

Section III of this NOFA, field offices must determine that the proposed project meets the community development appropriateness thresholds, i.e., the project has costs that are reasonable; the project is appropriate for the intended use; and the project is usable or achievable in a timely manner, generally within two years of grant award.

#### 1. Applicant-Specific Thresholds—Capacity and Performance

A. *Capacity.* The field office will assume, absent evidence to the contrary, that the applicant possesses, or can obtain the managerial, technical or administrative capability necessary to carry out the proposed project. The application should address who will administer the project and how the applicant plans to handle the technical aspects of executing the project. If the field office determines, based on substantial evidence, that the applicant does not have or cannot obtain the capacity to undertake the proposed project, the application will not receive further consideration.

#### B. *Performance.*

(1) *Community Development.* If an applicant has previously participated in the ICDBG Program, the field office shall determine whether the applicant has performed adequately in grant administration and management. Where an applicant was found to be performing inadequately, the field office shall determine whether the applicant is following a schedule to correct performance to which the applicant and the field office have agreed. In cases of previously documented deficient performance, the field office must determine that the applicant has taken appropriate corrective action to improve its performance. The applicant is presumed to be performing adequately unless the field office makes a performance determination to the contrary during periodic monitoring.

(2) *Housing assistance.* The applicant is presumed not to have taken actions to impede the provision of housing assistance for low and moderate income members of the tribe or village. Any action taken by the applicant to prevent or obstruct the provision or operation of assisted housing for low and moderate income persons shall be evaluated in terms of whether it constitutes inadequate performance by the applicant. If an applicant has established or joined an Indian Housing Authority (IHA), and this IHA has obtained housing assistance from HUD, the applicant's compliance with the obligations and responsibilities to the IHA set forth in the tribal ordinance

which was the basis for the establishment or joining of the IHA will be a performance consideration.

An applicant will not be held accountable for the poor performance of its IHA unless this inadequate performance is found to be a direct result of the applicant's action or inaction. If this is true, the application will be removed from further consideration. Applicants which are members of "umbrella" IHAs will be judged only on their individual performance and will not be held accountable for the poor performance of other tribes that are members of the IHA.

If an applicant has received ICDBG funds for the provision of new housing through a subrecipient, the field office will consider the following in making its determination regarding housing assistance performance: a. whether the proposed units were constructed; b. whether housing assistance was provided to the beneficiaries identified in the funded application, and if not, why not; c. whether the applicant followed the provisions of its housing plan and procedures; and d. whether there were sustained complaints from tribal members regarding provision and/or distribution of ICDBG housing assistance.

(3) *Audits.* This threshold requires the applicant to meet the following performance criteria:

a. The applicant cannot have an outstanding ICDBG obligation to HUD or a ICDBG program that is in arrears, or it must have agreed to a repayment schedule. An applicant that has an outstanding ICDBG obligation that is in arrears, or one that has not agreed to a repayment schedule, will be disqualified from the current competition and from subsequent competitions until the obligations are current. If a grantee that was current at the time of application submission becomes delinquent during the review period, the application may be rejected.

b. The applicant cannot have an overdue or unsatisfactory response to an audit finding. If there is an overdue or unsatisfactory response to an audit finding, the applicant will be disqualified from current and subsequent competition until the applicant has taken final action necessary to close the audit finding. The field office administrator may provide exceptions to this disqualification in cases where the applicant has made a good faith effort to clear the audit finding. An exception may be granted when funds are due HUD or an ICDBG program as a result of a finding only when a satisfactory arrangement for

repayment of the debt has been made and payments are current.

2. *Community Development Appropriateness.* The following criteria must be met by each project:

A. Costs are reasonable. The project must be described in sufficient detail so that the field office can determine: (1) that costs are reasonable; and (2) that the funds requested from the ICDBG program and all other sources are adequate to complete the proposed activity(ies) described in the application.

B. The project is appropriate for the intended use.

C. The project is usable or achievable in a timely manner, generally within a two year period. The applicant must include its timetable for project implementation and completion. A period of more than two years is acceptable in certain circumstances, if it is established that such circumstances are beyond the applicant's control.

#### (h) *General Definitions*

Adopt. To approve by formal tribal resolution, as defined at 24 CFR part 953.4.

Assure. To comply with a specific NOFA requirement. The applicant should state its compliance or its intent to comply in its application.

Document. To supply supporting written information and/or data in the application, which satisfies the NOFA requirement.

Leverage. Resources the grantee will use in conjunction with ICDBG funds to achieve the objectives of the project. Resources include, but are not limited to: tribal trust funds, loans from individuals or organizations, state or Federal loans or guarantees, other grants, as well as noncash contributions and donated services. *Written verification of an application or request for the leveraged resources which would be provided by an entity other than the applicant must be included in the application for ICDBG funds.* To be considered in the award of points, resources to be provided by the applicant must be verified by a tribal council resolution which identifies and commits these resources. A copy of this resolution must be included in the application. With respect to resources to be provided by an entity other than the applicant, to be considered in the award of points, the following requirements apply:

—For grants or other contributed resources from a public agency, foundation, or other private party, a *written commitment* which may be contingent on approval of the ICDBG award must be *received* by the field