

Appendix H

CRITERIA

Federal (HUD) Regulations at 24 CFR

85.40(a) states that grantees are responsible for managing the day-to-day operations of grant- and subgrant-supported activities. Grantees must monitor grant- and subgrant-supported activities to ensure compliance with applicable federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function, or activity.

91.505(a) states that the jurisdiction shall amend its approved consolidated plan whenever it makes one of the following decisions: (1) to make a change in its allocation priorities or a change in the method of distribution of funds; (2) to carry out an activity, using funds from any program covered by the consolidated plan (including program income), not previously described in the action plan; or (3) to change the purpose, scope, location, or beneficiaries of an activity.

570.200(a) states that an activity may be assisted in whole or in part with CDBG funds only if it meets certain requirements. The first requirement specifies that each activity must meet the eligibility requirements of Section 105 of the Act. Another requirement stipulates that the grant recipient must certify that its projected use of funds has been developed so as to give maximum feasible priority to activities which will carry out one of the national objectives of benefit to low- and moderate-income families, aid in the prevention or elimination of slums or blight, or meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community when other financial resources are not available to meet such needs. Consistent with the foregoing, each recipient must ensure and maintain evidence that each of its activities assisted with CDBG funds meets one of the three national objectives as contained in its certification.

570.200(f) states that CDBG activities may be undertaken by one or more public agencies through loans, subject to local law.

570.200(h) states that before the effective date of the grant agreement, a recipient may incur costs or may authorize a sub-recipient to incur costs, then after the effective date of the grant agreement, pay for those costs using its CDBG funds, provided that the activity for which the costs are being incurred is included in a consolidated plan, action plan, or an amended consolidated plan or action plan (or application under **subpart M** of this part) before to the costs are incurred.

570.205(a)(4)iii states that planning activities consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, including but not limited to other plans and studies such as individual project plans (excluding engineering and design costs **related** to a specific activity which are eligible as part of the cost of such activity under sections 570.201-570.204).

570.205(a)(6) states that among eligible planning activities are policy, planning, management, and capacity building activities which will enable the recipient to (1) determine its needs; (2) set long-term goals and short-term objectives, including those related to urban environmental design; (3) devise programs and activities to meet these goals and objectives; (4) evaluate the progress of such programs and activities in accomplishing these goals and objectives; and (5) carry out management, coordination, and monitoring of activities necessary for effective planning implementation but excluding the costs necessary to implement such plans.

570.207(a)(2) states that expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance except as otherwise specifically authorized.

570. 208(a)(1)(i) states that an activity with a national objective **benefiting** low- and moderate-income persons in an area (LMA) that serves an area that is not primarily residential in character shall not qualify under this criterion.

570. 208(d)(4) states that CDBG funds expended for planning and administrative costs under Sec. 570.205 and Sec. 570.206 will be considered to address the national objectives.

570.501 (a) states that one or more public agencies, including existing local public agencies, may be designated by the chief executive officer of the recipient to undertake activities assisted by this part. A **public** agency so designated shall be subject to the same requirements as are applicable to sub-recipients.

570.501(b) states that the recipient is responsible for ensuring that CDBG funds are used in accordance with all program requirements. The use of designated public agencies, sub-recipients, or contractors does not relieve the recipient of this responsibility. The recipient is also responsible for determining the adequacy of performance under sub-recipient agreements and procurement contracts and for taking appropriate actions when performance problems arise. When a unit of general local government is participating with or as part of an urban county or as part of a metropolitan city, the recipient is responsible for applying to the unit of general local government the same requirements as are applicable to sub-recipients.

570.503(a) states that before disbursing any CDBG funds to a sub-recipient, the recipient shall sign a written agreement with the sub-recipient. The agreement shall remain in effect during any period during which the sub-recipient has control over CDBG funds, including program income.

570.503(b) states that at a minimum, the written agreement with the sub-recipient shall include the following provisions: (1) statement of work, (2) records and reports, (3) program income, (4) uniform administrative requirements, (5) other program requirements, (6) suspension and termination, and (7) reversion of assets. For the statement of work, the agreement shall include a description of the work to be performed, a schedule for completing the work, and a budget.

570.504(a) requires the grantee to record receipt and expenditure of program income as part of the financial transactions of the grant program.

570.506(a), (b), and (h) require each recipient to establish and maintain sufficient records to enable the HUD Secretary to determine whether the recipient has met the requirements of this part.

- (a) The recipient shall maintain records which provide a full description of each activity assisted with CDBG funds, including its location and the amount of CDBG funds budgeted, obligated, and expended for the activity.
- (b) The recipient shall maintain records which demonstrate that each activity undertaken meets one of the criteria used to determine whether a CDBG-assisted activity complies with one of more of the national objectives.
- (h) Recipients shall maintain evidence to support how the CDBG funds provided to such entities are expended. Such documentation must include, to the extent applicable, invoices, schedules containing comparisons of budgeted amounts and actual expenditures, construction progress schedules signed by appropriate parties, and/or other documentation appropriate to the nature of the activity.

OMB Circular A-87, attachment A, states that to be allowable under federal awards, costs must be necessary and reasonable for proper and efficient performance and administration of federal awards. A cost is reasonable if, in its nature and amount, it does not exceed what a prudent person would incur under the circumstances prevailing at the time the decision was made. In determining reasonableness of a given cost, consideration shall be given to (a) whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the federal award; (b) the restraints or requirements imposed by such factors as sound business practices; arms length bargaining; federal, state, and other laws and regulations; and terms and conditions of the federal award; (c) market prices for comparable goods or services; (d) whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the governmental unit, its employees, the public at large, and the federal government; and (e) significant deviations from the established practices of the governmental unit which may unjustifiably increase the federal award's cost.

OMB Circular A-87(14), attachment A states that costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.

OMB Circular A-87(19), attachment B states that the general costs of government are unallowable (except as provided in section 43 of this appendix, travel costs). These costs include (1) salaries and expenses of the office of the governor of a state or the chief executive of a political subdivision or the chief executive of federally recognized Indian tribal government; (2) salaries and other expenses of a state legislature county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction; (3) costs of the judiciary branch of a government; (4) costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by program statute or regulation (however, this does not preclude the allowability of other legal activities of the attorney general); and (5) costs of other general

types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.

City Policies and Procedures

The city council's policy on CDBG funds states that it is the policy of the city council to allocate CDBG funds in accordance with the following standards: (1) selection and implementation of program activities must meet the congressional intent of the program and the specific eligibility requirements as outlined by HUD and (2) priorities of the Capital Improvements Program will be developed irrespective of whether the City is to receive CDBG funds. CDBG funds, if received, are to be used to supplement the City's Capital Improvements Program and not as a substitute for other City funds.

The City's consolidated annual performance and evaluation report for fiscal year 2006 (pages 33 and 34) stated that the City's nonhousing programs supported with federal entitlement funds and subject to the consolidated plan would be monitored to ensure compliance with the respective program requirements of the specific funding source. The City's approach to monitoring is an ongoing process involving continuous communication with and evaluation of grant recipients (nonprofit organizations, other governmental agencies, City departments).

The City performs the following monitoring functions:

- Make available to grant recipients (i.e., nonprofit organizations) general information on specific federal funds program requirements (i.e., OMB circulars, program regulations),
- Review all grant recipients' reimbursement requests through desk audits to ensure that specific program requirements are met,
- Review and determine eligibility of all applications according to specific federal funds criteria, and
- Provide technical assistance to grant recipients in various program areas.

The monitoring process involves frequent telephone contacts, written communications, analysis of reports and audits, desk audits, on-site monitoring, and meetings. The City's goal is to ensure compliance with specific program requirements for the applicable funding source. The primary goal of monitoring is to identify deficiencies and promote corrections to improve, reinforce, or augment grant recipients' performance.