



OFFICE OF PUBLIC AND INDIAN HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

November 15, 2021

SUBJECT: Tribal Consultation on the Impact of Proposed Changes to the Indian Community Development Block Grant Program Regulations

Dear Tribal Leader:

The U.S Department of Housing and Urban Development (HUD) intends to undertake rulemaking in order to revise the Community Development Block Grant (CDBG) and related Section 108 loan guarantee program regulations to make it easier for recipients to promote economic development and recovery in Low- and Moderate-Income (LMI) communities and to support investments in underserved areas.

As part of this rulemaking, HUD intends to make a limited number of conforming changes to the Indian Community Development Block Grant (ICDBG) program regulations (24 CFR Part 1003) since the regulations largely mirror the broader CDBG regulations in 24 CFR Part 570. The goal is to adopt regulations that streamline processes, promote economic development, and make administration of the ICDBG program less burdensome on Tribes.

As part of HUD's commitment to its [Tribal Consultation Policy](#) and the government-to-government relationship with Tribes, HUD is seeking Tribal feedback on the impacts of the proposed changes.

Below is a summary of the changes HUD is considering in order to achieve the goals stated above. Comments can be sent via email to Codetalk@hud.gov. Please send comments by **January 15, 2022**, at 11:59:59 Eastern Daylight Time.

1. Adding a definition at § 1003.4 for “activity delivery costs” to clarify that under the ICDBG program, ICDBG recipients and subrecipients may incur certain costs related to carrying out specific ICDBG eligible activities, typically referred to as “activity delivery costs.” These costs are separate from program administrative costs and, accordingly, do not count towards the 20 percent cap on administrative and planning costs.
2. Clarifying in § 1003.201 that ICDBG funds may be used to assist properties containing both eligible and ineligible uses, as long as the recipient only expends ICDBG funds on the eligible use. Amending the acquisition activity to clarify that long-term lease means a lease of 15 years or more. Amending the public facilities definition to include temporary housing for victims impacted by climate events. Also, adding two new eligible ICDBG activities that are statutorily authorized but not in the regulations: assistance for tornado-safe shelters for manufactured housing residents, and essential repairs and operating expenses to temporarily maintain the habitability of housing units that are acquired through tax foreclosure. In addition, adding a definition of “mixed-use property” which would be defined as a property containing multiple uses, at least one of which must be eligible to be assisted with ICDBG funds.



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3. Clarifying in § 1003.202(a) that reconstruction is an eligible activity. While reconstruction has been implicitly an eligible ICDBG activity, this amendment would explicitly state that it is an eligible activity.
4. Clarifying § 1003.203, by adding in the term “loan participations” and adding the use of pass-through financing structures to the list of special economic development activities.
5. Clarifying in § 1003.206 that staff and overhead costs directly related to eligible activities are part of “activity delivery costs” in 24 CFR § 1003.4.
6. Revising the criteria in § 1003.208 for determining whether an ICDBG-assisted activity complies with one or more of the national objectives.
 - With respect to Limited Clientele activities, the revisions would provide improved guidance to recipients by stating the requirements more clearly. Some examples would be broadening the application of the presumed LMI group of “battered spouses,” removing the term, and replacing it with “victims of domestic violence” to cover all victims of domestic violence, and clarifying that the presumed LMI group of “illiterate adults” means adults unable to read and write in English or, if the native language is not English, their native language.
 - With respect to the Low- and Moderate-Income Housing activities, the changes would add as an exception to the 51 percent LMI requirement the “substantial rehabilitation and conversion of a nonresidential structure to a multifamily, non-elderly rental housing project.”
 - The revisions also would change the language around the presumptions related to Job Creation or Retention activities to replace the reference to Empowerment Zones and Enterprise Communities with a more general reference to “census tracts that are designated as economically distressed” which could include current or future designations that are not limited to a particular program.
7. Revising §1003.506 by changing the date for when the Annual State and Evaluation Report (ASER) is due to HUD to better align reporting requirements under the ICDBG program with reporting requirements under the IHBG program. Grantees will be required to submit their ASERs within 90 days of the end of their Tribal program year (as is currently required under the IHBG program) instead of 45 days after the end of the Federal fiscal year. This will make it easier for grantees to manage various HUD reporting requirements. Also, making improvements to the ASER form to make it easier for Tribes to report data on the ICDBG program consistently.
8. Defining the term “public disclosure” in § 1003.606(d)(i) as disclosure through any of the following media: publication on the recipient’s website, including social media; electronic mailings; media advertisements; public service announcements; and display in public areas such as libraries, grocery store bulletin boards, and neighborhood centers.



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We hope that these proposed changes will yield greater consistency, transparency, and clarification for the ICDBG program, and streamline processes in completing proposed projects. Thank you in advance for your comments and your continued partnership in serving Indian Country.

Sincerely,

A handwritten signature in blue ink that reads "Heidi J. Frechette".

Heidi Frechette
Deputy Assistant Secretary
for Native American Programs