. This waiver permits tribal applicants to submit an application without these components and provide such after an award. If awarded a grant under the Recovery Act program, submission of this documentation will become a grant condition. All other analysis components remain required and must be submitted with the application and may not be waived.

e. *Citizen Participation Requirements.* The ICDBG regulation at 24 CFR 1003.604(a)(2) requires applicants to consult with residents prior to submitting their funding application. This waiver would waive the requirement to hold one or more meetings to obtain the views of residents on community development and housing needs. Tribes will be required to meet the citizen participation requirements by publishing or posting information on their plans to use Recovery Act funds and accepting comments. However, comments will not have to be submitted prior to the application deadline date. The tribe will be required to certify in its application that information has been published or posted for residents of the community in order to meet the citizen participation requirement.

f. *Project Rating.* The ICDBG regulation at 24 CFR 1003.303 requires each project in an ICDBG application to meet project threshold requirements and then be scored based on five specific rating factors. The rating factors are capacity, need/extent of the problem, soundness of the approach, leveraging of resources, and comprehensiveness and coordination. Recovery Act funds under the ICDBG Program can only be awarded to recipients who received ICDBG funding in FY 2008. These recipients have already demonstrated the capacity to administer the grants. This provision of the ICDBG regulations is waived so that the capacity factor can be removed and a new factor can be added to address the requirements of the Recovery Act.

These waivers will be in effect for a period of 36 months beginning with the publication of the NOFA and ending on September 30, 2012. Applicants should identify in their applications the waivers they will use. Applicants seeking a waiver of any regulatory requirement not listed above should submit the request to their Area ONAP for approval by the Assistant Secretary. The request should specify the need, including justification, for the waiver.

**F. Period of Performance.** The period of performance for any grant awarded under this NOFA must be included in the Implementation Schedule, form HUD-4125, approved by HUD. For this NOFA funds must be fully obligated by September 30, 2010 and Implementation Schedules cannot exceed September 30, 2012.

### **III. Eligibility Information**

#### **A. Eligible Applicants**

Eligible applicants are Indian tribes or tribal organizations on behalf of Indian tribes that received ICDBG grants in FY 2008. To apply for funding, you must be eligible as an Indian tribe (or as a tribal organization), as required by 24 CFR 1003.5, by the application deadline date and you must have received funds under the FY 2008 ICDBG NOFA.

**B. Cost Sharing or Matching.** Cost sharing or matching is not required under this grant; however, applicants who leverage this grant with other funds receive points. The Recovery Act is intended to expedite projects. See Rating Factor 1 and 4 in Section V.

#### **C. Other**

1. **HUD Requirements.** Applicants for these grants must comply with the HUD Threshold Requirements listed below in Section III.C.2. in order to receive an award of funds.

##### **2. Program-Related Threshold Requirements**

a. **Outstanding ICDBG Obligation.** Pursuant to 24 CFR 1003.301(a), an applicant who 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 competition.

b. **Compliance with Fair Housing and Civil Rights Laws.** Applicants and subrecipients that are not federally recognized Indian tribes or their instrumentalities are subject to the Civil Rights threshold requirements. Federally recognized Indian tribes and their instrumentalities are subject to the requirements of: Title II of the Civil Rights Act of 1964, known as the Indian Civil Rights

Act; Section 109 of the Housing and Community Development Act of 1974 prohibitions against discrimination based on age, sex, religion and disability; the Age Discrimination Act of 1975; and Section 504 of the Rehabilitation Act of 1973. To be eligible to apply, there must be no outstanding violations of these civil rights provisions at the time of application.

**3. Project-Specific Threshold Requirements.** Applicants must meet all parts of the project-specific thresholds that are applicable to the proposed project unless the provisions are waived in accordance with Section II.E.3. The thresholds are:

**a. Housing Rehabilitation Project Thresholds.** In accordance with 24 CFR 1003.302(a), for housing rehabilitation projects, you must adopt rehabilitation standards and rehabilitation policies before you submit an application. In addition, you must state that you have in place rehabilitation policies and standards that have been adopted in accordance with tribal law or practice. Do not submit your policies or standards with the application. If you propose to use ICDBG funds to rehabilitate HUD-assisted houses, you must also provide a written statement that project funds will be used to rehabilitate HUD-assisted houses only when the homebuyer's payments are current or the homebuyer is current in a repayment agreement except because of an emergency situation. For purposes of meeting this threshold, HUD-assisted houses are houses that are owned and/or managed by the tribe or tribally designated housing entity (TDHE). The ONAP Administrator, on a case-by-case basis, may approve exceptions to this requirement if the applicant provides adequate justification for the exception with its application. For housing rehabilitation, your application must contain information that shows that all households that receive ICDBG grant assistance are of low- and moderate-income status.

**b. New Housing Construction Project Thresholds**

(1) In accordance with 24 CFR 1003.302(b), new housing construction can only be implemented when necessary through a Community Based Development Organization (CBDO). Eligible CBDOs are described in 24 CFR 1003.204(c). You must provide documentation establishing that the entity implementing your new housing construction project qualifies as a CBDO.

(2) In accordance with 24 CFR 1003.302(b), you must have a current, in effect, tribal resolution adopting and identifying construction standards.

(3) In accordance with 24 CFR 1003.302(b), you must also include in your application documentation affirming the following:

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

(b) No other sources, including Indian Housing Block Grants (IHBG), can meet the needs of the household(s) to be served; and

(c) Rehabilitation of the unit occupied by the household(s) to be assisted is not economically feasible;

(d) The household(s) to be housed is currently in an overcrowded house (more than one household per house); or

(e) The household to be assisted has no current residence.

(4) For new housing construction, your application must contain information that shows that all households that receive ICDBG grant assistance are of low- and moderate income status.

c. **Economic Development Project Thresholds.** In accordance with 24 CFR 1003.302(c), for economic development assistance projects, you must provide a financial analysis. The financial analysis must demonstrate that the project is financially feasible and the project has a reasonable chance of success. The analysis must also demonstrate the public benefit resulting from the

ICDBG assistance. The more funds you request, the greater the public benefit you must demonstrate. The analysis must also establish that to the extent practicable, reasonable financial support will be committed from non-federal sources prior to disbursement of federal funds; any grant amount provided will not substantially reduce the amount of non-federal financial support for the activity; not more than a reasonable rate of return on investment is provided to the owner; and that grant funds used for the project will be disbursed on a pro-rata basis with amounts from other sources.

**d. Land Acquisition to Support New Housing, Homeownership Assistance, Public Facilities and Improvements, and Microenterprise Projects.** There are no project specific thresholds for these activities.

**4. Public Services.** Because there is a regulatory 15 percent cap on the amount of grant funds that may be used for public service activities, you may not receive a single-purpose grant solely to fund public service activities. Your application, however, may contain a public service component for up to 15 percent of the total grant, and this component may be unrelated to the other project(s) in your application. If your application does not receive full funding, HUD will reduce the public service allocation proportionately so that it comprises no more than 15 percent of the total grant award. In making such reductions, the feasibility of the proposed project will be taken into consideration. If a proportionate reduction of the public service allocation renders such a project infeasible, the project will not be funded. A complete description of public service projects is located at 24 CFR part 1003.201(e).

**5. Eligible Activities.** A complete description of activities that are eligible for ICDBG funding is identified at 24 CFR part 1003, subpart C. Rating Factors 2 and 3 included under Section V specify many of the activities listed as eligible under part 1003, subpart C. Those listed include

new housing construction (in certain circumstances, as described in Rating Factors 2 and 3), housing rehabilitation, land acquisition to support new housing, homeownership assistance, public facilities and improvements, economic development, and microenterprise programs. However, the following eligible activities not clearly identified by the rating factors may be proposed and rated as described below.

a. **Acquisition of property.** This activity can be proposed as acquisition of land or other real property to support New Housing Construction, Housing Rehabilitation, Public Facilities and Improvements, or Economic Development, depending on the purpose of the acquisition.

b. **Assistance to Institutions of Higher Learning.** If such entities have the capacity, they can help the ICDBG grantees implement eligible projects.

c. **Assistance to Community Based Development Organizations (CBDOs).** Grantees may provide assistance to these organizations to undertake activities related to neighborhood revitalization, community economic development, or energy conservation.

d. **Clearance and Demolition.** These activities can be proposed as part of Housing Rehabilitation, New Housing Construction, Public Facilities and Improvements, Economic Development, or Land to Support New Housing. Section 1003.201(d) states, “Demolition of HUD-assisted housing units may be undertaken only with the prior approval of HUD.”

e. **Code Enforcement.** This activity can be proposed as Housing Rehabilitation. The activity must comply with the requirements at 24 CFR 1003.202.

f. **Comprehensive Planning.** This activity is eligible, and can be proposed as part of any otherwise-eligible project to the extent allowed by the 20 percent cap on the grant for planning/administration.

- g. **Energy Efficiency.** Associated activities can be proposed under Housing Rehabilitation or Public Facilities and Improvements, depending upon the type of energy efficiency activity.
- h. **Lead-Based Paint Evaluation and Abatement.** These activities can be proposed under Housing Rehabilitation.
- i. **Non-Federal Share.** ICDBG funds can be used as a match for any non-ICDBG funding to the extent allowed by such funding and the activity is eligible under 24 CFR part 1003, subpart C.
- j. **Privately and Publicly Owned Commercial or Industrial Buildings (real property improvements).** These activities can be proposed under Economic Development. Privately owned commercial rehabilitation is subject to the requirements at 24 CFR 1003.202.
- k. **Privately Owned Utilities.** Assistance to privately owned utilities can be proposed under Public Facilities and Improvements.
- l. **Removal of Architectural Barriers.** This includes removing barriers that restrict mobility and access for elderly and persons with disabilities. In addition, facilities funded by ICDBG or used in the administration of ICDBG funded projects or activities must be accessible to persons with disabilities in accordance with Section 504 of the Rehabilitation Act and HUD's regulations at 24 CFR Part 8. Applicants should be aware of the accessibility needs of the persons they intend to serve in ICDBG funded projects and activities, and address these needs in appropriate accessible design features or program modifications to ensure that otherwise qualified persons with disabilities may benefit from them. This activity can be proposed under Housing Rehabilitation or Public Facilities and Improvements, depending upon the type of structure where the barrier will be removed.

m. **Mold.** During the past few years, many tribes have experienced high incidences of mold growth in tribal homes and buildings. Renovation of affected buildings is eligible under housing rehabilitation or public facility improvement projects.

n. **Public Services.** Public services are those which are directed toward improving the community's public services and facilities, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare, homebuyer downpayment assistance or recreational needs. Also see Section III.C.4. above and 24 CFR 1003.201(e).

**6. Ineligible Activities.** Section 1604 of the Recovery Act states that none of the funds appropriated or otherwise made available in the Act may be used by any State or local government, or private entity, for any casino, or other gambling establishment, aquarium, zoo, golf course, or swimming pool. In addition, any activity that is not authorized under the provisions of 24 CFR 1003.201 through 1003.206 is ineligible to be assisted with ICDBG funds. The regulations at 24 CFR 1003.207 govern ineligible activities and should be referred to for details. The following guidance is provided for determining the eligibility of other activities frequently associated with ICDBG projects.

a. **Government Office Space.** Buildings, or portions thereof, used predominantly for the general conduct of government cannot be assisted with ICDBG funds. Those buildings include, but are not limited to, local government office buildings, courthouses, and other headquarters of government where the governing body meets regularly. Buildings that contain both governmental and non-governmental services can be assisted so long as the ICDBG funds are used only for the non-governmental sections. An example of an ineligible building is a building to house the community development division or a tribal administration building. The term

“Buildings for the general conduct of government” is further defined at 24 CFR 1003.4. Your Area ONAP office should be consulted for projects of this nature.

**b. General Government Expenses.** Except as authorized in the regulations or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance with ICDBG funds.

**c. Maintenance and Operation Expenses.** In general, any expenses associated with repairing, operating, or maintaining public facilities and services are not eligible for assistance. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities [24 CFR 1003.201(e)], office space for program staff employed in carrying out the ICDBG program [24 CFR 1003.206(a)(4)], and interim assistance [24 CFR 1003.201(f)]. For example, where a public service is being assisted with ICDBG funds, the cost of operating and maintaining that portion of the facility in which the service is located is eligible as part of the public service. Examples of ineligible operating and maintenance expenses are routine and non-routine maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with disabilities, parking facilities, and similar public facilities, as well as staff salaries, utility costs, and similar expenses necessary for the operation of public works and facilities.

**d. New Housing Construction.** The construction of new permanent residential structures and any program to subsidize or finance such new construction is ineligible, unless carried out by a Community-Based Development Organization (CBDO) pursuant to 24 CFR 1003.204(a).

**e. Furnishings and Personal Property.** In general, the purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is ineligible. Exceptions include when such purchases are necessary for use in grant administration (24 CFR

1003.206); necessary and appropriate for use in a project carried out by a CBDO (24 CFR 1003.204); used in providing a public service (24 CFR 1003.201(e)); or used as firefighting equipment (24 CFR 1003.201(c)(1)(ii)). However, ICDBG funds may be used to pay depreciation or use allowances (in accordance with OMB Circular A-87 or A-122, as applicable).

**f. Construction Tools and Equipment.** The purchase of construction tools and equipment is generally ineligible. However, compensation for the use of such tools and equipment through leasing, depreciation, or use allowances pursuant to OMB Circulars A-87 and A-122, as applicable, for an otherwise eligible activity, is eligible. Exceptions include construction tools and equipment purchased for use as part of a solid waste facility (24 CFR 1003.201(c)(1)(ii)) and construction tools only (not equipment) purchased for use in a housing rehabilitation project being administered by the recipient using the force account construction method (24 CFR 1003.202(b)(8)).

**g. Income Payments.** In general, assistance shall not be used for income payments for housing or any other purpose. Income payments mean a series of subsistence-type grant payments made to an individual/family for items such as food, clothing, housing (rent/mortgage), or utilities, but excludes emergency payments made over a period of up to three months to the provider of such items or services on behalf of an individual/family. Examples of ineligible income payments include the payments for income maintenance and housing allowances.

**h. Job Pirating.** ICDBG funds may not be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from one area to another, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs.

#### **IV. Application and Submission Information**

**A. Addresses to Request Application Package.** Copies of this published NOFA and all application forms for this NOFA may be downloaded from HUD's website at <http://www.hud.gov/recovery/>.

#### **B. Content and Form of Application Submission**

**1. Application Information.** All information required to complete a valid application is included in this NOFA. Before preparing an application, applicants should carefully review the program description, ineligible activities, program and threshold requirements. Applicants should also review each rating factor listed in Section V of this NOFA, before writing a narrative response. Indicate on the first page of each project submission the type of project(s) you are proposing: Economic Development, Homeownership Assistance, Housing Rehabilitation, Land Acquisition to Support New Housing, Microenterprise Programs, New Housing Construction, or Public Facilities and Improvements. This will help to ensure that the appropriate project-specific thresholds and rating subfactors will be applied. Narrative statements submitted to support your application should be individually labeled to reflect the item the narrative is responding to, e.g., Factor 1, Factor 2, etc. It is recommended that you limit your narrative explanations to 15 pages for all factors and provide the necessary data such as a market analysis, a pro forma, housing survey data, etc., that support the response. Applicants should not submit third party documents, such as audits, resolutions, policies, unless specifically asked to do so. Please use separate tabs for each rating factor and rating subfactor. In order to be rated, make sure the response is beneath the appropriate heading. Keep the responses in the same order as the NOFA and include all material relevant to a response under the same tab. Only include documentation that will clearly and concisely support your response to the rating criteria.

HUD suggests that you do a preliminary rating for your project, providing a score according to the point system in Section V of this NOFA. This will show you how reviewers might score your project and identify its strengths and weaknesses. This will help you determine where you can make improvements prior to its submission. An application checklist for you to use to ensure that you have submitted all required components is found in this section under number 2 below.

**2. Content of Application, Forms, and Required Elements.** The applicant must submit all of the forms required in this section, along with other data listed below.

- a. Narrative to all five of the rating factors listed in Section V.A. of this NOFA.
- b. Application for Federal Assistance (SF-424), which includes a Dun and Bradstreet Data Universal Numbering System (DUNS) number.
- c. Supplement Survey on Ensuring Equal Opportunity for Applicants (“Faith Based EEO Survey (SF-424 SUPP)”).
- d. Applicant/Recipient Disclosure/Update Report (form HUD-2880), (“HUD Applicant Recipient Disclosure Report”).
- e. If the application is being submitted by a tribal organization as defined in 24 CFR 1003.5(b), on behalf of an Indian tribe, you must submit concurring resolutions from the Indian tribe stating that the tribal organization is applying on the tribe's behalf.
- f. A schedule for implementing the project (form HUD-4125, Implementation Schedule).
- g. Cost information for each separate project, including specific activity costs, administration, planning, technical assistance and total HUD share (form HUD-4123, Cost Summary). Planning

and administrative costs cannot exceed 20 percent of the grant. The following criteria apply to planning and administrative costs:

(1) Planning and administrative activities may be funded only in conjunction with a physical development activity.

(2) If you are submitting an application for more than one project, costs must be broken down by project. Submit one form HUD-4123 for each proposed project in addition to a consolidated form HUD-4123 that includes costs for all proposed projects.

(3) Do not include project costs (i.e., architectural/engineering, environmental, technical assistance, staff/overhead costs) directly related to the project.

(4) Indirect costs may be charged to the ICDBG program under a cost sharing plan prepared in accordance with OMB Circular A-21, A-87, or A-122 as applicable.

h. Evidence in the form of a tribal resolution that the applicant has published or posted information about the application pursuant to the citizen participation requirements of 24 CFR 1003.604.

i. A map showing project location, if appropriate.

j. Low- and moderate-income benefit. Your application must contain information that indicates at least 70 percent of the grant funds will be used for activities that benefit low- and moderate-income persons, in accordance with the requirements of 24 CFR 1003.208. For housing activities, including but not limited to, acquisition or rehabilitation of housing, conversion of non-residential structures and new housing construction, all households that receive ICDBG grant assistance must be of low- and moderate-income status.

k. Demographic data. If applicable, demographic information that complies with the requirements in Section V.A. Rating Factor 2 of this NOFA. The data accompanying the

statement must identify the total number of persons benefiting from the project and the total number of low- and moderate-income persons benefiting from the project. To be considered, supporting documentation must include all of the following: a sample copy of a survey form, an explanation of the methods used to collect the data, and a listing of incomes by household including household size.

l. Project-Specific Thresholds. Applicants must respond to project-specific thresholds outlined in Section III.C.3, as applicable except for the provisions that have been waived. The Project-Specific Thresholds for Housing Rehabilitation, New Housing Construction, and Economic Development have submission requirements that must be addressed in the application in order to meet the applicant threshold requirements and for the project to be rated.

m. Commitment to Housing for Land Acquisition to Support New Housing Projects. For land acquisition to support new housing projects, your application must include evidence of financial commitment and an ability to construct at least 25 percent of the housing units on the land proposed for acquisition. This evidence must consist of one (or more) of the following: a firm or conditional commitment to construct (or to finance the construction of) the units; documentation that an approvable application for the construction of these units has been submitted to a funding source or entity; or documentation that these units are specifically identified in the Indian Housing Plan (IHP), (one-Year Financial Resources Narrative; Table 2, Financial Resources, Part I, Line 1E; and Table 2, Financial Resources, Part II) submitted by or on behalf of the applicant as an affordable housing resource with a commensurate commitment of Indian Housing Block Grant (IHBG) (also known as NAHBG) resources. If the IHP for the IHBG (also known as NAHBG) program year that coincides with the implementation of the ICDBG proposed project has not been submitted, you must provide an assurance that the IHP

will specifically reference the proposed project. The IHP submission must occur within three years from the date the land is acquired and ready for development.

n. Health Care Facilities. If you propose a facility that would provide health care services funded by the Indian Health Service (IHS), you must provide a statement that the facility will meet all applicable IHS facility requirements. HUD recognizes that tribes that are contracting services from the IHS may establish other facility standards. These tribes must assure that these standards at least compare to nationally accepted minimum standards.

o. Correctional Facilities/Juvenile Detention Centers. If you propose a correctional facility or juvenile detention center that would provide correctional services to be funded by the U.S. Department of Justice (DOJ) and/or Bureau of Indian Affairs (BIA), you must provide a statement that the facility meets all applicable BIA standards regarding correctional operations, programs and designs.

p. Code of Conduct. If your Code of Conduct (code) is not listed on HUD's website at <http://www.hud.gov/offices/adm/grants/codeofconduct/cconduct.cfm> or if the information on the website has changed, you must submit a copy of your code with your application.

q. Disclosure of Lobbying Activities (SF-LLL). This form must be submitted by State-recognized Indian tribes and tribally designated housing entities established only under state law.

r. Central Contractor Registration (CCR). Evidence that the applicant has registered with the CCR.

s. Waivers. A listing of any regulatory waivers in Section II.E.3. that will apply to the application submission under this NOFA.

t. Optional submissions are:

(1) You Are Our Client! Grant Applicant Survey (HUD 2994-A) (Optional); and

(2) Program Outcome Logic Model, HUD-96010. See Rating Factor V for additional information.

### **C. Receipt Date and Time**

1. **Application Receipt Deadline.** Applications will be reviewed as they are received and must be received by July 7, 2009. Applications should be submitted to the appropriate Area ONAP and must be received no later than 5:00 p.m. local Area ONAP time on this date. Applications will be date and time stamped.

2. **Mailing and Receipt Procedures.** One signed original and one copy of each application should be mailed to the respective Area ONAP. A list identifying each Area ONAP jurisdiction is provided at <http://www.hud.gov/offices/pih/ih/codetalk/onap/map/nationalmap.cfm> under the ICDBG program. Applications may be mailed using DHL, Falcon Carrier, Federal Express (FedEx), United Parcel Services (UPS), or the United States Postal Service (USPS). In order to have your application package delivered and not returned to sender, you must have the package accepted by a postal clerk at a post office counter. At the counter, you can proceed to obtain the necessary postage and the USPS Form 3817 or the receipt received from the post office showing the postal facility name, location, and date and time of mailing. Be sure to obtain a receipt for application submitted to deliver services or to the USPS.

Applications that are hand delivered or submitted by facsimile will not be accepted. If you mail your application to the wrong location and the office designated for receipt in accordance with these submission requirements does not receive it, your application will be considered late and not considered for funding. HUD will not be responsible for directing it to the appropriate office.

**D. Intergovernmental Review.** Indian tribes are not subject to the Intergovernmental Review process.

**E. Funding Restrictions.** See Sections III.C.4 and 6 and Sections IV.B.2.h. and k. of this NOFA.

## **V. Application Review Information**

### **A. Criteria**

**1. Rating Factors to Evaluate and Rate Applications.** The factors for rating applications and the points for each factor are provided below. A maximum of 100 points may be awarded under Rating Factors 1 through 5. To be considered for funding, your application must receive a minimum of 70 points. The following summarizes the points assigned to each rating factor and each rating subfactor and lists which rating subfactors apply to which project types. Please use this table to ensure you are addressing the appropriate rating subfactor for your project.

<b>RATING FACTOR</b>	<b>TITLE</b>	<b>POINTS</b>	<b>PROJECT TYPE</b>
<b>1</b>	<b>RECOVERY ACT PRIORITIES</b>	<b>30 TOTAL</b>	<b>All Project Types</b>
1	Contract Awards	15	All Project Types
2	Recovery Act and Other Priorities	15	All Project Types
2.a.	Construction and Employment Opportunities	8	All Project Types
2.b.	Green Development	7	All Project Types
<b>2</b>	<b>NEED/EXTENT OF THE PROBLEM</b>	<b>16 TOTAL</b>	<b>All Project Types</b>
<b>1</b>	Need and Viability	<b>4</b>	All Project Types
<b>2</b>	Project Benefit	<b>12</b>	All Project Types

<b>2.a.</b>	Public Facilities and Improvement Projects	<b>12</b>	Public Facilities and Improvement Projects
<b>2.b.</b>	Economic Development Projects	<b>12</b>	Economic Development Projects
<b>2.c.</b>	New Housing Construction, Housing Rehabilitation,	<b>12</b>	New Housing Construction, Housing Rehabilitation, Land Acquisition to Support
<b>2.d.</b>	Microenterprise Programs	<b>12</b>	Microenterprise Programs
<b>3</b>	<b>SOUNDNESS OF APPROACH</b>	<b>36 TOTAL</b>	<b>All Project Types</b>
<b>1</b>	Description of and Rationale for Proposed Project	<b>14</b>	All Project Types
<b>2</b>	Budget and Cost Estimates	<b>8</b>	All Project Types
<b>3</b>	Intent to Meet Section 3 Requirements	<b>2</b>	All Project Types
<b>4</b>	Commitment to Sustain Activities	<b>12</b>	<b>All Project Types</b>
<b>4.a.</b>	Public Facilities and Improvement Projects	<b>12</b>	Public Facilities and Improvements
<b>4.b.</b>	New Housing Construction, Housing Rehabilitation, and	<b>12</b>	New Housing Construction, Housing Rehabilitation, and Homeownership Assistance
<b>4.c.</b>	Economic Development Projects	<b>12</b>	Economic Development Projects
<b>4.d.</b>	Microenterprise Programs	<b>12</b>	Microenterprise Programs
<b>4.e.</b>	Land Acquisition Projects to Support New Housing	<b>12</b>	Land Acquisition to Support New Housing
<b>4</b>	<b>LEVERAGING RESOURCES</b>	<b>8 TOTAL</b>	All Project Types
<b>5</b>	<b>COMPREHENSIVENESS AND COORDINATION</b>	<b>10 TOTAL</b>	All Project Types
<b>1</b>	Coordination	<b>2</b>	All Project Types
<b>2</b>	Outputs, Outcomes and/or Goals	<b>8</b>	All Project Types
<b>TOTAL</b>		<b>100</b>	<b>Minimum of 70 Points Required</b>

**Rating Factor 1: Recovery Act and Other Priorities (30 points)**

This factor addresses the extent to which applicants submit proposals that address the goals of the Recovery Act to create employment and foster economic recovery. The factor also measures the extent to which applicants can undertake Green Development, another goal of the Department.

### **1. Contract Awards (15 points)**

**(15 points)** The application clearly demonstrates that contracts can and will be awarded within 120 days from the date the funds are available to the applicant. Its implementation plan (form HUD-4123) identifies the specific tasks and timelines that the applicant and contractor partners will undertake to complete the proposed project on time and within budget.

**(10 points)** The application adequately demonstrates that contracts can and will be awarded within 120 days from the date that the funds are available to the applicant. Its implementation plan (form HUD-4123) identifies the specific tasks and timelines that the applicant and contractor partners will undertake to complete the proposed project on time and within budget.

**(5 points)** The applicant indicates that contracts can and will be awarded within 120 days from the date that the funds are available to the applicant but its implementation plan (form HUD-4123) did not identify the specific tasks and timelines that the applicant and contractor partners will undertake to complete the proposed project on time and within budget.

**(0 points)** The applicant did not demonstrate that contracts can and will be awarded within 120 days from the date that the funds are available to the applicant.

### **2. Recovery Act and Other Priorities (15 points)**

#### **a. Construction and Employment Opportunities (8 points)**

**(8 points)** 100 percent of the funds (less amounts budgeted for planning and administration) will be used to spur construction and create employment opportunities for low-income and

unemployed persons. The application clearly demonstrates how low-income and unemployed persons will be recruited for available positions. The number of jobs that will be created or retained is included.

**(5 points)** 80 percent of the funds (less amounts budgeted for planning and administration) will be used to spur construction and create employment opportunities for low-income and unemployed persons. The application adequately demonstrates how low-income and unemployed persons will be recruited for available positions. The number of jobs that will be created or retained is included.

**(3 points)** 50 percent of the funds (less amounts budgeted for planning and administration) will be used to spur construction and create employment opportunities for low-income and unemployed persons. The application adequately demonstrates how low-income and unemployed persons will be recruited for available positions. The number of jobs created or retained is included.

**(0 points)** None of the funds will be used to spur construction and create employment opportunities for low-income and unemployed persons.

**b. Green Development (7 points)**

**(7 points)** The applicant demonstrates how the proposed project will utilize Energy Star appliances and products and incorporate Green Development practices/techniques as spelled out in Section V.B.2.f. of the General Section to HUD's FY 2009 NOFAs for Discretionary Programs (73 FR 79548, December 29, 2008). The applicant describes the qualifications of the person(s) responsible for this aspect of the proposed project. Note that the information in the General Section on rating factor points for Green Development is superseded by this NOFA.

Applicants electing to meet these requirements, however, must agree to use the HUD/PIH Benchmarking Tool at <http://www.hud.gov/offices/pih/programs/ph/phecc/econserve.cfm>.

**(5 points)** The applicant demonstrates how the proposed project will utilize Energy Star appliances and products and incorporate Green Development practices/techniques. However, the applicant did not indicate that the practices/techniques spelled out in Section V.B.2.f. of the General Section of HUD's FY 2009 NOFAs for Discretionary Programs (December 29, 2008) will be incorporated.

**(3 points)** The applicant demonstrates how the proposed project will utilize either Energy Star appliances and products, or incorporate Green Development practices/techniques.

**(0 points)** Neither Energy Star appliances and products or Green Development practices/techniques will be incorporated into the project(s).

**Rating Factor 2: Need/Extent of the Problem (16 points)**

This factor addresses the extent to which there is a need for the proposed project to address a documented problem among the intended beneficiaries.

**1. Need and Viability (4 points)**

**(4 points)** Your application includes quantitative information that demonstrates that the proposed project meets an essential community development need and is critical to the viability of the community.

**(2 points)** Your application includes quantitative documentation but it does not demonstrate that the project meets both an essential community need and is critical to the viability of the community.

**(0 points)** Your application did not include quantitative documentation.

**2. Project Benefit (12 points)** Your project benefits the neediest segment of the population, in accordance with the ICDBG program's primary objective defined at 24 CFR 1003.2. The criteria for this subfactor vary according to the type of project for which you are applying.

**a. Public Facilities and Improvement Projects (12 points)**

The proposed activities benefit the neediest segment of the population, as identified below. In order to meet the requirements of this section, you must submit the most recently available Decennial Census information or you may submit data that are unpublished, not generally available, and not older than the latest Census data. If you are submitting demographic data other than the Census, your application must contain a statement that the following criteria have been met:

- Generally available published data are substantially inaccurate or incomplete;
- Data that you submit have been collected systematically and are statistically reliable;
- Data are, to the greatest extent feasible, independently verifiable; and
- Data differentiate between reservation and BIA service area populations, when applicable.

The data accompanying the statement must identify the total number of persons benefiting from the project and the total number of low- and moderate-income persons benefiting from the project. To be considered, supporting documentation must include all of the following: a sample copy of a survey form, an explanation of the methods used to collect the data, and a listing of incomes by household including household size.

**(12 points)** At least 85 percent of the beneficiaries are low- and moderate-income.

**(8 points)** At least 75 percent but less than 85 percent of the beneficiaries are low- and moderate-income.

**(4 points)** At least 55 percent but less than 75 percent of the beneficiaries are low- and moderate-income.

**(0 points)** Less than 55 percent of the beneficiaries are low- or moderate-income.

**b. Economic Development Projects (12 points)**

The proposed activities benefit the neediest segment of the population, as identified below. For economic development projects, you may consider beneficiaries of the project as persons served by the project and/or persons employed by the project, and jobs created or retained by the project. For persons served by the project, you must submit the most recently available Decennial Census information or you may submit data that are unpublished, not generally available, and not older than the latest Census data as described in 2.a. above.

For documenting persons employed by the project, you do not need to submit a demographic data statement and corresponding documentation. However, you do need to submit information that describes the nature and number of the jobs created or retained for low/moderate income people. Such information includes, but is not limited to, brief descriptions of proposed job responsibilities, job titles, salaries, and the number of full-time equivalent positions. If you believe jobs will be retained as a result of the ICDBG project, include information that shows clearly and objectively that jobs will be lost without the ICDBG project. Jobs that are retained only for the period of the grant will not count under this rating factor.

**(12 points)** At least 85 percent of the beneficiaries are low- and moderate-income.

**(8 points)** At least 75 percent but less than 85 percent of the beneficiaries are low- and moderate-income.

**(4 points)** At least 55 percent but less than 75 percent of the beneficiaries are low- and moderate-income.

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

**c. New Housing Construction, Housing Rehabilitation, Land Acquisition to Support New Housing, and Homeownership Assistance Projects (12 points).** The need for the proposed project is determined by utilizing data from the tribe's 2008 IHBG formula information.

This amount has been computed for each tribe and posted in the "Factor 2 Needs Table" that is available at <http://www.hud.gov/recovery/> under the ICDBG program. **(12 points)** The dollar amount for the Indian tribe is \$311 - \$750 or the tribe's total FY 2008 IHBG amount was \$100,000 or less and the Needs Table indicates that the Indian tribe has American Indian and Alaskan Native (AIAN) households experiencing income or housing problems.

**(8 points)** The dollar amount for the Indian tribe is \$751 - \$1,250.

**(4 points)** The dollar amount for the Indian tribe is \$1,251 - \$3,999.

**(0 points)** The dollar amount for the Indian tribe is \$4,000 or higher, or the Needs Table indicates that the Indian tribe has no AIAN households experiencing income or housing problems.

**d. Microenterprise Programs (12 points)**

A microenterprise is a business that has five or fewer employees, one or more of whom owns the enterprise. The owner(s) of the microenterprise must be low- and moderate-income and the majority of the jobs created or retained will be for low- and moderate-income persons. To evaluate need, the nature of the jobs created or retained will be evaluated. For documenting persons employed by the project, you do not need to submit a demographic data statement and corresponding documentation. However, you do need to submit information that describes the

nature and number of the jobs created or retained for low/moderate income people. Such information includes, but is not limited to, brief descriptions of proposed job responsibilities, job titles, salaries, and the number of full-time equivalent positions. If you believe jobs will be retained as a result of the ICDBG project, include information that shows clearly and objectively that jobs will be lost without the ICDBG project. Jobs that are retained only for the period of the grant will not count under this rating factor.

The owners of the microenterprises are low- and moderate-income and:

**(12 points)** All employees are low- and moderate-income.

**(8 points)** At least 75 percent but less than 100 percent of the employees are low- and moderate-income.

**(4 points)** At least 50 percent but less than 75 percent of the employees are low- and moderate-income.

**(0 points)** Less than 50 percent of the employees are low- and moderate-income.

### **Rating Factor 3: Soundness of Approach (36 points)**

This factor addresses the quality and anticipated effectiveness of your proposed project to enhance community viability and meet the needs you have identified in Rating Factor 2 and the commitment to sustain your proposed project. The populations that were described in demographics that documented need should be the same populations that will receive the primary benefit of the proposed project.

#### **1. Description of and Rationale for Proposed Project (14 points)**

**(14 points)** The proposed project is a viable and cost effective approach to address the needs outlined under Rating Factor 2 of your application. The proposed project is described in detail and you indicate why you believe it will be most effective in addressing the identified need. In

order for an application to receive full credit under this factor, the application must demonstrate how the community's viability will be enhanced, as presented in Rating Factor 5. The application includes a description of the size, type, and location of the project.. If your application is for construction of housing or a public facility building or rehabilitation project, it must also include anticipated cost savings related to project development due to program design or construction methods. For land acquisition to support new housing projects, you must establish that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low- and moderate-income households to benefit from the project.

**(10 points)** The proposed project is a viable and cost-effective approach to address the needs outlined under Rating Factor 2 of the application. The project is described in detail and indicates why you believe the project will be most effective in addressing the identified need. The application includes a description of the size, type, and location of the project. For land acquisition to support new housing projects, the applicant has established that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low- and moderate-income households to benefit from this project. The application (for construction of housing or a public facility building or rehabilitation projects) does not include anticipated cost savings due to program design and/or construction methods.

**(6 points)** The proposed project is a viable and cost-effective approach to address the needs outlined under Rating Factor 2 of the application. The project is described and you indicate why you believe the project will be most effective in addressing the identified need. The application includes either a description of the size, type, or location of the project. For land acquisition to support new housing projects, the applicant has established that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low- and moderate-

income households to benefit from the project. The application (for construction of housing or a public facility building or rehabilitation activities) does not include anticipated cost savings due to program design and/or construction methods.

**(0 points)** The proposed project is not a viable and cost-effective approach to address the needs outlined under Rating Factor 2 of the application. The proposed project is not described in detail with an indication of why the applicant believes the project will be most effective in addressing the identified need. For land acquisition to support new housing projects, the applicant has not established that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low- and moderate-income households to benefit from the project. The application (for construction of housing or a public facility building and rehabilitation activities) does not include anticipated cost savings due to program design and/or construction methods.

## **2. Budget and Cost Estimates (8 points)**

The budget is thorough and reasonable and all costs are documented.

**(8 points)** Cost estimates are broken down by line item for each proposed activity, including planning and administration costs. A description of the qualifications of the person who prepared the cost estimate is provided.

**(4 points)** Cost estimates are provided but not broken down by line item for each proposed activity, including planning and administration costs. A description of the qualifications of the person who prepared the cost estimate is not provided.

**(0 points)** Cost estimates are not provided.

## **3. Intent to Meet Section 3 Requirements (2 points)**

Your application demonstrates how you will apply the Section 3 requirements of the Housing and Urban Development Act of 1968 and the regulations in 24 CFR part 135 (Economic

Opportunities for Low- and Very Low-Income Persons) to the proposed project. You must demonstrate how you will incorporate Section 3 principles, with goals for expanding opportunities for Section 3 residents and business concerns, to your proposed project. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low income persons (but not in derogation of compliance with the Indian Preference provisions in Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

#### **4. Commitment to Sustain Activities (12 points)**

Your application demonstrates your commitment to your community's viability by sustaining your proposed activities. The information provided is sufficient to determine that the project will proceed effectively.

The criteria for this subfactor vary according to the type of project for which you are applying.

##### **a. Public Facilities and Improvement Projects (12 points)**

**(12 points)** If a tribe or an entity other than the tribe will have operation and maintenance responsibilities for the public facilities and improvements, provide a written statement that the tribe has adopted, or the entity has developed, the operation and maintenance plan and commits the necessary funds to provide for these responsibilities. In addition, describe how the operation and maintenance plan addresses maintenance, repairs, insurance, security, and replacement reserves and include a cost breakdown for annual expenses. For public facility buildings only, a commitment is included in the application that identifies the source of and commits the necessary operating funds for any recreation, social, or other services to be provided. In addition, letters of commitment from service providers are included that address both operating expenses and space

needs. For infrastructure projects such as water lines, the operations and maintenance plan need not provide for security.

**(8 points)** If a tribe or an entity other than the tribe will have operation and maintenance responsibilities for the public facilities and improvements, provide a written statement that the tribe has adopted, or the entity has developed, the operation and maintenance plan and commits the necessary funds to provide for these responsibilities. In addition, a description was included that shows that the operation and maintenance plan addresses only four of the following items (maintenance, repairs, insurance, security, and replacement reserves) but a satisfactory cost breakdown for annual expenses was not included. For community buildings only, a commitment is included in the application that identifies the source of and commits the necessary operating funds for any recreation, social, or other services to be provided. In addition, letters of commitment from service providers are included that address both operating expenses and space needs. Information provided is sufficient to determine that the project will proceed effectively.

**(4 points)** If a tribe, or an entity other than the tribe, will have operation and maintenance responsibilities for the public facilities and improvements, the application includes a written statement that the tribe has adopted, or the entity has developed, the operation and maintenance plan and commits the necessary funds to provide for these responsibilities, or a description of the operation and maintenance plan is included that shows that the plan addresses only three of the following items (maintenance, repairs, insurance, security, and replacement reserves). Letters of commitment to provide services are included but they do not address operating expenses and space needs. Information provided is sufficient to determine that the project will proceed effectively.

**(0 points)** None of the above criteria is met.

**b. New Housing Construction, Housing Rehabilitation, and Homeownership Assistance Projects (12 points)**

**(12 points)** The ongoing maintenance responsibilities are clearly identified for the tribe and/or the participants, as applicable. If the tribe or another entity is assuming maintenance responsibilities, then the applicant must describe the maintenance responsibilities and provide a commitment to that effect.

**(8 points)** Maintenance responsibilities for the tribe and/or participants are identified and described, but lacking in detail, and the commitment regarding maintenance responsibilities is submitted.

**(4 points)** Tribal maintenance responsibilities are identified but participant responsibilities are either not addressed or do not exist, or there is no commitment regarding maintenance responsibilities.

**(0 points)** None of the above criteria is met.

**c. Economic Development Projects (12 points)**

In addition to information requested in the economic development threshold requirement at Section III.C.3(c) of this NOFA, you must describe: how your project will operate; why it is needed in your market/area; and how and why the project will succeed.

**(12 points)** All three components have been addressed and evidence is provided that the project's chance for financial success is excellent.

**(8 points)** Two of the above components have been addressed and evidence is provided that the project's chance for financial success is reasonable.

**(4 points)** One of the above components has been addressed and evidence is provided that the project's chance for financial success is marginal.

**(0 points)** None of the above components have been addressed.

**d. Microenterprise Programs (12 points)**

Your application must include a description of your microenterprise program including the types of assistance offered to microenterprise applicants and the types of entities eligible to apply for such assistance. You must describe your processes for analyzing microenterprise applicants' business plans, market studies, and financial feasibility. For credit programs, you must describe your process for determining the loan terms (i.e. interest rate, maximum loan amount, duration, loan servicing provisions) to be offered to individual microenterprise applicants.

**(12 points)** All of the above information or documentation applicable to the proposed project is thoroughly addressed in the application and evidence is provided that the chance for success is excellent.

**(8 points)** Most of the above information or documentation applicable to the proposed project is addressed in the application and evidence is provided that the chance for success is reasonable.

**(4 points)** Some of the of the above information or documentation applicable to the proposed project is addressed in the application and evidence is provided that the chance for success is marginal.

**(0 points)** None of the above criteria is met.

**e. Land Acquisition Projects to Support New Housing (12 points)**

Applications must include the results of a preliminary investigation conducted by a qualified independent entity demonstrating that the proposed site has: suitable soil conditions for housing and related infrastructure; potable drinking water accessible for a reasonable cost; access to utilities; vehicular access; drainage; nearby social and community services; and no known environmental problems.

**(12 points)** The application includes all of the above-mentioned items and all necessary infrastructure is in place.

**(8 points)** The application includes the results of a preliminary investigation conducted by a qualified independent entity which demonstrates that the proposed site(s) is/are suitable for housing but that not all necessary infrastructure is in place. A detailed description of resources to be used and a detailed implementation schedule for development of all necessary infrastructure indicates such infrastructure, as needed for proposed housing development, will be developed in time for such development, but no later than two years after site purchase.

**(4 points)** The application demonstrates that the proposed site(s) could be suitable for housing but only a limited amount of infrastructure is in place. The results of a preliminary investigation by a qualified independent entity is not included.

**(0 points)** None of the above criteria is met.

**Rating Factor 4: Leveraging Resources (8 points)**

HUD believes that ICDBG funds can be used more effectively to benefit a larger number of Native American and Alaska Native persons and communities if projects are developed that use tribal resources and resources from other entities in conjunction with ICDBG funds. To encourage this, HUD will award points based on the percentage of non-ICDBG resources provided relative to project costs as follows:

<u>Non-ICDBG Resources to Project Costs</u>	<u>Points</u>
Less than 4 percent	0
At least 4 percent but less than 11 percent	2
At least 11 percent but less than 18 percent	4
At least 18 percent but less than 25 percent	6

25 percent or more

8

Contributions that could be considered as leveraged resources for point award include, but are not limited to: tribal trust funds, loans from individuals or organizations, private foundations, businesses, state or federal loans or guarantees, other grants including IHBG (also known as NAHBG) funds, donated goods and services needed for the project, land needed for the project, and direct administrative costs. With the exception of land acquisition, funds that have been expended on the project prior to the application deadline date will not be counted as leverage. Applicants are reminded that environmental review requirements under 24 CFR part 58 apply to the commitment or use of both ICDBG and non-ICDBG funds in a leveraged project. See Section VI.B.1.a. of this NOFA for information related to this requirement.

Contributions that will not be considered include, but are not limited to: indirect administrative costs as identified in OMB Circular A-87, attachment A, section F; contributions of resources to pay for anticipated operations and maintenance costs of the proposed project; and, in the cases of expansions to existing facilities, the value of the existing facility.

To obtain points for this rating factor, letters of firm or projected commitments, memoranda of understanding, or agreements to participate from any entity, including the tribe that will be providing a contribution to the project, must accompany the application. To receive funding consideration, all documents must be received by the application deadline dates and meet the timely receipt requirements.

To demonstrate the commitment of tribal resources, the application must contain a written statement that identifies and commits the tribal resources to the project, subject to approval of the ICDBG assistance. In the case of IHBG funds, whether the tribe or a TDHE administers them, an approved Indian Housing Plan (IHP) must identify and commit the IHBG resources to the

project. Do not submit the IHP with your application. ONAP will rely on the most recently approved IHP on file. If the tribe/TDHE intends to include the leveraged commitment in a future IHP, the application must contain a written statement that identifies and commits the IHBG resources to the project subject to the same requirements as above.

To demonstrate the commitment of a public agency, foundation, or other private party resources, a letter of commitment, memorandum of understanding, and/or agreement to participate, including any conditions to which the contribution may be subject, must be submitted with the application. All letters of commitment must include the donor organization's name, the specific resource proposed, the dollar amount of the financial or in-kind resource and method for valuation, and the purpose of that resource within the proposed project. An official of the organization legally authorized to make commitments on behalf of the organization must sign the commitment.

HUD recognizes that in some cases, firm commitments of non-tribal resources may not be obtainable by your tribe by the application deadline. For such projected resources, your application must include a statement from the contributing entity that describes why the firm commitment cannot be made at the current time and affirms that your tribe and the proposed project meets eligibility criteria for receiving the resource. In addition, a date by which the funding decisions will be made must be included. This date cannot be more than six months from the anticipated date of grant approval by HUD. Should HUD not receive notification of the firm commitment within 6 months of the date of grant approval, HUD will recapture the grant funds approved and will use them in accordance with the requirements of 24 CFR 1003.102. In addition to the above requirements, for all contributions of goods, services and land, you must demonstrate that the donated items are necessary to the actual development of the project and

include comparable costs that support the donation. Land valuation must be established using one of the following methods and the documentation must be contained in the application: a site-specific appraisal no more than two years old; an appraisal of a nearby comparable site also no more than two years old; a reasonable extrapolation of land value based on current area realtor value guides; or a reasonable extrapolation of land value based on recent sales of similar properties in the same area.

**Rating Factor 5: Comprehensiveness and Coordination (10 Points)**

This factor addresses the extent to which your project planning and proposed implementation reflect a coordinated, community-based process of identifying and addressing needs, including assisting beneficiaries and the program to achieve self-sufficiency/sustainability. The applicant should describe the project's specific benchmarks, outputs, outcomes, and goals for enhancing community viability. The applicant should also indicate how you will measure and evaluate how the goals are being met.

Applicants are strongly encouraged to use the Logic Model, HUD form 96010, to provide information on the measurable outputs, outcomes and program evaluation requirements.

Alternatively, this information can be submitted in a narrative format.

1. **Coordination (up to 2 points)** The application addresses the extent to which you have coordinated your proposed ICDBG activities with other organizations and/or tribal departments that are not providing direct financial support to your proposed work activities, but with which you share common goals and objectives and are working toward meeting these objectives in a holistic and comprehensive manner. For example, your project is consistent with and, to the extent possible, identified in the IHP (One-Year Financial Resources Narrative; Table 2, Financial Resources, Part I., Line 1E; and, Table 2, Financial Resources, Part II) submitted by

you or on your behalf for the IHBG (also known as NAHBG) program. If the IHP for the IHBG (also known as NAHBG) program year that coincides with the implementation of the ICDBG proposed project has not been submitted, you must provide a written statement that when submitted, the IHP will specifically reference the proposed project.

**2. Outputs, Outcomes, and/or Goals (up to 8 points)** The extent to which your proposed project identifies, measures and evaluates the specific benchmarks, outputs, outcomes and/or goals of your project that enhance community viability.

Outputs must include, where applicable:

- Number of houses rehabilitated;
- Number of jobs created or retained
- Number of homes/housing units utilizing Energy Star appliances or Green Building techniques ;
- Square feet for any public facility;
- Number of education or job training opportunities provided;
- Number of homeownership units constructed or financed;
- Number of businesses assisted (including number of minority/Native American);
- Number of families proposed to be assisted through a drug-elimination program, or through a program to reduce or eliminate health-related hazards.

Outcomes must include, where appropriate:

- Reduction in the number of families living in substandard housing;
- Increased income resulting from employment generated by project;
- Increased quality of life due to services provided by the public facility;
- Increased economic self-sufficiency of program beneficiaries;

- Increase in homeownership rates;
- Reduction of drug-related crime or health-related hazards.
- The relationship of the activities to the proposed outcomes.

HUD is providing a Master Logic Model as a Microsoft Excel™ file with dropdown listings from which applicants may select the items in each column that reflect their activity outputs and outcomes. The Master Logic Model listing also identifies the unit of measure that HUD is interested in collecting for the output and outcome selected. Applicants can also select the appropriate estimated number of units of measure to be accomplished and identified for each output and outcome. The space next to the output and outcome is intended to capture the anticipated units of measure. Multiple outputs and outcomes may be selected per project. .

## **B. Review and Selection Process**

1. **Application Selection Process.** You must meet all the applicable threshold requirements listed in Section III.C. of this program NOFA. Your application must meet all screening for acceptance requirements and all identified applicant and project specific thresholds. HUD will review an application and assign points in accordance with the selection factors described in this section.

2. **Application Screening.** ONAP will screen applications. It will reject an application that fails this screening and will return the application unrated. ONAP will accept your application if it meets all the criteria listed below as items (a) through (e).

- a. Your application is received or submitted in accordance with the requirements set forth under Application and Submission Procedures in Section IV of this NOFA;
- b. You are eligible;
- c. The proposed project is eligible;

d. Your application contains substantially all the components specified in Section IV. B. of this NOFA;

e. Your application shows that at least 70 percent of the grant funds are to be used for activities that benefit low- and moderate-income persons, in accordance with the requirements of 24 CFR 1003.208. For screening purposes only, HUD will use the 2000 census data if the data you submitted does not meet this screening requirement. For housing activities, all units must be occupied by low- and moderate-income households in accordance with 24 CFR 1003.208(c).

3. **Threshold Compliance.** ONAP will review an application that passes the screening process to ensure that each applicant and each proposed project meets the applicant threshold requirements set forth in 24 CFR 1003.301(a) and the project specific threshold requirements set forth in 24 CFR 1003.302 and III.C. of this NOFA.

4. **Past Performance.** An applicant's past performance was evaluated when the applicant successfully competed for FY 2008 ICDBG funds so no further evaluation will occur for this competition.

5. **Rating.** The application will be reviewed for each project that meets the acceptance criteria and threshold requirements. The total number of points for rating factors 1 through 5 is 100.

6. **Minimum Points.** To be considered for funding, your application must receive a minimum of 70 points.

7. **Tiebreakers.** If two or more fundable applications are received on the same date and at the same time, the applications will be considered for funding based on the highest points received.

8. **Funding Amounts.** Individual grant amounts will be determined in a manner consistent with the considerations set forth in 24 CFR 1003.100(b)(2). Specifically, a grant amount may be awarded that is less than the amount requested, taking into account the size of the applicant, the

level of demand, the scale of the activity proposed relative to need and operational capacity, the number of persons to be served, the amount of funds required to achieve project objectives, and the reasonableness of the project costs. If the Area ONAP determines that there are not enough funds available to fund a project as proposed by the applicant, it may decline to fund that project and may fund the next application, or the funds can be distributed to another Area ONAP.

## **9. Technical Deficiencies and Pre-award Requirements**

a. **Technical Deficiencies.** If there are technical deficiencies in successful applications, HUD will notify applicants by e-mail, facsimile, or via the U.S. Postal Service, return receipt requested. Clarifications or corrections of technical deficiencies in accordance with the information provided by HUD must be submitted within five calendar days of the receipt of the HUD notification. (If the deadline falls on a Saturday, Sunday, or federal holiday, the applicant's correction must be received by HUD on the next day that is not a Saturday, Sunday or federal holiday.). If the deficiency is not corrected within this time, HUD will reject the application as incomplete and it will not be considered for funding.

b. **Pre-award Requirements.** Successful applicants may be required to provide supporting documentation concerning the management, maintenance, operation, or financing of proposed projects before a grant agreement can be executed. Such documentation may include additional specifications on the scope, magnitude, timing or method of implementing the project; or information to verify the commitment of other resources required to complete, operate, or maintain the proposed project. HUD will notify applicants by facsimile or via the U.S. Postal Service, return receipt requested. Applicants will be provided fifteen (15) calendar days from the date of receipt of the HUD notification to respond to these requirements. No extensions will be provided. If the deadline date falls on a Saturday, Sunday, or federal holiday, your response

must be received by HUD on the next day that is not a Saturday, Sunday, or federal holiday. If you do not respond within the prescribed time period or you make an insufficient response, the Area ONAP will determine that you have not met the requirements and will withdraw the grant offer. You may not substitute new projects for those originally proposed in your application and any new information will not affect your project's rating and ranking. The Area ONAP will award, in accordance with the provisions of this NOFA, grant amounts that had been allocated for applicants unable to meet pre-award requirements.

c. The time period for calculating the response deadline for technical deficiencies and pre-award requirements begins on the day after receipt of the pre-award letter from the Area ONAP.

10. **Error and Appeals.** Judgments made within the provisions of this NOFA and the program regulations (24 CFR part 1003) are not subject to claims of error.

11. **Performance and Compliance Actions of Funding Recipients.** HUD will measure and address the performance of and order compliance actions by funding recipients in accordance with the applicable standards and sanctions of their respective programs.

## **VI. Award Administration Information**

**A. Award Notices.** Applications will be reviewed as they are received until all available funds have been obligated. HUD expects to announce awards by September 30, 2009. As soon as rating is completed, the applicant has complied with any pre-award requirements, and Congressional release has been obtained, a grant award letter, a grant agreement, and other forms and certifications will be mailed to the recipient for signature and return to the Area ONAP. The grant agreement, which is signed by HUD and the recipient, establishes the conditions by which both the Area ONAP and the recipient must abide during the life of the grant. All grants are conditioned on the completion of all environmental obligations and approval of release of funds

by the Area ONAP in accordance with the requirements of 24 CFR part 58. HUD may impose other grant conditions, if additional actions or approvals are required, before the use of funds.

## **B. Administrative and National Policy Requirements**

### **1. Statutory and Regulatory Requirements.**

**a. Environmental Requirements.** As required by 24 CFR 1003.605, ICDBG grantees must perform environmental reviews of ICDBG activities in accordance with 24 CFR part 58.

Grantees and other participants in the development process may not commit or expend any ICDBG or nonfederal funds on project activities (other than those listed in 24 CFR 58.22(f), 58.34 or 58.35(b)) until HUD has approved a Request for Release of Funds and environmental certification submitted by the grantee. The expenditure or commitment of ICDBG or nonfederal funds for such activities prior to HUD approval may result in the denial of assistance for the project or activities under consideration. See also Section II.E.2.

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

**c. Anti-discrimination Provisions.** Under the authority of Section 107(e)(2) of the CDBG statute, HUD waived the requirement that recipients comply with the anti-discrimination provisions in Section 109 of the CDBG statute with respect to race, color, and national origin. You must comply with the other prohibitions against discrimination in Section 109 (HUD's regulations for Section 109 are in 24 CFR part 6) and with the Indian Civil Rights Act.

**d. Conflict of Interest.** In addition to the conflict of interest requirements with respect to procurement transactions found in 24 CFR 85.36 and 84.42, as applicable, the provisions of 24 CFR 1003.606 apply to such activities as the provision of assistance by the recipient or sub-

recipients to businesses, individuals, and other private entities under eligible activities that authorize such assistance.

**e. Economic Opportunities for Low- and Very Low-Income Persons (Section 3).** Section 3 requirements under 24 CFR part 135 apply to the ICDBG program but, as stated in §135.3(c), the procedures and requirements of part 135 apply to the maximum extent consistent with, but not in derogation of, preferences for the benefit of Indians under §7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

**f. Affirmatively Furthering Fair Housing.** Applicants under this NOFA do not have a submission requirement related to the obligation to affirmatively further fair housing as required by Section 808(e) of the Fair Housing Act because Section 106(a)(1) of the Housing and Community Development Act exempts Indian tribes from this obligation.

**g. Buy American.** ICDBG grantees shall follow Buy American requirements of section 1605 of the Recovery Act and use only iron, steel and manufactured goods produced in the United States in their projects.

**h. Participating In HUD-Sponsored Program Evaluation.** As a condition of the receipt of financial assistance under a HUD program NOFA, all successful applicants will be required to cooperate with all HUD staff or contractors who perform HUD-funded research or evaluation studies.

**i. Drug-Free Workplace.** Applicants awarded funds from HUD are required to provide a drug-free workplace.

**j. The Lead-Based Paint Poisoning Prevention Act** (42 U.S.C. 4851 et al.), as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992, and implementing regulations at 24 CFR Part 35, shall apply to housing that receives Federal assistance under this program.

**k. False Statements.** A false statement in an application is grounds for denial or termination of an award and possible criminal, civil or administrative sanctions.

**l. Compliance with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282)(Transparency Act).** Applicants receiving an award from HUD should be aware of the requirements of the Transparency Act. The Transparency Act requires the establishment of a central website that make information available to the public regarding entities receiving federal financial assistance, by not later than January 1, 2008. In fulfillment of the requirements of the Act, OMB launched <http://www.USAspending.gov> in December 2007. The website makes information available to the public on the direct awards made by the federal government. The Transparency Act also requires beginning not later than January 2009, that data on subawards be made available on the same website. The only exceptions to this requirement under the Act are: (1) Federal transactions below \$25,000, (ii) credit card transactions prior to October 1, 2008, (iii) awards to entities from all sources did not exceed \$300,000 in the previous tax year of such entity, and (iv) award to individuals. Guidance for receiving an exception under item (iii) above has not been finalized by OMB. HUD is responsible for placing award information for direct grantees on the government Web site. Additional information regarding these requirements will be issued by OMB and will be provided when available.

**m. Wage Rate Requirements.** Under Section 1606 of the Recovery Act, contractors and subcontractors hired with Recovery Act funds are required to pay prevailing wages to laborers and mechanics in compliance with the Davis-Bacon Act. Grantees selected for funding under this program will receive additional guidance on compliance with the Davis-Bacon Act.

## **2. OMB Circulars and Government-wide Regulations Applicable to Financial Assistance**

**Programs.** The policies, guidance and requirements of OMB Circular A-87, Cost Principles Applicable to Grants, Contracts and other Agreements with State and Local Governments; and OMB Circular A-122, Cost Principles for Nonprofit Organizations; and OMB Circular A-133, Audits of State and Local Governments, and Nonprofit Organizations; and the regulations at 24 CFR part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments apply to the award, acceptance, and use of assistance under the ICDBG program and to the remedies for noncompliance, except when inconsistent with the provisions of the Consolidated Appropriations Act, 2006 (Pub L. 109-115; approved November 30, 2005) or the ICDBG program regulations at 24 CFR part 1003. Copies of the OMB Circulars may be obtained from EOP publications, Room 22000, New Executive Office Building, Washington, DC 20503, telephone (202) 395-3080 (this is not a toll-free number) or (800) 877-8339 (TTY Federal Information Relay Service). Information may also be obtained from the OMB website at <http://www.whitehouse.gov/omb/circulars/index.html>.

### **C. Reporting**

#### **1. Post-Award Reporting Requirements**

a. Quarterly Financial Reports. Grant recipients must submit to the Area ONAP a quarterly SF-272, Federal Cash Transaction Report. The report accounts for funds received and disbursed by the recipient. Effective October 1, 2009, the new Federal Financial Report, SF-425, will replace the SF-272.

b. Annual Status and Evaluation Report. Recipients are required to submit this report in narrative form annually. The report is due 45 days after the end of the federal fiscal year and at the time of grant close-out. The report must include:

(1) The narrative report must address the progress made in completing approved activities and include a list of work remaining, along with a revised implementation schedule, if necessary. This report should include progress on any outputs or outcomes specified in Rating Factor 5 and incorporated into the final award document (applicants can use the Logic Model (HUD-96010) to address all or some of the narrative requirements). (2) A breakdown of funds spent on each major project activity or category; and (3) If the project has been completed; an evaluation of the effectiveness of the project in meeting the community development needs of the grantee, as well as the final outputs and outcomes.

c. **Minority Business Enterprise Report.** Recipients must submit this report on contract and subcontract activity during the first half of the fiscal year by April 10 and, by October 10 for the second half of the fiscal year.

d. A close-out report must be submitted by the recipient within 90 days of completion of grant activities. The report consists of the final Financial Status Report (forms SF 269 or 269A), the final Status and Evaluation Report including outputs and outcomes agreed upon in the final award document relating to Rating Factor 5 and the Close-Out Agreement. More information regarding these requirements may be found at 24 CFR 1003.506 and 1003.508. Effective October 1, 2009, the new Federal Financial Report, SF-425, will replace the SF-269 and SF-269A.

## **2. Recovery Act Reporting Requirements**

In addition, grantees will be required to report on the progress of awarded grants in Recovery Act format. HUD will provide the format and additional instructions to grantees after grant award. Information on Recovery Act ICDBG grants will be posted to <http://www.hud.gov/recovery>.

a. The type of information required, which is subject to change, will include:

- (1) the total amount of Recovery Act funds received from HUD;
- (2) the amount of Recovery Act funds received that were expended or obligated to projects or activities;
- (3) a detailed list of all projects or activities for which Recovery Act funds were expended or obligated including
  - (a) the name of the project or activity;
  - (b) a description of the project or activity;
  - (c) an evaluation of the completion status of the project or activity;
  - (d) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and
  - (e) for infrastructure investments, 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 development.
- (4) Detailed information on agency 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.

b. Environmental Reporting Requirements. Section 1609(c) of the Recovery Act requires that each agency report on the status of NEPA compliance for all projects under the Recovery Act. Reporting information will be provided to each recipient as soon as it is available.

NOTE: Failure to submit Recovery Act reports on time will result in inability to draw down funds from LOCCs.

## **VII. Agency Contact(s)**

**A. General Questions.** You should direct general program questions to the Area ONAP serving your area. A contact list for each Area ONAP can be accessed at <http://www.hud.gov/offices/pih/ih/codetalk/onap/map/nationalmap.cfm>. Persons with speech or hearing impairments may call HUD's TTY number 202 708-0770, or 1-800-877-8339 (the Federal Information Relay Service TTY). Other than the "800" numbers, these numbers are not toll-free.

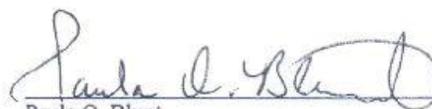
**B. Technical Assistance.** Before the application deadline date, HUD staff will be available to provide you with general guidance and technical assistance about the requirements in this NOFA. However, HUD staff is not permitted to assist in preparing your application. Following selection of applicants, but before awards are made, HUD staff is available to assist in clarifying or confirming information that is a prerequisite to the offer of an award.

## **VIII. Other Information**

**A. Paperwork Reduction Act Statement.** The information collection requirements in this NOFA are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

**B. Environmental Impact.** This NOFA provides funding under, and does not alter the environmental requirements of, 24 CFR part 1003. Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321). Activities under this NOFA are subject to the environmental review provisions set out at 24 CFR 1003.605. See also Section VI.B.1.a. of this NOFA.

Dated: May 26, 2009



Paula O. Blunt  
General Deputy Assistant Secretary for  
Public and Indian Housing

[FR-5318-N-01]