

agreement must address the responsibilities of each of the parties, the educational objectives, the nature of the supervision, the standards of evaluation, and the student's time commitments under the work placement assignment.

(i) *Grant administration*—(1) *Initial obligation of funds*. When HUD selects an application for funding, HUD will obligate funds to cover the amount of the approved grant. The term of the award will be for two calendar years, unless subsequently altered by HUD at its discretion for good cause.

(2) *Disbursement*. Recipients will receive grant payments by direct deposit on a reimbursement basis. If that is not possible, grant payments will be made by U.S. Treasury checks.

(3) *Deobligation*. HUD may deobligate amounts for grants if proposed activities are not begun or completed within a reasonable period of time after selection.

(j) *Other Federal requirements*—(1) *Applicability of part 570*. HSI-WSP shall be subject to the policies and procedures set forth in subparts A, K, and O of 24 CFR part 570, as applicable, except as modified or limited under the provisions of this Notice. The provisions of subparts C and J of part 570 shall not apply to HSI-WSP.

(2) *Uniform administrative requirements*. Recipients under HSI-WSP shall comply with the requirements and standards of 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." Audits in accordance with 2 CFR part 200, subpart F, shall be conducted annually.

[62 FR 17493, Apr. 9, 1997, as amended at 63 FR 9683, Feb. 25, 1998; 80 FR 75937, Dec. 7, 2015]

Subpart F—Small Cities, Non-Entitlement CDBG Grants in Hawaii and Insular Areas Programs

SOURCE: 62 FR 62914, Nov. 25, 1997, unless otherwise noted.

§ 570.420 General.

(a) *Administration of Non-entitlement CDBG funds in New York by HUD or In-*

sular Areas—(1) *Small cities*. The Act permits each state to elect to administer all aspects of the CDBG program annual fund allocation for the non-entitlement areas within its jurisdiction. All states except Hawaii have elected to administer the CDBG program for non-entitlement areas within their jurisdiction. This section is applicable only to active HUD-administered small cities grants in New York. The requirements for the non-entitlement CDBG grants in Hawaii are set forth in § 570.429 of this subpart. States that elected to administer the program after the close of Fiscal Year 1984 cannot return administration of the program to HUD. A decision by a state to discontinue administration of the program would result in the loss of CDBG funds for non-entitlement areas in that state and the reallocation of those funds to all states in the succeeding fiscal year.

(2) *Insular areas*. Title V of Public Law 108-186 amended the Act to move the insular areas funding authorization from sections 107(a) and (b) to section 106(a). This revision identified a specific portion of the CDBG allocation for insular areas that is separate from the distribution for special purpose grants, as well as from the Entitlement and State formula distribution. The insular areas of Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa are permitted to administer all aspects of their Community Development Block Grant (CDBG) program under section 106 of the Act in accordance with their final statement as further described at § 570.440.

(b) *Scope and applicability*. (1) This subpart describes the policies and procedures of the Small Cities program that apply to non-entitlement areas in states where HUD administers the CDBG program. HUD currently administers the Small Cities program in only two states—New York (for grants prior to FY 2000) and Hawaii (for non-entitlement CDBG grants in Hawaii). The Small Cities portion of this subpart addresses the requirements for New York Small Cities grants in §§ 570.421, 570.426, 570.427, and 570.431. Section 570.429 identifies special procedures applicable to Hawaii.

(2) This subpart also describes the policies and procedures governing community development block grants to insular areas under section 106 of the Act. Sections 570.440 and 570.441 identify procedures applicable to the Insular Areas program under section 106 of the Act. Fund reservations for insular areas under section 107 of the Act shall remain governed by the policies and procedures described in section 107(a)(1)(A) of the Act and §§ 570.400 and 570.405 of this part.

(3) The policies and procedures set forth in the following identified subparts of this part apply to the HUD-administered Small Cities and Insular Areas programs, except as modified or limited under the provisions thereof or this subpart:

- (i) Subpart A—General Provisions;
- (ii) Subpart C—Eligible Activities;
- (iii) Subpart J—Grant Administration;
- (iv) Subpart K—Other Program Requirements;
- (v) Subpart M—Loan Guarantees; and
- (vi) Subpart O—Performance Reviews.

(c) *Abbreviated consolidated plan.* Applications for the HUD-administered Small Cities Program and the Insular Areas program under section 106 of the Act that contain housing activities must include a certification that the proposed housing activities are consistent with the applicant's consolidated plan as described at 24 CFR part 91.

(d) *National and primary objectives.* (1) Each activity funded through the Small Cities program and the Insular Areas program under section 106 of the Act must meet one of the following national objectives as defined under the criteria in § 570.208:

- (i) Benefit low- and moderate-income families;
- (ii) Aid in the prevention or elimination of slums or blight; or
- (iii) Be an activity that the grantee certifies is designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.

(2) In addition to the objectives described in paragraph (e)(1) of this section, with respect to grants made through the Small Cities program, not less than 70 percent of the total of grant funds from each grant and Section 108 loan guarantee funds received under subpart M of this part within a fiscal year must be expended for activities which benefit low- and moderate-income persons under the criteria of § 570.208(a) or of § 570.208(d)(5) or (6). In the case of multiyear plans in New York State approved in response to NOFAs published prior to calendar year 1997, not less than 70 percent of the total funding for grants approved pursuant to a multiyear plan for a time period of up to three years must be expended for activities which benefit low- and moderate-income persons. Thus, 70 percent of the grant for year 1 of a multiyear plan approved in response to NOFAs published prior to calendar year 1997 must meet the 70 percent requirement, 70 percent of the combined grants from years 1 and 2 must meet the requirement, and 70 percent of the combined grants from years 1, 2, and 3 must meet the requirement. In determining the percentage of funds expended for such activity, the provisions of § 570.200(a)(3)(i), (iii), (iv), and (v) shall apply.

(3) In addition to the objectives described in paragraph (e)(1) of this section, grants made through the Insular Areas program shall also comply with the primary objective of 70 percent benefit to low- and moderate-income persons. Insular area recipients must meet this requirement for each separate grant under section 107 of the Act. For grants made under section 106 of the Act, insular area recipients must ensure that over a period of time specified in their certifications not to exceed three years, not less than 70 percent of the aggregate of CDBG fund expenditures shall be for low- and moderate-income activities meeting the criteria under § 570.208(a) or under § 570.208(d)(5) or (6). See also § 570.200(a)(3) for further discussion of the primary objective.

(e) *Allocation of funds*—The allocation of appropriated funds for insular areas under section 106 of the Act shall be

governed by the policies and procedures described in section 106(a)(2) of the Act and §§ 570.440, 570.441, and 570.442 of this subpart. The annual appropriations described in this section shall be distributed to insular areas on the basis of the ratio of the population of each insular area to the population of all insular areas.

[69 FR 32779, June 10, 2004, as amended at 72 FR 46370, Aug. 17, 2007]

§ 570.421 New York Small Cities Program design.

(a) *Selection system*—(1) *Competitive applications.* Each competitive application will be rated and scored against at least the following factors:

(i) Need-absolute number of persons in poverty as further explained in the NOFA;

(ii) Need-percent of persons in poverty as further explained in the NOFA;

(iii) Program Impact; and

(iv) Fair Housing and Equal Opportunity, which may include the applicant's Section 3 plan and implementation efforts with respect to actions to affirmatively further fair housing. The NOFA described in paragraph (b) of this section will contain a more detailed description of these factors, and the relative weight that each factor will be given.

(2) In addition HUD reserves the right to establish minimal thresholds for selection factors and otherwise select grants in accordance with § 570.425 and the applicable NOFA.

(3) *Imminent threats to public health and safety.* The criteria for these grants are described in § 570.424.

(4) *Repayment of Section 108 loans.* The criteria for these grants are described in § 570.432.

(5) *Economic development grants.* HUD intends to use the Section 108 loan guarantee program to the maximum extent feasible to fund economic development projects in the nonentitlement areas of New York. In the event that there are not enough Section 108 loan guarantee funds available to fund viable economic development projects, if a project needs a grant in addition to a loan guarantee to make it viable, or if the project does not meet the requirements of the Section 108 program but is eligible for a grant under this subpart,

HUD may fund Economic Development applications as they are determined to be fundable in a specific amount by HUD up to the sum set aside for economic development projects in a notice of funding availability, notwithstanding paragraph (g) of this section. HUD also has the option in a NOFA of funding economic development activities on a competitive basis, as a competitive application as described in paragraph (a)(1) of this section. In order for an applicant to receive Small Cities grant funds on a noncompetitive basis, the field office must determine that the economic development project will have a substantial impact on the needs identified by the applicant.

(b) *Notice of funding availability.* HUD will issue one or more Notice(s) of Funding Availability (NOFA) each fiscal year which will indicate the amount of funds available, the annual grant limits per grantee, type of grants available, the application requirements, and the rating factors that will be used for those grants which are competitive. A NOFA may set forth, subject to the requirements of this subpart, additional selection criteria for all grants.

(c) *Eligible applicants.* (1) Eligible applicants in New York are units of general local government, excluding: Metropolitan cities, urban counties, units of general local government which are participating in urban counties or metropolitan cities, even if only part of the participating unit of government is located in the urban county or metropolitan city. Indian tribes are also ineligible for assistance under this subpart. An application may be submitted individually or jointly by eligible applicants.

(2) Counties, cities, towns, and villages may apply and receive funding for separate projects to be done in the same jurisdiction. Only one grant will be made under each funding round for the same type of project to be located within the jurisdiction of a unit of general local government (e.g., both the county and village cannot receive funding for a sewer system to be located in the same village, but the county can receive funding for a sewer system that is located in the same village as a rehabilitation project for which the village

receives funding). The NOFA will contain additional information on applicant eligibility.

(3) Counties may apply on behalf of units of general local government located within their jurisdiction when the unit of general local government has authorized the county to apply. At the time that the county submits its application for funding, it must submit a resolution by the governing body of the unit of local government that authorizes the county to submit an application on behalf of the unit of general local government. The county will be considered the grantee and will be responsible for executing all grant documents. The county is responsible for ensuring compliance with all laws, regulations, and Executive Orders applicable to the CDBG Program. HUD will deal exclusively with the county with respect to issues of program administration and performance, including remedial actions. The unit of general local government will be considered the grantee for the purpose of determining grant limits. The unit of general local government's statistics will be used for purposes of the selection factors referred to in § 570.421(a).

(d) *Public service activities cap.* Public service activities may be funded up to a maximum of fifteen (15) percent of a State's nonentitlement allocation for any fiscal year. HUD may award a grant to a unit of general local government for public service activities with up to 100 percent of the funds intended for public service activities. HUD will apply the 15 percent statewide cap to public service activities by funding public service activities in the highest rated applications in each NOFA until the cap is reached.

(e) *Activities outside an applicant's boundaries.* An applicant may conduct eligible CDBG activities outside its boundaries. These activities must be demonstrated to be appropriate to meeting the applicant's needs and objectives, and must be consistent with State and local law. This provision includes using funds provided under this subpart in a metropolitan city or an urban county.

(f) *Multiyear plans.* HUD will not make any new multiyear commitments for NOFAs published in calendar year

1997 or later. HUD will continue to honor the terms of the multiyear plans that were approved under the provisions of NOFAs published prior to calendar year 1997.

(g) *Maximum grant amount.* The maximum grant amount that will be awarded to a single unit of general local government in response to the annual Small Cities NOFA published in calendar year 1997 or later is \$400,000, except that counties may apply for up to \$600,000 in HUD-administered Small Cities funds. HUD may specify lower grant limits in the NOFA, which may include different limits for different types of grants available or different types of applicants. This paragraph (g) does not apply to multiyear plans that were approved under the provisions of NOFAs published prior to calendar year 1997, nor does it apply to grants awarded in connection with paragraphs (a)(3) through (a)(5) of this section. The maximum limits in this paragraph (g) apply to grants for economic development projects awarded under NOFAs in which there is no set-aside of funds for such projects.

§§ 570.422–425 [Reserved]

§ 570.426 Program income.

(a) The provisions of § 570.504(b) apply to all program income generated by a specific grant and received prior to grant closeout.

(b) If the unit of general local government has another ongoing CDBG grant at the time of closeout, the program income will be considered to be program income of the ongoing grant. The grantee can choose which grant to credit the program income to if it has multiple open CDBG grants.

(c) If the unit of general local government has no open ongoing CDBG grant at the time of closeout, program income of the unit of general local government or its subrecipients which amounts to less than \$25,000 per year will not be considered to be program income unless needed to repay a Section 108 guaranteed loan. When more than \$25,000 of program income is generated from one or more closed out grants in a year after closeout, the entire amount of the program income is subject to the requirements of this

part. This will be a subject of the close-out agreement described in § 570.509(c).

§ 570.427 Program amendments.

(a) *HUD approval of certain program amendments.* Grantees shall request prior HUD approval for all program amendments involving new activities or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activities or beneficiaries. Approval is subject to the amended activities meeting the requirements of this part and being able to be completed promptly.

(b) *Documentation of program amendments.* Any program amendments that do not require HUD approval must be fully documented in the grantee's records.

(c) *Citizen participation requirements.* Whenever an amendment requires HUD approval, the requirements for citizen participation in § 570.431 must be met.

[62 FR 62914, Nov. 25, 1997, as amended at 72 FR 46370, Aug. 17, 2007]

§ 570.428 [Reserved]

§ 570.429 Hawaii general and grant requirements.

(a) *General.* This section applies to non-entitlement CDBG grants in Hawaii. The non-entitlement counties in the State of Hawaii will be treated as entitlement grantees except for the calculation of allocations, and the source of their funding, which will be from section 106(d) of the Act.

(b) *Scope and applicability.* Except as modified or limited under the provisions thereof or this subpart, the policies and procedures outlined in subparts A, C, D, J, K, and O of this part apply to non-entitlement CDBG grants in Hawaii.

(c) *Grant amounts.* (1) For each eligible unit of general local government, a formula grant amount will be determined which bears the same ratio to the total amount available for the non-entitlement area of the State as the weighted average of the ratios between:

(i) The population of that eligible unit of general local government and the population of all eligible units of general local government in the non-entitlement areas of the State;

(ii) The extent of poverty in that eligible unit of general local government and the extent of poverty in all the eligible units of general local government in the nonentitlement areas of the State; and

(iii) The extent of housing overcrowding in that eligible unit of general local government and the extent of housing overcrowding in all the eligible units of general local government in the nonentitlement areas of the State.

(2) In determining the average of the ratios under this paragraph (c), the ratio involving the extent of poverty shall be counted twice and each of the other ratios shall be counted once. $(0.25 + 0.50 + 0.25 = 1.00)$.

(d) *Reallocation.* (1) Any amounts that become available as a result of any reductions under subpart O of this part shall be reallocated in the same or future fiscal year to any remaining eligible applicants on a pro rata basis.

(2) Any formula grant amounts reserved for an applicant that chooses not to submit an application shall be reallocated to any remaining eligible applicants on a pro rata basis.

(3) No amounts shall be reallocated under paragraph (d) of this section in any fiscal year to any applicant whose grant amount was reduced under subpart O of this part.

(Approved by the Office of Management and Budget under control number 2506-0060)

[62 FR 62914, Nov. 25, 1997, as amended at 72 FR 46371, Aug. 17, 2007]

§ 570.431 Citizen participation.

(a) *General.* An applicant that is located in a nonentitlement area of a State that has not elected to distribute funds shall comply with the citizen participation requirements described in this section, including requirements for the preparation of the proposed application and the final application. The requirements for citizen participation do not restrict the responsibility or authority of the applicant for the development and execution of its community development program.

(b) *Citizen participation plan.* The applicant must develop and follow a detailed citizen participation plan and must make the plan public. The plan must be completed and available before

the application for assistance is submitted to HUD, and the applicant must certify that it is following the plan. The plan must set forth the applicant's policies and procedures for:

(1) Giving citizens timely notice of local meetings and reasonable and timely access to local meetings, information, and records relating to the grantee's proposed and actual use of CDBG funds including, but not limited to:

(i) The amount of CDBG funds expected to be made available for the coming year, including the grant and anticipated program income;

(ii) The range of activities that may be undertaken with those funds;

(iii) The estimated amount of those funds proposed to be used for activities that will benefit low- and moderate-income persons;

(iv) The proposed CDBG activities likely to result in displacement and the applicant's plans, consistent with the policies developed under § 570.606(b), for minimizing displacement of persons as a result of its proposed activities; and

(v) The types and levels of assistance the applicant plans to make available (or to require others to make available) to persons displaced by CDBG-funded activities, even if the applicant expects no displacement to occur;

(2) Providing technical assistance to groups representative of persons of low- and moderate-income that request assistance in developing proposals. The level and type of assistance to be provided is at the discretion of the applicant. The assistance need not include the provision of funds to the groups;

(3) Holding a minimum of two public hearings, for the purpose of obtaining citizens' views and formulating or responding to proposals and questions. Each public hearing must be conducted at a different stage of the CDBG program. Together, the hearings must address community development and housing needs, development of proposed activities and review of program performance. There must be reasonable notice of the hearings and the hearings must be held at times and accessible locations convenient to potential or actual beneficiaries, with reasonable accommodations including material in

accessible formats for persons with disabilities. The applicant must specify in its plan how it will meet the requirement for hearings at times and locations convenient to potential or actual beneficiaries;

(4) Meeting the needs of non-English speaking residents in the case of public hearings where a significant number of non-English speaking residents can reasonably be expected to participate;

(5) Responding to citizen complaints and grievances, including the procedures that citizens must follow when submitting complaints and grievances. The applicant's policies and procedures must provide for timely written answers to written complaints and grievances within 15 working days of the receipt of the complaint, where practicable; and

(6) Encouraging citizen participation, particularly by low- and moderate-income persons who reside in slum or blighted areas, and in other areas in which CDBG funds are proposed to be used.

(c) *Publication of proposed application.*

(1) The applicant shall publish a proposed application consisting of the proposed community development activities and community development objectives in order to afford affected citizens an opportunity to:

(i) Examine the application's contents to determine the degree to which they may be affected;

(ii) Submit comments on the proposed application; and

(iii) Submit comments on the performance of the applicant.

(2) The requirement for publishing in paragraph (c)(1) of this section may be met by publishing a summary of the proposed application in one or more newspapers of general circulation, and by making copies of the proposed application available at libraries, government offices, and public places. The summary must describe the contents and purpose of the proposed application, and must include a list of the locations where copies of the entire proposed application may be examined.

(d) *Preparation of a final application.* An applicant must prepare a final application. In the preparation of the final application, the applicant shall consider comments and views received

related to the proposed application and may, if appropriate, modify the final application. The final application shall be made available to the public and shall include the community development objectives and projected use of funds, and the community development activities.

(e) *New York grantee amendments.* To assure citizen participation on program amendments to final applications that require HUD approval under § 570.427, the grantee shall:

(1) Furnish citizens information concerning the amendment;

(2) Hold one or more public hearings to obtain the views of citizens on the proposed amendment;

(3) Develop and publish the proposed amendment in such a manner as to afford affected citizens an opportunity to examine the contents, and to submit comments on the proposed amendment;

(4) Consider any comments and views expressed by citizens on the proposed amendment and, if the grantee finds it appropriate, modify the final amendment accordingly; and

(5) Make the final amendment to the community development program available to the public before its submission to HUD.

§ 570.440 Application requirements for insular area grants funded under section 106.

(a) *Applicability.* The requirements of this section apply to insular grants funded under section 106 of the Act. An insular area jurisdiction may choose to prepare program statements following either:

(1) The abbreviated consolidated plan procedures described in this subpart and in 24 CFR 91.235; or

(2) The complete consolidated plan procedures applicable to local governments, discussed at 24 CFR 91.200 through 91.230.

(b) *Proposed statement.* An insular area jurisdiction shall prepare and publish a proposed statement and comply with the citizen participation requirements described in § 570.441, if it submits an abbreviated consolidated plan under 24 CFR 91.235. The jurisdiction shall follow the citizen participation requirements of 24 CFR 91.105 and 91.100 (with the exception of § 91.100(a)(4)), if

it submits a complete consolidated plan.

(c) *Final statement.* The insular area jurisdiction shall submit to HUD a final statement describing its community development objectives and activities. The statement also must include a priority nonhousing community development plan in accordance with 24 CFR 91.235. This final statement shall be submitted, together with the required certifications, to the appropriate field office in a form prescribed by HUD.

(d) *Submission requirement.* Each insular area jurisdiction shall submit its final statement to HUD no later than 45 days before the start of its program year. Each jurisdiction may choose the start date for the annual period of its program year that most closely fits its own needs. HUD may grant an extension of the submission deadline for good cause.

(e) *Certifications.* The insular area jurisdiction's final statement must be accompanied by appropriate certifications as further described under 24 CFR 91.225. The jurisdiction should submit all general certifications, as well as all program certifications for each program from which it receives funding, if it submits a complete consolidated plan. For insular area jurisdictions receiving CDBG funds under an abbreviated consolidated plan, these certifications shall include at a minimum:

(1) The following general certifications described at § 91.225(a) of this title: Affirmatively furthering fair housing; anti-displacement and relocation plan; drug-free workplace; anti-lobbying; authority of jurisdiction; consistency with plan; acquisition and relocation; and Section 3.

(2) The following CDBG certifications described at § 91.225(b) of this title: Citizen participation; community development plan; following a plan; use of funds; excessive force; compliance with anti-discrimination laws; compliance with lead-based paint procedures; and compliance with laws.

(f) *HUD action on final statement.* Following the review of the statement, HUD will promptly notify each jurisdiction of the action taken with regard to its statement. HUD will approve a grant if the jurisdiction's submissions

§ 570.441

have been made and approved in accordance with 24 CFR part 91, and if the certifications required in such submissions are satisfactory to HUD. The certifications will be satisfactory to HUD for this purpose, unless HUD determines pursuant to subpart O of this part that the jurisdiction has not complied with the requirements of this part, has failed to carry out its consolidated plan (or abbreviated consolidated plan) as provided under § 570.903, or has determined that there is evidence, not directly involving the jurisdiction's past performance under this program, that tends to challenge in a substantial manner the jurisdiction's certification of future performance. If HUD makes any such determination, however, further assurances may be required to be submitted by the jurisdiction as HUD may deem warranted or necessary to find the jurisdiction's certification satisfactory.

(g) *Reimbursement for pre-award costs.* Insular area jurisdictions may request reimbursement for pre-award costs in accordance with § 570.200(h).

(h) *Float funding.* An insular area jurisdiction may use undisbursed funds in the line of credit and its CDBG program account that are budgeted in final statements or action plans for one or more activities that do not need the funds immediately, subject to the limitations described in § 570.301(b).

(i) *Program amendments.* (1) The insular area jurisdiction's citizen participation plan (see § 570.441) must specify the criteria the jurisdiction will use for determining what changes in the jurisdiction's planned or actual activities will constitute a substantial amendment to its final statement. It must include changes in the use of CDBG funds from one eligible activity to another among the changes that qualify as a substantial amendment.

(2) The citizen participation plan must provide citizens with reasonable notice and an opportunity to comment on substantial amendments. The citizen participation plan must state how reasonable notice and an opportunity to comment will be given, as well as provide a period of not less than 30 days to receive comments on the substantial amendment before the amendment is implemented.

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(3) The citizen participation plan shall require the jurisdiction to consider comments or views of citizens received in writing, or orally at public hearings, if any, in preparing the substantial amendment of its statement. A summary of comments or views not accepted and the reasons for non-acceptance shall be attached to the substantial amendment.

(4) Any program amendment, regardless of whether it is considered to be substantial, must be fully documented in the jurisdiction's records.

(j) *Performance reports.* Each insular area jurisdiction must submit annual performance reports in accordance with 24 CFR 91.520.

[69 FR 32780, June 10, 2004]

§ 570.441 Citizen participation—insular areas.

(a) *General.* An insular area jurisdiction submitting an abbreviated consolidated plan under 24 CFR 91.235 shall comply with the citizen participation requirements described in this section. An insular area jurisdiction submitting a complete consolidated plan in accordance with 24 CFR 91.200 through 91.230 shall follow the citizen participation requirements of § 91.100 and § 91.105, except for § 91.100(a)(4). For funding under section 106 of the Act, these requirements are applicable to all aspects of the Insular Areas program, including the preparation of the proposed statement and final statements as described in § 570.440. The requirements for citizen participation do not restrict the responsibility or authority of the jurisdiction for the development and execution of its community development program.

(b) *Citizen participation plan.* The insular area jurisdiction must develop and follow a detailed citizen participation plan and must make the plan public. The plan must be completed and available before the AFH and statement for assistance is submitted to HUD, and the jurisdiction must certify that it is following the plan. The plan must set forth the jurisdiction's policies and procedures for:

(1) Giving citizens timely notice of local meetings and reasonable and

timely access to local meetings consistent with accessibility and reasonable accommodation requirements in accordance with section 504 of the Rehabilitation Act of 1973 and the regulations at 24 CFR part 8, and the Americans with Disabilities Act and the regulations at 28 CFR parts 35 and 36, as applicable, as well as information and records relating to the grantee's proposed and actual use of CDBG funds including, but not limited to:

(i) The amount of CDBG funds expected to be made available for the coming year, including the grant and anticipated program income;

(ii) The range of activities that may be undertaken with those funds;

(iii) The estimated amount of those funds proposed to be used for activities that will benefit low- and moderate-income persons;

(iv) The proposed CDBG activities likely to result in displacement and the jurisdiction's plans, consistent with the policies developed under § 570.606(b), for minimizing displacement of persons as a result of its proposed activities; and

(v) The types and levels of assistance the jurisdiction plans to make available (or to require others to make available) to persons displaced by CDBG-funded activities, even if the jurisdiction expects no displacement to occur;

(2) Providing technical assistance to groups that are representative of persons of low- and moderate-income that request assistance in commenting on the AFH and developing proposals. The level and type of assistance to be provided is at the discretion of the jurisdiction. The assistance need not include the provision of funds to the groups;

(3) Holding a minimum of two public hearings for the purpose of obtaining residents' views and formulating or responding to proposals and questions. Each public hearing must be conducted at a different stage of the CDBG program year. Together, the hearings must address affirmatively furthering fair housing, community development and housing needs, development of proposed activities, proposed strategies and actions for affirmatively furthering fair housing consistent with

the AFH, and a review of program performance. There must be reasonable notice of the hearings, and the hearings must be held at times and accessible locations convenient to potential or actual beneficiaries, with reasonable accommodations, including materials in accessible formats, for persons with disabilities. The jurisdiction must specify in its citizen participation plan how it will meet the requirement for hearings at times and accessible locations convenient to potential or actual beneficiaries;

(4) Assessing its language needs, identifying any need for translation of notices and other vital documents and, in the case of public hearings, meeting the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate. At a minimum, the citizen participation plan shall require the jurisdiction to make reasonable efforts to provide language assistance to ensure meaningful access to participation by non-English speaking persons;

(5) Responding to citizen complaints and grievances, including the procedures that citizens must follow when submitting complaints and grievances. The jurisdiction's policies and procedures must provide for timely written answers to written complaints and grievances within 15 working days after the receipt of the complaint, where practicable; and

(6) Encouraging citizen participation, particularly by low- and moderate-income persons who reside in areas in which CDBG funds are proposed to be used.

(c) *Publication of proposed AFH and proposed statement.* (1) The insular area jurisdiction shall publish a proposed AFH and a proposed statement consisting of the proposed community development activities and community development objectives (as applicable) in order to afford affected residents an opportunity to:

(i) Examine the document's contents to determine the degree to which they may be affected;

(ii) Submit comments on the proposed document; and

(iii) Submit comments on the performance of the jurisdiction.

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(2) The requirement for publishing in paragraph (c)(1) of this section may be met by publishing a summary of the proposed document in one or more newspapers of general circulation and by making copies of the proposed document available on the Internet, on the grantee's official government Web site, and as well at libraries, government offices, and public places. The summary must describe the contents and purpose of the proposed document and must include a list of the locations where copies of the entire proposed document may be examined.

(d) *Preparation of the AFH and final statement.* An insular area jurisdiction must prepare an AFH and a final statement. In the preparation of the AFH and final statement, the jurisdiction shall consider comments and views received relating to the proposed document and may, if appropriate, modify the final document. The final AFH and final statement shall be made available to the public. The final statement shall include the community development objectives, projected use of funds, and the community development activities.

(e) *Program amendments.* To assure citizen participation on program amendments to final statements and any revision to the AFH, the insular area grantee shall:

(1) Furnish its residents with information concerning the amendment to the consolidated plan or any revision to the AFH (as applicable);

(2) Hold one or more public hearings to obtain the views of residents on the proposed amendment to the consolidated plan or revision to the AFH;

(3) Develop and publish the proposed amendment to the consolidated plan or any revision to the AFH in such a manner as to afford affected residents an opportunity to examine the contents, and to submit comments on the proposed amendment to the consolidated plan or revision to the AFH, as applicable;

(4) Consider any comments and views expressed by residents on the proposed amendment to the consolidated plan or revision to the AFH, and, if the grantee finds it appropriate, make modifications accordingly; and

(5) Make the final amendment to the community development program or

revision to the AFH available to the public before its submission to HUD.

(f) *Performance reports.* (1) The citizen participation plan must provide citizens with reasonable notice and an opportunity to comment on performance reports. The citizen participation plan must state how reasonable notice and an opportunity to comment will be given. The citizen participation plan must provide a period of not less than 15 days to receive comments on the performance report before it is to be submitted to HUD.

(2) The citizen participation plan shall require the jurisdiction to consider comments or views of citizens received in writing or orally at public hearings in preparing the performance report. A summary of these comments or views shall be attached to the performance report.

(g) *Application for loan guarantees.* Insular area jurisdictions intending to apply for the Section 108 Loan Guarantee program must ensure that they follow the applicable presubmission and citizen participation requirements of § 570.704.

[69 FR 32780, June 10, 2004, as amended at 80 FR 42366, July 16, 2015]

§ 570.442 Reallocations-Insular Areas.

(a) Any Insular Area funds that become available as a result of reductions under subpart O of this part, shall be reallocated in the same or future fiscal year to any remaining eligible Insular Area grantees pro rata according to population.

(b) Any Insular Area grant funds for a fiscal year reserved for an applicant that chooses not to submit a final statement in accordance with § 570.440 to receive such funds, shall be reallocated in the same or future fiscal year to any remaining eligible Insular Area grantees pro rata according to population.

(c) No amounts shall be reallocated under this section in any fiscal year to any applicant whose grant amount in such fiscal year was reduced under subpart O of this part or who did not submit a final statement in accordance with § 570.440 for that fiscal year.

(d) Insular Area grantees receiving additional funds under this section will be evaluated for timeliness under

§ 570.902 based upon the original grant amount plus the additional funds received. Accordingly, references in § 570.902 to an Insular Area's grant amount for its current program year include such additional funds, and references to unexpended or undisbursed funds include such additional funds.

[72 FR 12536, Mar. 15, 2007]

Subpart G—Urban Development Action Grants

SOURCE: 47 FR 7983, Feb. 23, 1982, unless otherwise noted.

§ 570.450 Purpose.

The purpose of urban development action grants is to assist cities and urban counties that are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery. This subpart G contains those regulations that are essential for the continued operation of this grant program.

[61 FR 11476, Mar. 20, 1996]

§ 570.456 Ineligible activities and limitations on eligible activities.

(a) Large cities and urban counties may not use assistance under this subpart for planning the project or developing the application. However, they may use entitlement community development block grant funds for this purpose, provided that the UDAG project meets the eligibility test of this part. Any small city which submits a project application which is selected for preliminary approval and for which legally binding grant agreement and for which a release of funds pursuant to 24 CFR part 58 has been issued may devote up to three (3) percent of the approved amount of its action grant to defray its actual costs in planning the project and preparing its application.

(b) Assistance under this subpart may not be used for public services as described in § 570.201(e).

(c)(1) No assistance may be provided under this subpart for speculative projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another. The provisions of this paragraph (c)(1) shall not apply to a relocation of

any such plant or facility within a metropolitan area.

(i) HUD will presume that a proposed project which includes speculative commercial or industrial space is intended to facilitate the relocation of a plant or facility from one area to another, if it is demonstrated to HUD's satisfaction that:

(A) The proposed project is reasonably proximate (i.e., within 50 miles) to an area from which there has been a significant current pattern of movement, to areas reasonably proximate, of jobs of the category for which such space is appropriate; and

(B) There is a likelihood of continuation of the pattern, based on measurable comparisons between the area from which the movement has been occurring and the area of the proposed project in terms of tax rates, energy costs, and similar relevant factors.

(ii) The restrictions established in this paragraph (c)(1) shall not apply if the Secretary determines that the relocation does not significantly and adversely affect the employment or economic base of the area from which the industrial or commercial plant or facility is to be relocated. However, the Secretary will not be required to make a determination whether there is a significant and adverse effect. If such a determination is undertaken, the Secretary will presume that there is a significant and adverse effect where the significant pattern of job movement and the likelihood of continuation of such a pattern has been from a distressed community.

(iii) The presumptions established in accordance with this paragraph (c)(1) are rebuttable by the applicant. However, the burden of overcoming the presumptions will be on the applicant.

(iv) The presumptions established in this paragraph (c)(1) will not apply if the speculative space contained in a commercial or industrial plant or facility included in a project constitutes a lesser percentage of the total space contained in that plant or facility than the threshold amounts specified below:

Size of plant or facility	Amount of speculative space
0 to 50,000 sq. ft. ...	10 percent.
50,001 to 250,000 sq. ft.	5,000 sq. ft. or 8 percent, whichever is greater.