

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4065-N-01]

Office of the Assistant Secretary for Community Planning and Development; Notice of Funding Availability (NOFA) and Program Guidelines for the Economic Development Initiative (EDI)

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

SUMMARY: This NOFA announces the availability of funds for grants under section 108(q) of the Housing and Community Development Act of 1974, as amended. HUD reserves the right to award grants under this NOFA up to the maximum amount authorized by law. As of the date of this NOFA and subject to funding availability, HUD intends to award up to \$50 million in EDI grant funds.

In addition to soliciting proposals that undertake traditional economic development projects, HUD is also soliciting proposals to undertake large-scale projects that would create Homeownership Zones—proposals designed to reclaim hard-pressed neighborhoods by creating homeownership opportunities for hardworking low- and moderate-income families and serving as a catalyst for private investment, business creation and neighborhood revitalization. See the separate discussion on Homeownership Zones in section I.(D) below.

Communities that are authorized to obtain Section 108 loan guarantee commitments to carry out qualifying projects are eligible under this NOFA to receive EDI grants. EDI grants are used to enhance the security of the Section 108 guaranteed loan or to improve the feasibility of proposed projects through techniques such as interest rate subsidies, loan loss reserves, etc. This NOFA sets out program guidelines that will govern the application, application review, and award process for this round of EDI grants.

DATES: Applications are due in HUD Headquarters at the address stated below under "Addresses" by September 17, 1996. HUD will not accept applications that are submitted to HUD via facsimile (FAX) transmission. Applications that are mailed prior to September 17, 1996, and received within ten (10) days after that date will be deemed to have been received by that date if postmarked by the United States Postal Service by no later than September 16, 1996. Overnight delivery items received within ten (10) days after

September 17, 1996, will be deemed to have been received by that date upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than September 16, 1996.

ADDRESSES: On or prior to September 17, 1996, completed applications will be accepted at the following address: Processing and Control Unit, Room 7255, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, Attention: EDI Grant. At close of business on the deadline date, completed applications will also be received in the south lobby of the Department of Housing and Urban Development at the above address (inquire at the security guard desk). However, any application received by the Office of Community Planning and Development in Headquarters, Washington, DC, by September 17, 1996 will be accepted.

FOR FURTHER INFORMATION CONTACT: Paul Webster, Director, Financial Management Division, Office of Block Grant Assistance, Room 7178, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-1871.

With respect to proposals for Homeownership Zones contact: Gordon McKay, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Room 7164, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-2685. (These are not toll-free numbers.)

Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The OMB control number, when assigned, will be announced by separate notice in the Federal Register. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

I. Purpose and Substantive Description

(A) *Authority.* Title I, Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301-5320) (the "Act"); 24 CFR part 570.

(B) *Definitions.* *CDBG funds* means, in addition to those funds specified at § 570.3, grant funds received pursuant to Section 108(q). CDBG funds received pursuant to section 108(q) must be used for activities eligible under section 108(a) of the Act. This does not include *all* CDBG-eligible activities, but only those listed in 24 CFR 570.703. In addition, funds received pursuant to section 108(q) must be used only in conjunction with projects and activities assisted with section 108 loan guarantee proceeds. Finally, funds received pursuant to section 108(q) may not be disbursed until the section 108 obligations financing the related assisted projects and activities are actually guaranteed under section 108.

Community and Individual Investment Corporation (CIIC) means a for-profit corporation capitalized in part by EDI and Section 108 funds which invests in economic development activities (otherwise eligible for EDI and Section 108 Loan Guarantee assistance under this NOFA) in an identified service area where at least 51 percent of the residents are low and moderate income people and which offers residents of the service area opportunities to purchase and own shares in the Corporation. Note that the CIIC must provide financial and other services to a qualifying low and moderate income area meeting the CDBG program national objective for area benefit activities at 24 CFR 570.208(a)(1). It is important to emphasize that there is a fundamental difference between a CIIC and a Community Development Financial Institution (CDFI). CDFIs are private and community initiated financial institutions which may apply for part of their capitalization to the Federal Government (the CDFI Fund which is part of the Department of the Treasury). By contrast, in the case of CIICs, the process of formation is initiated by a public entity as part of its community development strategy.

Designated Empowerment Zone or Enterprise Community means an urban area designated as an Empowerment Zone or an Enterprise Community by the Secretary of HUD on December 21, 1994.

Economic Development Initiative (EDI) means the provision of economic development grant assistance under Section 108(q) of the Act, as authorized by Section 232 of the Multifamily

Housing Property Disposition Reform Act of 1994 (Pub. L. 103-233; approved April 11, 1994) (the "1994 Act").

Economic development project means an activity or activities (including mixed use projects with housing components) that are eligible under the Act and under 24 CFR 570.703, and that increase economic opportunity for persons of low- and moderate-income, or that stimulate or retain businesses or jobs, or that otherwise lead to economic revitalization.

Empowerment Zone Strategic Plan means a strategy developed and agreed to by the nominating local government(s) and State(s) and submitted in partial fulfillment of the application requirements for designation as an Empowerment Zone or Enterprise Community pursuant to 24 CFR part 597.

HOME funds means funds made available under title II of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625; approved November 28, 1990).

Homeownership Zone means a continuous, geographically defined neighborhood that is primarily residential in character and in which the Homeownership Zone activities together with other physical and economic development activities can make a measurable, visible improvement to the area.

National Homeownership Strategy is a five-year blueprint containing 100 actions, developed and implemented by a partnership involving HUD and more than 50 other national organizations. The goal of the Strategy is to achieve an all-time high level of homeownership by the end of the year 2000.

Neighborhood Revitalization Strategy means a strategy submitted as part of a CDBG grantee's Consolidated Plan, or an amendment, for reinvestment of human and economic capital in a distressed neighborhood. The strategy must meet the guidelines of Notice CPD-96-01, issued January 16, 1996, and must be approved by HUD. Any Empowerment Zone Strategic Plan prepared for a Federally-designated Empowerment Zone or Enterprise Community will be presumed to be approved by HUD and meet HUD's guidelines for a Neighborhood Revitalization Strategy.

Qualifying Empowerment Zone or Enterprise Community area means an urban area designated as an Empowerment Zone or Enterprise Community pursuant to 24 CFR part 597 or nominated by one or more local governments and the State or States in which it is located for consideration of designation as an Empowerment Zone or Enterprise Community pursuant to 24

CFR part 597. The area need not have been designated an Empowerment Zone or Enterprise Community by the Secretary to be a qualifying Empowerment Zone or Enterprise Community area, but if it was not so designated it must meet the eligibility requirements for a nominated area pursuant to 24 CFR part 597, subpart B.

Unless otherwise defined herein, terms defined in 24 CFR part 570 and used in this NOFA shall have the respective meanings given thereto in that part.

(C) *Background.* EDI is intended to complement and enhance the Section 108 Loan Guarantee program (see 24 CFR 570.700-710 for regulations governing the Section 108 program). This provision of the Community Development Block Grant (CDBG) program provides communities with a source of financing for economic development (including capitalization of CIICs), housing rehabilitation, and large scale physical development projects. HUD is authorized pursuant to section 108 to guarantee notes issued by CDBG entitlement communities and nonentitlement units of general local government eligible to receive funds under the State CDBG program. Regulations governing the Section 108 program are found at 24 CFR part 570, subpart M.

The Section 108 Loan Guarantee program is authorized at \$1.5 billion in loan guarantee authority in Fiscal Year 1996. Under this program, communities (and States on behalf of a State's non-entitlement community) pledge future years' CDBG allocations as security for loans guaranteed by HUD. The full faith and credit of the United States is pledged to the payment of all guarantees made under Section 108. The Section 108 program, however, does not require CDBG funds to be escrowed for loan repayment. This means that a community or State may continue to spend its existing allocation for other CDBG purposes, unless needed for loan repayment. One purpose of EDI grant funds is to further minimize the risk of Section 108 borrowing and potential loss of future CDBG allocations:

- (1) By strengthening the economic feasibility of the projects financed with Section 108 funds (and thereby increasing the probability that the project will generate enough cash to repay the guaranteed loan),
- (2) By directly enhancing the security of the guaranteed loan, or
- (3) Through a combination of these or other risk mitigation techniques.

Through this NOFA, in addition to soliciting proposals for the typical economic development projects

previously funded under the EDI grant program, HUD is particularly soliciting Homeownership Zone proposals.

(D) *Proposals to implement a Homeownership Zone.* Homeownership is a key component of the American dream and the Administration's National Homeownership Strategy. It is also one of the most important vehicles to create opportunities throughout the country and to support economic development in our neighborhoods. Increasing homeownership can serve as the engine that produces visible change and drives economic growth in distressed neighborhoods.

Homeownership Zones will build on the successes of Empowerment Zones in several key ways:

- Empowerment: Homeownership is one of the best ways to empower community residents. It provides them with a stake in their community, increases the bonds among residents, and helps low- and moderate-income residents achieve a key component of the American Dream.

- Public/private cooperation: Competitive Homeownership Zone proposals would include close collaboration between the public and private sectors, significant leveraging of private dollars, and a coordinated approach that uses homeownership as part of a larger community and economic development strategy.

- National Homeownership Strategy: Homeownership Zones will also increase homeownership levels and build stronger communities, in furtherance of the National Homeownership Strategy. The Strategy is a five-year blueprint of cooperative actions identified by 56 private and public organizations that is to achieve an all-time high level of homeownership in America by the end of the year 2000. The National Homeownership Strategy, "Partners in the American Dream," was prepared by the Department and its Partners in response to a request from President Clinton in 1995.

- Streamlined processes: Homeownership Zone proposals would indicate, where appropriate, how local processes and building and development regulations would be streamlined or modified to result in prompt and cost-effective construction.

- Emphasis on performance: Homeownership Zones will have clear performance measures and benchmarks. In addition, they will build on proven performance in Empowerment Zones and Enterprise Communities.

- Visible change: Homeownership Zones must plan to provide tangible and visible evidence of neighborhood revitalization. Proposals should involve

large tracts of previously vacant or blighted areas that would be transformed into vital and vibrant neighborhoods which can spur further community revitalization.

Homeownership Zones are intended to make a major impact in distressed neighborhoods by converting vacant, abandoned land and buildings into thriving, vibrant neighborhoods by using single-family homeownership as a catalyst for revitalization. Offering these homeownership opportunities to low- and moderate-income residents in designated neighborhoods will provide the foundation for needed commercial and economic development.

(1) A Homeownership Zone proposal must provide for significant new homeownership opportunities that will make a visible difference in a concentrated area. An application that includes at least 300 new single-family homes will be presumed to meet this standard. If the application proposes fewer than 300 such homes, the applicant must demonstrate how the strategy will make a visible difference and impact within the Homeownership Zone. It is anticipated that most newly constructed housing will be single-family housing (one to four units, including rowhouses); however, condominium and cooperative developments which contain up to four units per structure may also be included.

(2) Construction should be ready to proceed promptly. Particular attention will be paid to applications that can begin significant construction activities within 60 days of the award of the EDI grant. Therefore, it is expected as a practical matter that the most successful programs will develop land already vacant, available for development, and reasonably clear of environmental hazards and other problems. However, the program need not be limited to vacant areas and may include infill housing and rehabilitation of existing housing if the overall project meets the goal of visible and meaningful change in a concentrated area.

(3) Homeownership Zone proposals should provide for a mix of incomes in a distressed and readily identifiable neighborhood. In all likelihood, in order to achieve this income mix, it will be necessary to use other sources of funds, including housing developed through the applicant's CDBG or HOME programs, a State mortgage revenue bond program, private financing, or other sources. However, any program that uses different sources of funds will need to ensure that all applicable program regulations and guidelines are met.

Note that in order to achieve a mix of incomes within the Homeownership Zone assisted units and to also meet the CDBG national objective criterion of benefitting low- and moderate-income persons, applicants may wish to focus proposals on approved Neighborhood Revitalization Strategy areas. If an applicant has an approved Neighborhood Revitalization Strategy, all housing activities in the area, pursuant to the strategy, may, during the year in which EDI and Section 108 assistance is obligated, be considered to be a single structure for purposes of meeting the low- and moderate-income provisions. This means that 51 percent or more of the assisted units, in the aggregate, would need to be occupied by low- and moderate-income households (see 24 CFR 570.208(d)(5)(ii)) instead of 100 percent if a Neighborhood Strategy Area were not in place. Also note, that any Empowerment Zone Strategic Plan prepared for a Federally-designated Empowerment Zone Supplemental Empowerment Zone or Enterprise Community or Enhanced Enterprise Community will be presumed to be approved by HUD and meet HUD's guidelines for a Neighborhood Revitalization Strategy.

(4) It is anticipated that the developer or developers will take advantage of the most recent advances in urban housing design to create a sense of neighborhood and community through the overall plan for the area, including linkages with transit, innovative architectural design, and development of structures on a scale that encourages interaction among residents and fosters a sense of community.

(5) The essence of Homeownership Zone proposals is that the Federal EDI grant serves as a challenge to other public, private, and nonprofit partners to participate in the Homeownership Zone development. Thus, it is expected that applicants will donate land, commit to construct site improvements and public facilities, waive fees, expedite approvals of permits and plans, and otherwise act to remove impediments to the development of affordable housing. Consistent with the National Homeownership Strategy, it is further expected that the applicant will establish extensive partnerships with the private and nonprofit sectors, such as businesses, lending institutions, real estate professionals, builders, educational institutions, nonprofit organizations, religious entities, and other city-wide and community-based organizations. The extent to which the Homeownership Zone proposal serves to broaden participation by residents and leverage other resources will be

important factors in the award of points in the competition.

(6) Homeownership Zones are expected to include development of housing opportunities as part of a comprehensive approach and overall revitalization of the neighborhood.

(7) Homeownership Zones must incorporate clear performance measures and benchmarks. The EDI grant contract will be conditioned upon the benchmarks submitted with the application, or subsequent amendments, such that subsequent draw downs of EDI grant funds and/or related Section 108 Loan Guarantee amounts will be dependent upon accomplishment of the applicant's established benchmarks.

(8) It is anticipated that the developers and local governments will utilize, to the greatest extent possible, innovations in construction techniques and land use planning that can reduce the cost of housing construction; and, will also reform building, planning and zoning regulations so as to minimize regulatory barriers to prompt and cost-effective construction.

(9) Homeownership Zones should strive to incorporate several of the basic principles of the New Urbanism. Neighborhoods that have been designed according to these principles have typically had a finite size, defined by a comfortable walking distance from their center, and have included, for example, such characteristics as: a mix of compatible uses such as housing, shops, workplaces, parks, civic and cultural institutions; a mix of housing types to accommodate a range of incomes, ages and lifestyles; buildings with architectural variety; at the center, a public gathering space such as a square or green, one or several public buildings such as a library, community center or daycare center, and a connection to transit; edges defined by boulevards, greenbelts or other natural features; and a network of pedestrian-friendly streets, alleys, and blocks that encourage connection with adjacent neighborhoods.

Eligible Homeownership activities. With respect to the types of housing development activities that are eligible to be carried out using EDI grant and Section 108 Loan funds, a recipient or a qualified subrecipient may use such funds to:

(1) Acquire improved or unimproved real property;

(2) Undertake site preparation, including construction, reconstruction, or installation of public and other site improvements, utilities, or facilities;

(3) Undertake housing rehabilitation eligible under 24 CFR 570.202;

(4) Assist qualified Community-Based Development Organizations to carry out a community economic development project containing a mixed-use business and housing development project consistent with 24 CFR 570.204(a)(2); and

(5) Carry out other activities eligible under 24 CFR 570.703.

Examples of Homeownership Zone housing projects using EDI grants and Section 108 Guaranteed Loan funds.

HUD provides the following examples to give applicants an idea of how they may use EDI grants and Section 108 Loan Guarantee funds to assist housing development activities. While for clarity these examples do not show the use of other Federal, State, local, and private financing, it is anticipated that comprehensive housing development strategies will maximize the use of such other sources in order to make housing development projects more financially feasible.

- *Acquisition of land for a project site.* A community may use EDI grant funds in conjunction with Section 108 Loan Guarantee funds to write-down the cost of land acquisition and thus reduce the overall development cost of the project. For example, a proposal to develop 300 units of new construction housing with a design density of 10 dwelling units per acre would require approximately 30 acres. In most urban areas, a single parcel so large does not exist and can only be created by purchasing a number of smaller parcels, often at greater expense than a single parcel of the same size would cost. This increased cost without any additional economic value generally makes redevelopment of such land economically infeasible. In this example, the cost of acquiring such sites could be as much as \$200,000 per acre or \$6,000,000 total. This would result in a \$20,000 land acquisition cost per housing unit built. Using \$3,000,000 in EDI grant funds to write-down the acquisition cost, the land acquisition cost per housing unit is reduced by \$10,000.

By reducing the total project costs, EDI grant funds, when used in conjunction with the Section 108 guaranteed loans, enhance the financial security of the Section 108 guaranteed loan and improve the viability of the project.

- *Infrastructure improvements.* A community may use EDI grant funds and Section 108 Loan Guarantee funds to write-down the cost of infrastructure improvements or finance such improvements over time with loan funds guaranteed under Section 108.

- *Substantial or "gut" rehabilitation.* If some portion of the housing development project involves the substantial rehabilitation of housing units, a community may use the EDI grant funds to write-down the cost of rehabilitation with some or all of the remainder of the rehabilitation costs financed with Section 108 Loan Guarantee funds.

For example, a community's proposal to provide 300 single-family homeowner units may include substantially rehabilitating 50 structurally sound vacant units located in the Homeownership Zone. A typical per-unit cost might include an acquisition cost of \$20,000 per unit with an additional \$40,000 in substantial rehabilitation for a total redevelopment cost of \$60,000 per unit. EDI grant funds and Section 108 Loan Guarantee funds could be used to subsidize the acquisition and/or a portion of the rehabilitation costs.

The community may sell the home for \$45,000 (an amount affordable to a low- or moderate-income family). The sales proceeds are used to repay the Section 108 guaranteed loan and the development subsidy of \$15,000 is financed with the EDI grant.

- *Range of Proposals.* In addition to requesting proposals for Homeownership Zones, HUD is also soliciting proposals for a range of economic development project proposals submitted for EDI grant and Section 108 Loan Guarantee funding.

- *Typical financing structures for typical economic development projects and economic development revolving loan funds.*

HUD envisions that the following project structures (though not limited to them) could be typical:

- *Funding reserves*—The cash flow generated by an economic development project may be expected to be relatively "thin" in the early stages of the project. The EDI grant can make it possible for debt service or operating reserves to be established in a way that does not jeopardize the economic feasibility of the project.

An example is a supermarket or neighborhood shopping center that is designed to provide basic services and jobs for residents in a distressed neighborhood. The public entity must be prepared to make the Section 108 loan repayments that are required to be made during the period after completion of construction and during the lease-up phase when the shopping center is not fully leased and thus is not likely to generate sufficient revenues to support the Section 108 loan repayments. It may therefore require the developer to

establish with a trustee a reserve account (or accounts) that would be available to cover operating expenses and/or debt service during this lease-up period. While such reserves are commonplace, their cost may be so high as to make an already risky neighborhood shopping center project economically infeasible. The increased cost resulting from establishing such reserves may be defrayed by the EDI grant. As with the letter of credit example below, such reserves protect the CDBG program against the risk that CDBG funds will have to be used to cover shortfalls in the intended source for repayment of the Section 108 loan.

- *Over-collateralizing the Section 108 loan*—The use of EDI grant funds may be structured, in appropriate cases, so as to improve the chances that cash flow will be sufficient to cover debt service on the Section 108 loan and directly to enhance the guaranteed loan. One technique for accomplishing this approach is over-collateralization of the Section 108 loan.

An example is the creation of a loan pool made up of Section 108 and EDI grant funds. The community would make loans to various businesses at an interest rate equal to or greater than the rate on the Section 108 loan. The total loan portfolio would be pledged to the repayment of the Section 108 loan. If the total loan repayments from the loan fund were twice the amount of the debt service on the Section 108 loan, the community could accumulate a loan loss reserve that would mitigate virtually any risk to future CDBG funds.

- *Direct enhancement of the security of the Section 108 loan*—The EDI grant can be used to cover the cost of providing enhanced security. An example of how the EDI grant can be used for this purpose is by using the grant funds to cover the cost of a standby letter of credit, issued in favor of HUD. This letter of credit will be available to fund amounts due on the Section 108 loan if other sources fail to materialize and will, thus, serve to protect the public entity's future CDBG funds.

- *Provision of financing to for-profit businesses at a below market interest rate*—While the rates on loans guaranteed under Section 108 are only slightly above the rates on comparable U.S. Treasury obligations, they may nonetheless be higher than can be afforded by businesses in severely economically distressed neighborhoods. The EDI grant can be used to make Section 108 financing affordable.

For example, a community's strategic plan to stabilize the economic viability of a severely distressed neighborhood may include providing loan assistance

to both new and existing businesses at very low interest rates for some period of time until each business has reached a stabilized and profitable level of operation. EDI grant funds could serve to "buy down" the interest rate up front, or make full or partial interest payments, allowing the businesses to be financially viable in the early start-up period not otherwise possible with Section 108 alone. This strategy would be particularly useful where a community was undertaking a large commercial/retail project in a distressed neighborhood to act as a catalyst for other development in the area. The use of EDI/Section 108 funds for financing the commercial/retail project along with providing financial assistance to neighboring new or existing businesses within the target area would create complementary economic activity and enhance the financial viability of all assisted activities.

(E) *Timing of Grant Awards.* To the extent a full Section 108 application is submitted with the EDI grant application, the Section 108 application will be evaluated concurrently with the request for EDI grant funds. Note that EDI grant assistance cannot be used to support a Section 108 Loan Guarantee approved prior to the date of the publication of this NOFA. (See II.B. of this NOFA.) However, the EDI grant may be awarded prior to HUD approval of the Section 108 Loan Guarantee commitment if HUD determines that such award will further the purposes of the Act. HUD notification to the grantee of the amount and conditions (if any) of EDI funds awarded based upon review of the EDI application shall constitute an obligation of grant funds, subject to compliance with the conditions of award and execution of a grant agreement.

Notwithstanding HUD's approval and announcement of an EDI grant award, HUD cannot actually disburse EDI grant funds for approved activities until after the execution of a grant agreement and after HUD guarantees the notes evidencing the related Section 108 loans. It is anticipated that final EDI Grant Agreements and final Section 108 note guarantee documents will be executed concurrently.

(F) *Limitations on the Ratio of EDI grant funds to Section 108 Loan Guarantee funds.* HUD reserves the right to determine a minimum or a maximum amount of any EDI grant award or Section 108 Loan Guarantee award per applicant, application, or project and to modify requests accordingly.

HUD expects to approve EDI grant amounts for approvable applications at a range of ratios of EDI grant funds

awarded to new Section 108 loan guarantee commitments. For example, an applicant could request an EDI grant of \$1 million and propose to leverage only \$1 million in new Section 108 loan guarantee commitments and another applicant could request an EDI grant of \$1 million and propose to leverage \$5 million in new Section 108 loan guarantee commitments. However, in no event will HUD make an award in which the amount of EDI funds awarded exceeds the amount of new Section 108 commitments. Of course, even in the first example above, applicants remain free to propose a greater leverage ratio of new Section 108 to EDI grant funds, for example \$5 million of new Section 108 to \$1 million of EDI grant funds. All applicants should discuss why their project requires the particular level of EDI grant assistance to Section 108 loan guarantee funds in their response to the Selection Criterion—"Extent of need for EDI assistance to financially support the Section 108 loan and the project"—in section II.(C)(2) described below. It is understood that certain activities such as housing-related activities for Homeownership Zones or capitalization of a CIICs may not be able to support Section 108 guaranteed loans without equivalent amounts of EDI grant funds.

EDI grant funds may not be used to substitute for the Section 108 financed activity, or to immediately repay the Section 108 loan. For example, a recipient of an EDI grant may not undertake land assemblage for an economic development project with a loan guaranteed by Section 108 and upon completion of all acquisition repay the Section 108 guaranteed loan with the EDI grant. A recipient may, however, acquire land with a combination of an EDI grant and Section 108 guaranteed loan funds.

In the case of an applicant that has received a prior EDI grant award, the Department reserves the right to consider the amount of the previous EDI award and the grant amount requested in response to this NOFA and to adjust the amount of an EDI award under this NOFA, including, if appropriate, not making an award.

In the event the applicant is awarded an EDI grant that has been reduced below the original request, the applicant will be required to modify its project plans and application to conform to the terms of HUD approval before execution of a grant agreement and/or a Section 108 Loan Guarantee commitment. HUD reserves the right to reduce or de-obligate the EDI grant award if an approvable Section 108 loan guarantee application is not submitted by the grantee in the required amounts on a

timely basis. After approval of the EDI grant, any requested modifications must be within the scope of the original EDI application or upon re-ranking must score at or above the lowest score obtained by the lowest ranked application that was funded.

In the case of requested amendments to an approved Section 108 loan guarantee commitment (as further discussed in paragraph II.B.), the EDI assistance approved will be based on the increased amount of Section 108 loan guarantee assistance.

(G) *Eligibility to apply for grant assistance.* Any public entity eligible to apply for Section 108 loan guarantee assistance pursuant to § 570.702 may apply for grant assistance under Section 108(q) and this NOFA. **ELIGIBLE APPLICANTS ARE CDBG ENTITLEMENT UNITS OF GENERAL LOCAL GOVERNMENT AND NON-ENTITLEMENT UNITS OF GENERAL LOCAL GOVERNMENT ELIGIBLE TO RECEIVE LOAN GUARANTEES UNDER § 570.702.** Note that effective January 25, 1995, nonentitlement communities in the States of New York and Hawaii were authorized to apply to HUD for Section 108 loans. Thus nonentitlement communities in all 50 States and Puerto Rico are now eligible to participate in the Section 108 and EDI programs.

(H) *Eligible activities.* EDI grant funds may be used for:

(1) Activities listed at § 570.703, provided such activities are carried out as part of an economic development project, including a Homeownership Zone proposal. If the applicant is awarded points for activities and projects under selection criterion II.(C)(6)(b) (Proposals Addressing Special Need), the applicant is required to continue to use any funds awarded for such activities and projects under this NOFA and Program Guidelines to benefit the Qualifying Empowerment Zone or Enterprise Community area.

(2) Payment of costs of private financial guaranty insurance policies, letters of credit, or other credit enhancements for the notes or other obligations guaranteed by HUD pursuant to Section 108, provided such notes or obligations are used to finance an economic development project. Such enhancements shall be specified in the contract required by § 570.705(b)(1), and shall be satisfactory in form and substance to HUD for security purposes.

(3) The payment of principal or interest due (including such servicing, underwriting, or other costs as may be authorized by HUD) on the notes or other obligations guaranteed pursuant to the Section 108 loan guarantee program.

(4) Capitalization of Community and Individual Investment Corporations (CIICs) serving low- and moderate-income areas. A Community and Individual Investment Corporation is a type of economic development revolving loan fund designed to stimulate asset building among low- and moderate-income persons and return these assets to the community in the form of investments in economic development activities. Section 108 funds and EDI grant funds are used to capitalize the for-profit Community and Individual Investment Corporation. The CIIC provides financial services to residents and businesses in a low- and moderate-income area. Section 108 and EDI grant funds may be provided as permanent capital to the Corporation. The Section 108 funds may be provided to the Corporation in various ways such as a loan, as equity, or as other creative mechanisms with appropriate terms to allow for the repayment of the Section 108 guaranteed loan. The EDI grant funds, when provided as part of the Corporation's permanent capital act as the ultimate security for the repayment of the Section 108 guaranteed loan in the event that there are losses in the Corporation's overall operations. If the Corporation is chartered so that its service area is limited to a qualifying low- and moderate-income area, and the Corporation provides economic development financial assistance and services (eligible pursuant to 24 CFR 570.203) to the residents and businesses of the low- and moderate-income area, then the Corporation as a whole can meet the CDBG national objectives of benefitting a low- and moderate-income area. It is important to emphasize that there is a fundamental difference between a CIIC and a Community Development Financial Institution (CDFI). CDFIs are private and community initiated financial institutions which may apply for part of their capitalization to the federal government (the CDFI Fund which is part of the Department of the Treasury). By contrast, in the case of CIICs, the process of formation is initiated by a public entity as part of its community development strategy. (A complete description of the CIIC model is available in a CIIC guide that may be requested from HUD. Please call Community Connections at 1-800-998-9999 to request a copy of the guide.)

(5) EDI grants *shall not be used* as a resource to immediately repay a loan guaranteed by Section 108. For example, Section 108 guaranteed loan proceeds cannot be used to acquire land for an economic development project and

immediately upon the purchase of the land use EDI grant funds to repay the Section 108 guaranteed loan. However, it would be acceptable to use EDI grant funds in combination with loan funds guaranteed by Section 108 to acquire land.

(I) *Neighborhood Revitalization Strategies*. If an applicant has not been designated an Empowerment Zone or Enterprise Community and has not previously submitted a Neighborhood Revitalization Strategy for HUD approval, an applicant may submit such a strategy with its EDI grant application. If HUD has not approved the Neighborhood Revitalization Strategy by the time that HUD announces awards under this NOFA, and if the applicant has ranked high enough to receive an EDI grant, HUD may condition such award upon approval of the applicant's Neighborhood Revitalization Strategy. If after a reasonable period of time, but not less than 60 days after the award, unless an exception is granted by HUD for good cause, HUD is not able to approve the applicant's Neighborhood Revitalization Strategy, HUD may ask the applicant to amend or modify its program or if that's not possible HUD may cancel the EDI grant award proceed to fund additional grant(s) in rank order, beginning with the first applicant just below the original cut-off line for funding.

(J) *Catalogue of Federal Domestic Assistance (CFDA)*. The EDI program CFDA number is "14.246." Please insert this number on the SF 424 as appropriate.

(K) *Section 3*. Additionally, assistance provided under this NOFA is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, and the implementing regulations in 24 CFR part 135, as amended by an interim rule published on June 30, 1994 (59 FR 33866). Section 3 requires that to the greatest extent feasible, and consistent with Federal, State, and local laws and regulations, job training, employment and other contracting opportunities generated from certain HUD financial assistance be directed to low- and very-low income persons. The eligible activities for which funding is provided under this NOFA are consistent with the objectives of section 3. Public entities awarded funds under this NOFA and that intend to use the funds for housing rehabilitation, housing construction, or other public construction must comply with the applicable requirements of the interim regulations published on June 30, 1994.

II. The Application Process

Public entities seeking EDI assistance must apply in accordance with this

NOFA. The EDI application shall be accompanied by a request for a Section 108 loan guarantee commitment, as further described in Section II.B. of this NOFA below. Application requirements for the Section 108 program are found at § 570.704.

(A) *Timing of submission*.

Applications for EDI assistance shall be received at HUD Headquarters in the manner described under "Dates" and "Addresses" above.

(B) *Submission requirements*. (1) The EDI application (an original plus two copies) shall be accompanied by a request for loan guarantee assistance under Section 108. The request for Section 108 loan guarantee can be either one or more of the following:

(a) A formal application for Section 108 loan guarantee(s), including the documents listed at § 570.704(b);

(b) A brief description of a Section 108 loan guarantee application(s) to be submitted within 60 days (with HUD reserving the right to extend such period for good cause on a case-by-case basis) of a notice of EDI selection (EDI awards will be conditioned on approval of actual Section 108 loan commitments). This description must be sufficient to support the basic eligibility of the proposed project or activities for Section 108 assistance;

(c) If applicable, a copy of a Section 108 loan guarantee approval document with grant number and date of approval (which was approved *after* the date of this NOFA, except in conjunction with a previous EDI award); or

(d) A request for a Section 108 loan guarantee amendment [analogous to subparagraph (a) or (b) above] that proposes to increase the amount of a previously approved application.

(e) However, any amount of Section 108 loan guarantee authority approved *before* the date of this NOFA is not eligible to be used in conjunction with an EDI grant under this NOFA. Further, a Section 108 loan guarantee amount that is required to be used in conjunction with a prior EDI grant award, whether or not the Section 108 loan guarantee has been approved as of the date of this NOFA, is not eligible for an EDI award under this NOFA. For example, if a community has a previously approved Section 108 loan guarantee commitment of \$12 million, even if none of the funds have been utilized, or if the community had previously been awarded an EDI grant of \$1 million and had certified that it would submit a Section 108 loan application for \$10 million in support of that EDI grant, the community's application under this NOFA must propose to increase the amount of its

total Section 108 loan guarantee commitments beyond those amounts (the \$12 million or \$10 million in this example) to which it has previously agreed.

(f) Applicants should note that an application for a Section 108 Loan Guarantee commitment requires that the applicant certify that it has made efforts to obtain financing without the use of the Section 108 Loan Guarantee and that it cannot complete such financing consistent with the timely execution of the program plans without the Section 108 Loan Guarantee.

(2) In addition, an application for EDI grant funds shall include the following:

(a) SF 424, Application for Federal Assistance.

(b) The certification regarding lobbying required under 24 CFR part 87 (Appendix A). The applicant may use the lobbying certification published with this NOFA.

(c) A narrative statement providing a description of the activities that will be carried out with the EDI grant funds and explaining how the use of EDI grant funds meets the criteria in paragraph II.(C) below. The narrative statement shall clearly state whether the proposal is for (i) a Homeownership Zone, (ii) a CIIC, or (iii) another economic development project.

In addition to the above, HUD encourages applicants to submit maps and related information generated by the community's Consolidated Plan computer software with their applications.

The Homeownership Zone description shall:

- Identify and describe the boundaries, the approximate size, and population size of the Zone;
- Include a map of the neighborhood (Note that the Office of Community Planning and Development's Consolidated Plan computer software is available for applicants to use in defining their zone area, planning and coordinating revitalization activities, and illustrating how zone activities will produce visible change. HUD encourages applicants to submit maps and other data generated with this software with their applications.); and
- Describe the activities to be carried out with the EDI grant, how they will create visible change and are part of a larger comprehensive revitalization effort, and how they meet the selection criteria, including performance measures and benchmarks for these activities.

Where appropriate, the Homeownership Zone proposal should also indicate how local processes and building development regulations have

been or would be streamlined or modified to ensure prompt and cost-effective construction or rehabilitation. Identify who or which agency will carry out each activity, the estimated cost and funding sources, and the timetable for completion.

The Community and Individual Investment Corporation (CIIC) description shall

- Identify and describe the service area.
- Include a draft business plan with financial projections for not less than a five year period.
- Describe a plan for marketing shares of the CIIC to residents of the service area.

(d) The narrative statement and the response to all of the selection criteria in II.(C) below should preferably not exceed thirty (30) 8.5" by 11" pages.

(3) Where relevant, applications shall be deemed to include a copy of the strategic plan for community revitalization previously submitted to HUD as part of a Federal Empowerment Zone or Enterprise Community application pursuant to a Notice inviting applications, published on January 18, 1994 at 59 FR 2711, or any approved Neighborhood Revitalization Strategy covering the approved Homeownership Zone.

(C) *Selection Criteria.* All applications will be considered for selection based on the following criteria. As described in section II.(B)(2)(d) above, each applicant's response to the narrative statement and all of the selection criteria should preferably not exceed thirty (30) 8.5" by 11" typewritten pages. Each application will receive only one score. Applicants should not mix more than one type of proposal in a single application, but may submit a separate application for each project type.

(1) Distress—(up to 20 points). In evaluating this criterion, HUD will consider the level of distress in the immediate community/neighborhood to be served by the project and the jurisdiction applying for assistance. Note that in previous EDI competitions, poverty rates for the community/neighborhood area served by the project were often considered the best indicator of distress levels, although the applicant may demonstrate the level of distress with other factors indicative of distress such as income, unemployment, drug use, homelessness and other indicators of distress. Also, in previous competitions, all other factors being equal, an indicator of distress in the immediate community/neighborhood area to be served by the project that was greater than the general level of distress

in the applicant's overall jurisdiction as a whole had a greater impact on the score under this criterion.

(2) Extent of need for EDI assistance to financially support the Section 108 loan and the project—(up to 10 points).

(a) HUD will use the following information to evaluate this criterion. In addition to the information listed below, HUD will also consider the information in (b) below for proposals for Homeownership Zones. In utilizing the information in this subparagraph (a), HUD will consider the extent to which the applicant's response demonstrates the financial need for the EDI grant to financially support the loan guaranteed by the Section 108 Loan Guarantee commitment and enhance the viability of the project. Additionally, the score may be increased within this criterion to the extent other funds (non-Federal public or private) are leveraged. Note that if the applicant proposes a generic loan fund to assist a certain category of project or businesses, the applicant should demonstrate why the use of Section 108 loans to assist such businesses would not be financially feasible without EDI grant assistance. Relevant information may include:

- (i) Project costs and financial requirements;
- (ii) The amount of any debt service or operating reserve accounts to be established in connection with the economic development project;
- (iii) The reasonableness of the costs of any credit enhancement paid with EDI grant funds.
- (iv) The amount of program income (if any) to be received each year during the repayment period for the guaranteed loan;
- (v) Interest rates on those loans to third parties (other than subrecipients) (either as an absolute rate or as a plus/minus spread to the Section 108 rate);
- (vi) Underwriting guidelines used (or expected to be used) in determining project feasibility;
- (vii) The extent to which federal funds provided as a result of the Federal Empowerment Zone/Enterprise Community designation process may be utilized for the proposed EDI project; and
- (viii) Other relevant information.

(b) In addition to the information in (a) above, HUD will consider the use of the following to evaluate Homeownership Zone proposals:

- (i) The leveraging of other non-Federal public and private resources for housing and;
- (ii) The extent to which the EDI and Section 108 financial assistance achieves affordability and marketability for lower-income households while

ensuring the financial viability of the Section 108 Guaranteed loan.

(3) The extent to which the proposal, compared to other proposals for similar types of activities, e.g. Homeownership Zones or other traditional economic development proposal, leverages other non-Federal public and private resources, in addition to loan funds guaranteed under the Section 108 Loan Guarantee program (up to 15 points). For Homeownership Zone Proposals: Leveraged funds include State and local public funding and private financing. Leveraged funds may also include donations of land, nonprofit organizations' commitments of financing and volunteer labor, and waivers of local fees or taxes.

(4) Quality of the plan—(up to 60 points). HUD will consider the quality of the applicant's plan for the use of EDI funds and Section 108 loans, including the extent to which the applicant's proposed plan for the effective use of EDI grant/Section 108 loan guarantee will address its described need in the applicant's immediate community and/or its jurisdiction, and the extent to which the plan is logically, feasibly, and substantially likely to achieve its stated purpose. HUD will also consider the extent to which the proposal includes public/private partnerships, i.e. the involvement of groups such as nonprofit organizations, builders/developers and others. In addition to the above, HUD will use the criteria in (a) below to evaluate this factor for Homeownership Zones:

(a) Proposals for Homeownership Zones: The extent to which the plan demonstrates a logical, feasible, and efficient approach to addressing the Zone's problems; a high likelihood of success; and the ability to begin implementation and construction almost immediately after grant approval. HUD will also consider the following:

(i) the number of new homeownership opportunities;

(ii) how quickly construction can begin, and how quickly results will be achieved;

(iii) the mix of incomes;

(iv) the use of recent advances in urban housing design to create a sense of neighborhood and community;

(v) the degree to which the applicant provides for a comprehensive approach to neighborhood revitalization;

(vi) the clarity and feasibility of performance measures, including interim benchmarks, timeliness for construction, and other clear deliverables;

(vii) the level of involvement of the community in the preparation of revitalization plans, whether there is an

ongoing role for the community residents in implementing the plan, and a clear strategy for ensuring that residents will benefit from the new homeownership opportunities.

Evidence of such benefits to residents may include marketing the new housing to existing residents of the neighborhood, training of neighborhood residents in construction skills, and assistance in establishing and expanding neighborhood-owned businesses.

(b) Due to an order of the U.S. District Court for the Northern District of Texas, Dallas Division, with respect to any application submitted by the City of Dallas, Texas, HUD's consideration of the quality of the plan will consider the extent to which the applicant's plan for the use of EDI funds and Section 108 loans will be used to eradicate the vestiges of racial segregation in the Dallas Housing Authority's programs consistent with the Court's order.

(5) The capacity or potential capacity of the public entity to successfully carry out the plan—(up to 15 points). This may include factors such as the applicant's performance in the administration of its CDBG, HOME or other programs, including, for Homeownership Zone proposals, whether the applicant has been recognized by the National Partners in Homeownership as having formed, and is effectively implementing a Local Partnership consistent with the National Homeownership Strategy; its previous experience, if any, in administering a section 108 loan guarantee; its performance and capacity in carrying out economic development projects; its ability to conduct prudent underwriting; its capacity to manage and service loans made with the guaranteed loan funds or EDI grant funds; its capacity to carry out its projects and programs in a timely manner; and, if applicable, its capacity to manage projects under this NOFA along with any federal funds awarded as a result of a federal urban Empowerment Zone/Enterprise Community designation.

The capacity of subrecipients, nonprofit organizations and other entities that have a role in implementing the proposed program will be included in this review. HUD may rely on information from performance reports, financial status information, monitoring reports, audit reports and other information available to HUD, in making its determination under this criterion.

(6) Applicants will be rated on both criteria (a) and (b) (if applicable) below, but will receive points for only the

higher rated criterion of the two, but not both.

(a) The extent to which the proposed plan follows a comprehensive and coordinated approach in addressing the community and economic development needs of the public entity and furthers neighborhood revitalization—(up to 20 points).

(b) Proposals Addressing Special Need—(Applicants to which this criterion does not apply need not respond thereto.) (up to 20 points). Of the 20 points under this factor, one point will be awarded to applicants that received a federal urban Empowerment Zone or Enterprise Community designation and up to 19 additional points will be awarded to applicants that propose EDI and Section 108 loan assisted activities that will benefit the applicant's Qualifying Empowerment Zone or Enterprise Community area and are consistent with the applicant's Strategic Plan; and

(7) Innovation and creativity—(up to 20 points). The extent to which the applicant incorporated innovation and/or creativity in the design and proposed implementation of the proposed activities carried out with Section 108/EDI funds. In addition to the above, HUD will use the criteria below to evaluate this factor for Homeownership Zones:

Proposals for Homeownership Zones. The extent to which the applicant proposes a unique approach to increasing homeownership or expanding economic opportunity, or incorporates innovation and/or creativity in the design and implementation of the proposed activities carried out with the EDI grant and Section 108 funds, including community planning, urban design, housing architecture, and construction methods and materials.

(D) Selection Process—Once all proposals are scored under the selection criteria above, applications for Homeownership Zones and CIICs will each have 10 additional points added to its total score. Then, all applications will be ranked in order of points assigned, with the applications receiving more points ranking above those receiving fewer points. Applications will be funded in rank order, however, HUD, in its sole discretion, may choose to award EDI assistance to a lower rated approvable application over a higher rated application in order to increase the level of geographic diversity of grants approved under this part. The parameters of any diversity factors used in the selection process will be described in writing by the panel and/

or selecting official, and consistently applied in the final selections. However, no application will be funded for geographic diversity that does not have a selection score of at least 80 points.

As discussed in paragraph I.(F) above, HUD reserves the right to determine a minimum and a maximum amount of any EDI award or Section 108 commitment per applicant, application or project and to modify requests accordingly. In addition, if HUD determines that an application rated, ranked and fundable could be funded at a lesser EDI grant amount than requested consistent with feasibility of the funded project or activities and the purposes of the Act, HUD reserves the right to reduce the amount of the EDI award and/or increase the Section 108 loan guarantee commitment, if necessary, in accordance with such determination.

HUD may decide not to award the full amount of EDI grant funds available under this NOFA and may make any remaining amounts available under a future NOFA.

To review and rate applications, the Department may establish panels including persons not currently employed by HUD to obtain certain expertise and outside points of view, including views from other Federal agencies.

(E) Timing of grant awards—To the extent full Section 108 applications are submitted concurrently with the EDI grant application, HUD's approval of the related Section 108 loan guarantee commitment will in most cases be granted contemporaneously with EDI grant approval. However, the EDI grant may be awarded prior to HUD approval of the Section 108 commitment if HUD determines that such award will further the purposes of the Act. EDI funds shall not be disbursed to the public entity before the issuance of the related Section 108 guaranteed obligations.

III. Technical Assistance

To the extent permitted by law, HUD may advise applicants of technical deficiencies in the EDI applications after submission and permit them to be corrected. Technical deficiencies relate only to items, such as a failure to submit or sign a required certification, that would not improve the substantive quality of the application relative to the selection criteria. Applicants will have 14 calendar days from the date HUD notifies the applicant of any such technical deficiency to submit the appropriate information in writing to HUD. At any time during the selection process, which began with preparation of this NOFA, HUD staff are limited in

the assistance they are permitted to provide regarding applications for EDI grants, due to the requirements of the HUD Reform Act. The assistance and advice that can be provided includes such activities as explaining and responding to questions about program regulations or generally discussing strengths and weaknesses observed in applications during previous competitions, the dates by which decisions will be made and the procedures that are required to be performed to process an application. The term "technical assistance" however, does not include advising the applicant how to make substantive improvements in its application that will affect ratings.

In addition, any information published in the Federal Register and in this NOFA, and any information that has been made public through a means other than the Federal Register or NOFA, may be discussed.

HUD staff will be available throughout the EDI application period to provide extensive advice and assistance, as is currently provided, to develop 108 loan applications since the 108 program is not subject to the HUD Reform Act. Staff providing such assistance may provide technical advice to the EDI selection panel but *in no case* will such staff participate in the panel's voting process for EDI awards under this NOFA.

IV. Other Matters

Environmental Impact. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW., Room 10276, Washington, DC 20410.

Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this NOFA will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal Government, or on the distribution of power and responsibilities between them and other levels of government. While the NOFA offers financial assistance to units of general local government, none of its provisions will have an effect on the relationship between the Federal Government and the States, or the States' political subdivisions.

Family. The General Counsel, as the Designated Official for Executive Order 12606, *The Family*, has determined that the policies announced in this NOFA would not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order. No significant change in existing HUD policies and programs will result from issuance of this NOFA, as those policies and programs relate to family concerns.

Section 102 of the HUD Reform Act. Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

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

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

Section 103 of the HUD Reform Act. HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989,

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

Applicants or employees who have ethics-related questions should contact the HUD Office of Ethics (202) 708-3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel or Headquarters counsel for the program to which the question pertains.

Prohibition Against Lobbying Activities. The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part

87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding \$100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Dated: July 11, 1996.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation,

renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Signed: _____

(Print name and title)

Date: _____

24 CFR Part 87, Appendix A1

[FR Doc. 96-18012 Filed 7-15-96; 11:55 am]

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