

# Economic Development Activities in the Entitlement CDBG Program

March 3, 1992

MEMORANDUM FOR: ALL REGIONAL ADMINISTRATORS ALL CATEGORY A FIELD OFFICE MANAGERS

ATTENTION: Regional Directors for CPD  
CPD Division Directors

FROM: Anna Kondratas, Assistant Secretary, Office of Community Planning and Development, C

**SUBJECT: Economic Development Activities in the Entitlement and State Community Development Block Grant (CDBG) Programs**

As we enter 1992, the Community Development Block Grant (CDBG) program has the potential to be more effective than ever before. The \$3.4 billion appropriation is the highest since Fiscal Year 1985. The National Affordable Housing Act (NAHA), signed by President Bush in November of 1990, enacted a number of changes to the CDBG program which have enhanced its usefulness to grantees as well as its benefit to low- and moderate-income persons. I expect that CDBG grantees will do their utmost to see that available funding is used in the coming year to pursue the goal of improving America's diverse communities while providing benefit principally to low- and moderate-income persons.

This memorandum discusses those aspects of current HUD CDBG economic development policy that have been highlighted as not being adequately addressed by some grantees and provides guidance on additional considerations necessary to ensure the CDBG program accomplishes its primary objective of principally benefiting low- and moderate-income persons. It briefly discusses the Section 108 Loan Guarantee program and CPD's monitoring role. It also presents those economic development recommendations made by the CDBG Paperwork Reduction Task Force that I have reviewed and have agreed to implement.

While there are many positive things happening in the CDBG program, there are also some concerns. A particular area of concern is the provision of assistance to private for-profit entities under section 105(a)(17) of Title I of the Housing and Community Development Act of 1974, as amended. Several factors have drawn my attention to this area and they are:

An oversight hearing, held by a subcommittee of the House Government Operations Committee, which examined several controversial CDBG-assisted economic development activities;

A recent series of Inspector General audits documenting systemic shortcomings in CDBG-funded economic development programs;

Recommendations made by the Economic Development Working Group of the CDBG Paperwork Reduction Task Force; and

The NAHA revision of section 105(a)(17) of the Housing and Community Development Act.

The oversight hearing focused on three specific economic development projects, some of which HUD had identified as having program abuses during routine monitoring. As I told the subcommittee, I believe that projects of this sort constitute a very small percentage of all CDBG-assisted economic development activities. The Department's principal response will be to move expeditiously to implement the revised section 105(a)(17). Not only will regulatory changes be promulgated but corollary policy guidance will be updated to reflect these changes. We will also be providing Technical Assistance funds to help build local economic development capacity. These funds will be provided through several upcoming competitions. Finally, depending on funding and staff resources, training will be provided to HUD staff and grantees on these changes.

### **Applicability**

This memorandum is applicable to the CDBG Entitlement program, the State-administered CDBG program and the HUD-administered Small Cities program, as well as to the Section 108 Loan program. CPD is separately developing a proposed rule for both the Entitlement and State-administered CDBG programs to implement the 1990 statutory amendments and to address other program concerns.

The advice in this memorandum supersedes the advice and guidance provided in CPD General Deputy Assistant Secretary, Jack Stokvis' memoranda dated May 19, 1987 for the CDBG State Program and June 2, 1987 for the Entitlement Program.

Since the information in this memorandum is of concern to CPD staff and CDBG grantees, please provide copies of this memorandum immediately to all CPD staff in your office and to all Entitlement and State grantees in your jurisdiction.

### **States That Adopt HUD's "Safe Harbor" Approach**

Until regulatory changes are made to the States' rule, a State may choose to adopt the "safe harbor" approach. The "safe harbor" approach means that if a state uses the Department's interpretation of the Act, as described in the CDBG entitlement rule, this policy memorandum and previous policy memoranda issued on CDBG economic development activities, HUD will consider the state to be in compliance with the Act for eligibility and national objectives. (Note that with regard to the national objectives criteria, the State CDBG final rule does set forth the Department's policies and they should be followed once that rule becomes final).

If a state adopts the "safe harbor" approach and until HUD publishes a final rule on CDBG assistance to for-profit businesses, a state that reviews and approves economic development projects at the state level should ensure that its review process is consistent with the advice in this memorandum; and a state that relies on its participating units of general local government to make eligibility and national objectives determinations should ensure that this advice is incorporated into their reviews as well.

Where a state interprets the statute in a manner inconsistent with the entitlement regulations and supplemental instructions, the state must demonstrate how its interpretation satisfies the statutory requirements.

### **Entitlement and HUD-administered Small Cities Grantees**

With respect to entitlement grantees and small cities grantees under the HUD-administered Small Cities program, the "safe harbor" concept continues to mean that a grantee that carries out a CDBG economic development program under 24 CFR 570.203(b) in the provision of direct assistance to for-profit businesses in conformance with the policies in this memorandum, will be deemed, absent substantial evidence to the contrary, to have met the regulatory criteria for eligibility under this section.

If a state, entitlement or HUD-administered small cities grantee chooses to adopt this "safe harbor" approach and the Department has subsequent performance concerns, HUD will first determine if the grantee reasonably followed the policies and advice in this and previous memoranda. If that was not the case, then HUD will determine whether or not the grantee met the applicable statutory or regulatory criteria. Only then will HUD consider the need for program sanctions.

### **I CURRENT CDBG ECONOMIC DEVELOPMENT POLICIES**

Perhaps the single most important issue raised has been the failure of a number of grantees to adequately carry out and document their front-end reviews for eligibility and the national objectives.

I want to emphasize that before a CDBG grantee decides to provide CDBG financial assistance to a for-profit business, the grantee must make an eligibility determination (composed of three separate parts) and a national objectives determination. Each of these determinations must be completed and documented in the project's file before the grantee enters into an agreement to provide CDBG assistance. Those determinations are as follows:

#### **ELIGIBILITY:**

The CDBG assistance is "appropriate" to carry out the economic development project.

HUD's current policies governing direct CDBG financial assistance to for-profit businesses (but excluding technical assistance) require the grantee to consider the business entity's need for financial assistance. A grantee's decision to provide CDBG assistance, the amount of assistance and the financial terms for that assistance, should be based upon the principle that there is a need for assistance and CDBG funds will allow the business a reasonable return on its equity investment, consistent with industry standards for that type of business. CDBG assistance to a business which is excessive (taking into account the actual needs of the business in making the project financially feasible and the extent of public benefit expected to be derived) would not be "appropriate" and thus not meet the statutory requirement.

Until regulations and new guidance are issued, each grantee adopting the "safe harbor" approach, as discussed above, must ensure that the following elements are included in each determination for "appropriate":

### Reasonableness of Proposed Project Costs.

The grantee must review each project cost element and determine that the cost is reasonable and consistent with third-party, fair-market prices for that cost element.

The general principle is that the level of CDBG assistance cannot be adequately determined if the project costs are understated or inflated. The provision of CDBG assistance beyond the true cost of the project would be inappropriate.

### Commitment of Other Sources of Funds.

The grantee shall review all projected sources of funds necessary to complete the project. The grantee shall verify that all sources (in particular private debt and equity financing) have been firmly committed and are available to be invested in the project.

The general principle is that the grantee, when the grantee acts in the role of a lender, should take all reasonable steps to ensure that other committed resources are available.

### No Substitution of CDBG Funds for Private Sources of Funds.

The grantee shall financially underwrite the project and ensure that CDBG funds are not being substituted for available private debt financing or equity capital. The analysis must be tailored to the type of project being assisted, i.e., real estate, user project, capital equipment, working capital, etc. Real estate projects require different financial analysis than do working capital or machinery and equipment projects.

The analysis must determine the need for CDBG financial assistance, the amount of CDBG financial assistance needed and the likelihood of the project's success. For example, a business' need for CDBG assistance may be based upon a lack of sufficient capital and access to standard sources of credit or the additional locational costs and risks of locating in a lower income neighborhood, which, without CDBG assistance, would result in an unsatisfactory rate of return on equity.

Note that there may be some limited circumstances in which there is no provision for a cash equity investment in the project. Such situations may include a business owner who has little or no financial net worth and has no available personal funds to invest in the business or a business owner who already owns an asset, such as land, a building, or equipment that will be invested in the project in lieu of cash equity. In these cases, the grantee should verify the inability of the business to make an equity investment (based upon the conclusions of its financial underwriting discussed above) and establish appropriate CDBG financing terms (see d. below) to ensure that the business owner is not unduly enriched.

The grantee should carry out these reviews consistent with generally recognized industry standards for the type of project involved, the rates of return on equity investment and level of risk. Again, the general principles are: it would be inappropriate to substitute CDBG funds for available private debt financing or equity; and it would be inappropriate to assist a project which has no likelihood of success regardless of the amount of assistance.

Front-end analysis especially is critical in cases where CDBG funds are spent for "up-front" costs such as land acquisition or construction of speculative buildings. Grantees should ensure both that a significant

equity commitment by the for-profit business exists, and that the level of certainty of the end use of the property or project is sufficient to ensure the achievement of national objectives within a reasonable period of time.

### Establishing CDBG Financing Terms.

The amount of CDBG assistance provided to a for-profit business should be limited to the amount, with appropriate repayment terms, sufficient to allow the project to go forward without substituting CDBG funds for available private debt or cash equity. The grantee should structure its repayment terms so that the business is allowed a reasonable rate of return on invested equity, considering the level of risk of the project. A neighborhood grocery in a high crime area is riskier than that same grocery in a low crime neighborhood. The project's file should demonstrate the basis for the term of the loan, the rate of the loan and any other special financing terms granted which in the judgment of the grantee are appropriate for financing the project.

A grantee is not expected to so limit the provision of CDBG financial assistance as to jeopardize the chance of success of the project. At the same time, it is inappropriate to substitute CDBG funds for equity funds if the project's rate of return suggests additional equity should be invested. It should be remembered that equity funds should bear the greatest risk of all funds invested in a project.

### Assessing Public Benefit.

The extent of public benefit expected to be derived from the economic development project must be assessed. While no standards have been developed, the assessment of public benefit should consider such factors as the number and type of jobs to be created or retained, in relation to the needs of low- and moderate- income and other persons who are likely to be employed, the extent to which a business provides essential services to low and moderate income neighborhoods, and increases to the tax base including property, sales and income taxes in the area. Note that these factors are not all- inclusive. The recipient is expected to document those public benefit factors it considered. In assessing the extent of public benefit with the amount of CDBG assistance provided to the project, consideration should also be given to the risk of the project and the effect on public benefit if the project fails.

I cannot emphasize enough that the above reviews for "appropriateness" should be made by the grantee and documented in the project's file before CDBG assistance is committed to the business.

CDBG assistance must minimize business and job displacement.

I expect that each grantee will evaluate the potential of each proposed economic development project for causing displacement of existing businesses and lost jobs in the neighborhood where the project is proposed to be located. When the grantee concludes that the potential exists to cause displacement, given the size, scope or nature of the business, then the grantee must, to the extent practicable, take steps to minimize such displacement. The project file must document the grantee's review conclusions and if applicable, steps taken to minimize displacement.

The Department is considering the promulgation of regulations to address "job piracy", i.e., instances where CDBG financial assistance is rendered to for-profit entities to entice them to move jobs from one jurisdiction to another. In these instances, while the jurisdiction gaining the jobs for national objective purposes shows a net gain, the locality losing the jobs shows a net loss, and no net gain on a national

level is achieved. Therefore, grantees should carefully examine the source of jobs which businesses claim are newly created to ensure the alleged net gain is valid and consider whether CDBG assistance under these circumstances serves local economic development objectives.

The economic development project consists of activities that do one or more of the following:

creates or retains jobs for low- and moderate- income persons (note that a project which meets the national objective of principally benefiting low- and moderate-income persons by creating or retaining jobs, 51 percent of which are for low- and moderate-income persons, will be deemed to have met this criterion without any additional documentation);

prevents or eliminates slums and blight (note that a project which meets the national objective of aiding in the prevention or elimination of slums or blight on an area basis will be deemed to have met this criterion without any additional documentation);

meets urgent needs (note that a project which meets the national objective of meeting community development needs having a particular urgency will be deemed to have met this criterion without any additional documentation);

creates or retains businesses owned by community residents;

assists businesses that provide goods or services needed by and affordable to low-and moderate-income residents; and/or

provides technical assistance to promote any of the activities under a. through e.

I wish to emphasize that while there may be an overlap between these additional eligibility criteria and the national objectives, the grantee must not confuse the two. When evaluating potential CDBG-assisted economic development projects, the grantee must continue to ensure that the project meets both a national objective and one of the six criteria above.

### **NATIONAL OBJECTIVES**

In addition to meeting the applicable eligibility criteria, each CDBG-assisted activity must also meet one of the three national objectives. Under the Entitlement and HUD-administered Small Cities programs and for states that are using the entitlement regulations under the "safe harbor" approach, the various criteria to meet the national objectives are found at 24 CFR 570.208. Before the grantee decides to provide CDBG assistance to a for-profit business, it must determine which national objective criterion the project will meet. Under all but one criterion, the grantee is able to determine whether the economic development project meets the regulatory criterion prior to committing to undertake the project or prior to disbursing CDBG funds to the business. Only under the criterion of low- and moderate-income job creation/retention [see 24 CFR 570.208(a)(4)] must the grantee commit to the project and disburse CDBG funds without positively knowing that the promised jobs will be created or retained. It is critical that each grantee undertake the proper front-end reviews and safeguards to ensure that the appropriate national objective criterion has been or will be met.

The following discussion focuses on the national objectives criteria that can be met prior to disbursement of CDBG funds as opposed to the low- and moderate-income job creation/retention criterion that cannot be met prior to disbursement of CDBG funds:

Economic development activities that meet a national objectives criterion prior to disbursement of CDBG funds.

A grantee may qualify an economic development activity as meeting one of the following national objective criteria if it makes a positive determination that the applicable criteria are met on the basis of existing information. This determination and the factual basis for it must be made and documented prior to the provision of CDBG assistance to the business. Those criteria are:

benefiting a low- and moderate-income neighborhood because 51% or more of the residents are low- or moderate-income [see 24 CFR 570.208(a)(1)];

aiding in the prevention or elimination of slums or blight on an area basis [see 24 CFR 570.208(b)(1)];

addressing slums or blight in an urban renewal area [see 24 CFR 570.208(b)(3)]; or

meeting community development needs having a particular urgency [see 24 CFR 570.208(c)].

For example, if a grantee proposes to assist the establishment of a grocery store in a neighborhood and meet the low- and moderate-income area benefit national objective, the grantee must determine the location of the store, the store's likely service area and whether the store serves a primarily residential area where at least 51 percent of the residents are low- and moderate-income.

Economic development activities that meet the national objective criterion of low- and moderate-income job creation/retention after CDBG funds have been disbursed.

Because a grantee must make its decision to provide CDBG assistance to a for-profit business that is meeting the criterion of low- and moderate-income job creation/retention prospectively, it is particularly important that the grantee undertake all reasonable front-end reviews and safeguards before agreeing to assist a business and disburse CDBG funds. Those steps may include:

obtaining a list of prospective permanent jobs and their full-time equivalents with a breakout of those positions which involve the employment of low- and moderate-income persons;

identifying those positions that can only be filled by persons with substantial training, work experience or education beyond high school and whether or not the business will agree to hire, and train as necessary, low- or moderate-income persons for these jobs;

including in loan agreements specific low- and moderate-income job requirements and the standards for compliance, reporting and record-keeping; and

identifying what actions the business will agree to undertake and document for hiring of low- or moderate-

income persons for the designated positions, such as agreeing to ensure and document that low- and moderate-income persons receive first consideration for filling such jobs.

Note that a recipient may choose to document that either at least 51 percent of the jobs will be "available to" low and moderate income persons or that at least 51 percent of the jobs will be "held by" low and moderate income persons. Items a. through c. above would be applicable in either case and item d. would be applicable only if the recipient chooses the "available to" standard.

I expect each grantee to complete and document these determinations and take necessary safeguards before CDBG assistance is provided to a business.

## **II SECTION 108 FINANCED ECONOMIC DEVELOPMENT ACTIVITIES**

Economic development activities carried out with the proceeds from loans guaranteed under the Section 108 Loan Guarantee program must meet the same requirements that apply to the use of other CDBG funds. Accordingly, before using guaranteed loan funds to assist a for-profit business, the grantee must make the determinations outlined in this memorandum. In addition, the grantee must include in its application for loan guarantee assistance a narrative statement explaining how the proposed activity meets a national objective of the CDBG program. Unlike activities assisted with other CDBG funds, HUD will perform an "up front" review of compliance with the CDBG program's eligibility and national objectives requirements.

## **III ADDITIONAL CDBG ECONOMIC DEVELOPMENT CONSIDERATIONS**

In addition to the review determinations required above, I have four additional considerations to discuss. The first two areas of concern are the "up-front" disbursement of CDBG funds to for-profit businesses and the need for a ratio disbursement of those funds. While these concerns are not regulatory, they represent sound business practices a grantee should follow to protect its financial interests in the project. The third area concerns the appropriate use of sanctions if an assisted business fails to meet program requirements. The final area concerns the role of CPD in monitoring CDBG economic development activities.

Grantees should generally not use CDBG funds for "up-front" project costs.

An issue related to the substitution of CDBG funds for private sources is the use of CDBG funds for "up-front" project costs. Grantees should generally not use CDBG funds to pay for "up-front" project costs such as the advance of CDBG funds for the purchase of land or buildings prior to the start of the project. When CDBG funds are used in this fashion, there is risk of loss of program funds if the project does not go forward. Even if the grantee obtains additional security, such as a stand-by letter of credit, there is the potential that a developer will use CDBG funds to purchase raw land, wait some period of time, sell the land at a profit and pay back the CDBG loan with no risk to the developer and no benefit to the CDBG program. Because of the potential for abuse under these circumstances, CDBG funds should generally not be used for "up-front" project costs. (See also the earlier section on "No Substitution of CDBG Funds for Private Sources of Funds" above.)

Grantees generally should disburse CDBG funds on a pro-rata basis.

When a grantee enters into a loan agreement to provide CDBG financing to a for-profit business, the



grantee generally should require that the CDBG funds be disbursed in the same proportion as the other sources of funds used to finance the project. For example, if a project's funding sources are 65% private lender debt, 15% CDBG funds and 20% equity, the grantee's loan agreement should provide for the disbursement of funds in the same ratio. Thus, in this example, for every \$1.00 of project costs, 15¢ of CDBG funds would be disbursed. In the event the grantee concludes, because of the nature of the project, that this is not feasible, the grantee should insist that all required private equity funds be invested in the project prior to the disbursement of CDBG funds.

Potential sanctions when grantees fail to meet program requirements.

The Department's objective is to ensure that grantees carry out their CDBG activities in accordance with the applicable CDBG requirements. Because of the unique nature of using CDBG funds to assist for-profit businesses when compared to most other CDBG-assisted activities, I recognize that a grantee cannot provide a 100% guarantee that no assisted business will ever fail, that no business' profits will ever be greater than the industry norm, or that all low- and moderate-income job creation activities will never provide less than 51% benefit to low- and moderate-income persons. This situation is particularly true with economic development since all of the grantee's judgments are prospective in nature.

I do, however, expect all grantees to exercise reasonable precautions, as outlined above, to minimize these possibilities. HUD's reviews and potential sanctions will be aimed at those grantees that do not implement reasonable safeguards or who have intentionally disregarded financial analysis requirements. I also expect states and entitlement entities to take action against businesses which have misrepresented facts relating to a project.

Likewise, HUD will aggressively pursue sanctions in circumstances where grantees do not reasonably attempt to meet the basic requirements or permit a pattern of abuses to occur. I expect field offices especially to pursue sanctions aggressively in cases where: (1) grantees fail to adequately document achievement of national objectives, and (2) national objectives are not met because a business fails and the grantee reasonably should have known, based upon prudent underwriting, that there was no reasonable expectation of success.

The role of CPD in monitoring CDBG economic development activities.

### **Entitlement Recipients:**

When CPD staff monitor CDBG grantees' economic development projects for meeting the eligibility and national objectives criteria, the reviewer should make that review within the following context:

Did the grantee carry out and document its required analysis and reviews prior to committing CDBG assistance to the business?

Did the grantee reasonably conduct its reviews and analysis consistent with the principles outlined above? Specifically, do the grantee's files document that:

### **For eligibility:**

the CDBG assistance is "appropriate" to carry out the economic development project, after considering a review and analysis of:

proposed project costs;  
sources of funds to finance the project;  
the likelihood the business has proposed the substitution of CDBG funds for private sources of funds;  
and  
reasonable CDBG financial terms that take into account the profitability of the project and rate of return on equity to be invested in the project;

an analysis of the impact of the economic development project on displacement has been completed, and to the extent practicable, steps have been taken to minimize such displacement of existing businesses and jobs;

the economic development project consists of activities that address one or more of the six economic development criteria, i.e., creates or retains jobs for low- and moderate-income persons; prevents or eliminates slums and blight; meets urgent needs; creates or retains businesses owned by community residents; assists businesses that provide goods or services needed by and affordable to low- and moderate-income residents; or provides technical assistance to promote any of these criteria.

For the National Objectives: that the project meets one of the national objective criteria outlined in 24 CFR 570.208.

In addition to reviewing the grantee's files for whether or not these determinations were made, the reviewer should look at a sample of individual projects and see if the conclusions reached by the grantee were consistent with the facts available (and documented in the individual project files) at the time the grantee conducted its reviews and committed CDBG assistance to the business.

Finally, during the review of individual projects, the reviewer should analyze loan documents, disbursement records, project amendments and site inspection information to verify that the grantee and business implemented the project consistent with its review determinations. Where there are differences, have the review determinations been updated to reflect the changes?

### **State Recipients:**

Most states have a fundability review system to determine whether activities will meet a national objective and are eligible. The HUD monitor should first determine if the state has adopted the "safe harbor" approach outlined in this memorandum, identify the components of the system that implement the required reviews and determinations (including those elements of the "safe harbor" approach if applicable) and then review a sample of recently funded projects to determine whether that sample was carried out consistent with the system.

In reviewing the overall system and the sample of funded projects, the HUD monitor must keep in mind what requirements the state has established for itself for making fundability judgments and what it has communicated to its recipients. States which have no systematic approach should be reviewed more carefully and more completely.

The HUD monitor must also review actual accomplishments against the eligibility and national objective criteria. States are expected to review each grant on-site before closeout and to determine whether each

activity actually is meeting a national objective and is eligible. Therefore the HUD monitor should check whether the state has determined the following:

### **Eligibility:**

Have all sources of funds, and in particular required equity, committed to the project in the application actually been invested in the project?

Did the business, in fact, use the assistance as described (did the expansion occur, or was new machinery actually put into place, etc.)?

Do records exist that show actual costs and that such costs are consistent with the costs proposed in the application?

Were time schedules met or are being met?

Are repayments being made (if applicable) as scheduled?

Has the public benefit described in the application materialized or can be expected to materialize?

Has the state included in its review an analysis of the impact of the economic development project on displacement, and to the extent practicable, were steps taken to minimize such displacement of existing businesses and jobs?

Has the state included in its reviews the determination that the economic development project consists of activities that address one or more of the six economic development criteria, i.e., creates or retains jobs for low- and moderate-income persons; prevents or eliminates slums and blight; meets urgent needs; creates or retains businesses owned by community residents; assists businesses that provide goods or services needed by and affordable to low- and moderate-income residents; or provides technical assistance to promote any of these criteria?

National Objectives. The HUD monitor should review the state's files consistent with HUD CPD Notice 89-18: "Determining Benefit to Low and Moderate Income Persons Through Jobs in the State CDBG Program."

### **IN CONCLUSION:**

If the grantee is administering its economic development loan program consistent with the above criteria, then, absent substantial evidence to the contrary, HUD should not call into question the grantee's decision to assist a for-profit business. If, notwithstanding a conclusion that a grantee's program generally meets the above criteria, the reviewer believes nonetheless that there are particular circumstances which appear to expose the CDBG program to loss of funds or program abuses, the CPD reviewer should notify the grantee of HUD's concerns (though it would not constitute a formal finding) and forward a copy of those concerns to CPD's Office of Block Grant Assistance, Headquarters, for consideration of future actions.

## **IV COMMITMENTS TO PAPERWORK REDUCTION TASK FORCE**

During 1991, I convened a working group of local community development officials representing a wide spectrum of CDBG grantees including large and small entitlement cities, urban counties and states to advise me of ways the CDBG program could be improved. The primary focus of the group was to discuss ways to reduce the paperwork burden in the CDBG program. One subcommittee of the task force focused on CDBG economic development. It has provided me with a number of recommendations which I reviewed and agreed should be implemented. I would like to highlight those areas that I support.

Revise HUD's method of monitoring CDBG-assisted economic development activities from a case-by-case approach to a more systemic approach. I agree that HUD should be emphasizing the grantee's establishment of adequate loan underwriting systems. This method has the greatest potential for ensuring that adequate front-end reviews are carried out.

Amend all regulations and guidance to reflect the changes to section 105(a)(17) of the Housing and Community Development Act of 1974, as amended, made by the National Affordable Housing Act (NAHA).

Revise the language in the regulations at 24 CFR 570.203(b) to clarify the intent of the "appropriate" determination. The committee expressed the concern that the entitlement regulations appear to emphasize the investment of the least amount of CDBG funds possible. The group's concern was that this approach leads to the funding of marginal projects with insufficient funds to ensure success. There are two conflicting concerns regarding this issue. Grantees should not assist projects which have little or no chance of success, nor should they fund projects which would go forward without any CDBG assistance. In between are those projects which pose some degree of risk and demonstrate a clear financial need for CDBG assistance. It is not our intention to limit the amount of CDBG assistance extended to a project such that it cripples the business and imperils the success of the project. At the same time, HUD does not support a higher level of assistance than is necessary for the project to be a success. With resources as scarce as they are, it is not possible to justify such higher levels of assistance or the undue enrichment of business owners.

Revise the guidance on economic development activities as provided in the memoranda dated May 19, 1987, and June 2, 1987, from Jack Stokvis, and in the guidance document entitled "Explanation of Suggested Approach for Reviewing the 'Necessary or Appropriate' Determinations.

Include self-employment in the count for job creation.

Consider job training and upgrades as job retention, under certain conditions, based upon additional information to be provided sometime in the future by the working group members.

Consider using census tract data in assessing low- and moderate-income status for job creation and retention activities.

Provide guidance on when to start tracking jobs created or retained by assisted businesses.

Revise the regulations to require that agreements under which CDBG assistance is provided to a business must include a period of time during which job projections resulting from the CDBG assistance should be met.

Issue guidance on sanctions in cases of programmatic or financial default with CDBG loans.

Improve the dissemination of information to grantees to provide for more inter-regional consistency.

Adopt a policy in the Entitlement CDBG program that is similar to that in the State CDBG program rules regarding the method for counting jobs created by uncommitted development.

Develop a policy on counting (or not counting) transferred jobs.

Advise the states and entitlement grantees when changes to the CDBG program resulting from the NAHA will be implemented.

Some of the above concerns have been addressed in this memorandum. I will address the remaining concerns either in the CDBG regulations that are currently under revision or in future policy guidance.

I understand the difficulties HUD Field Office staff are facing with the tremendous burden of the many different programs you are being requested to administer. I am also aware of the potential for program abuses, particularly as they have been highlighted for CDBG economic development activities. Therefore I am continually reviewing ways to strengthen the program's safeguards without unnecessarily adding to your workload. Thank you for your continuing efforts in administering these and CPD's other programs. Questions concerning this memorandum should be directed to the Office of Block Grant Assistance at: (FTS) 458-3587, (Commercial) 202-708-3587.

cc: Linda Marston, SC

cc: CAO CPD Files 7253  
C Kondratas 7100  
CE Bardack 7100  
CEE Priest 7136  
CEE Duncan 7140  
CEE McMahon 7134  
CG Erben 7204  
CEE Chron 7140  
CGBE Broughman 7282  
CGB Patch 7286  
CGBS Kennedy 7184  
CGBF Webster 7178  
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