such a business as a "commercial enterprise. . . . "The Department does not believe that it was Congress' intent to construe the term "commercial" so narrowly in this instance that it would encompass only retail businesses. Rather, the HUD interprets this term broadly to mean any "entity engaged in commerce," subject to the size limitations further imposed by the statutory definition of a microenterprise. Definitions of the terms "microenterprise" and "small business" are being incorporated into the CDBG

regulations at § 570.3 in this final rule. In regard to the length of time a CDBG-assisted microenterprise must remain within these size limitations, the same general rule that applies to other CDBG activities would also apply to microenterprise assistance. That is, the size limitation applies only at the time the CDBG assistance is provided. There may often be the expectation that, in the future, the business will grow beyond five employees; that expectation should not block assistance to a currently qualified microenterprise. A grantee need not track the size of the business throughout the term of any CDBG loan received, as the commenters feared might be the case. However, it should be noted that when CDBG assistance is provided on an ongoing basis, as may often be the case for "general support" activities, such assistance ceases to qualify under the microenterprise eligibility category at the point when the business grows beyond the fiveemployee size limitation. Further assistance to the business after that time must qualify under other existing eligibility categories.

Issue. Two commenters requested that HUD further define the term "persons developing microenterprises." (1 state agency and 1 private citizen)

Response. HUD agrees that it is useful to include such a definition in the regulations. Thus, a new paragraph § 570.201(o)(3) has been added to this final rule to provide such a definition. Generally, the term "persons developing microenterprises" is defined as persons who have expressed interest and who are, or after an initial screening process are expected to be, actively working toward developing businesses, each of which is expected to be a microenterprise at the time it is formed. It should be noted that HUD does not expect that all such persons will actually start a microenterprise; some "fallout" is expected. However, patterns of excessive "fallout" rates in a grantee's microenterprise activities may cause HUD to question whether such activities truly serve "persons developing microenterprises.'

Issue. Two commenters requested that HUD revise the regulations to permit "general support" services to also be provided, outside of the public service cap, to businesses larger than microenterprises. (1 state agency and 1 national association)

Response. The Department cannot accommodate the requested change. Flexibility to provide such services outside the public service category is only statutorily provided for microenterprise assistance carried out under Section 105(a)(23) of the Housing and Community Development Act of 1974, as amended, and, to a less direct extent, qualified activities carried out under Section 105(a)(15) of the Act (§ 570.204 of the Entitlement regulations). As noted above, the statute also imposes the five-employee size limitation on microenterprises.

Issue. Seven commenters requested that HUD clarify various aspects of the "general support" portion of the microenterprise eligibility provision. Issues raised included: whether there were any circumstances in which such support activities would be considered public service activities; whether general support" could be provided to employees of microenterprises who are not part-owners; whether "general support" included costs related to the delivery of microenterprise assistance; and whether the entities providing assistance under this category would be those most attuned to the special needs of microenterprises. (1 local government agency, 3 national associations, 2 development organizations, and 1 private citizen)

Response. As noted above, the statute limits the instances in which "general support" services may be provided to businesses outside the public service eligibility category. In any circumstances which fall outside the specified instances, the provision of such support services would need to qualify as public service activities.

Under the microenterprise eligibility provision, the statute limits the direct provision of "general support" to "owners of microenterprises and persons developing microenterprises." Thus, "general support" cannot be provided directly to employees of microenterprises who are not partowners. However, there may often be other ways of structuring the activity to achieve essentially the same end result. For example, financial assistance may be provided to the microenterprise owner under $\S 570.201(0)(1)(i)$ to permit the owner to provide certain benefits to his/her employees if that can be shown to assist in the "development, stabilization, or expansion" of the

microenterprise. Alternatively, the extent of financial assistance provided to the microenterprise owner for the capital needs of the business could be sized taking into account the owner's cost of providing such benefits for his/her employees.

The term "general support" as it is used in the statute and § 570.201(o)(1)(iii) is not intended to specifically include the activity administrator's cost of delivering microenterprise assistance to owners of microenterprises and persons developing them. As with any CDBG activity, it is recognized that there are various necessary costs associated with carrying out a microenterprise assistance activity. As the commenters note, these may include the costs of outreach and screening, curriculum development, coordination with other agencies, formation and management of peer lending groups, and certain staff training and development. As with any other CDBG activity, such costs directly related to carrying out the microenterprise assistance activity are considered eligible as part of that activity, without being categorized as "general support." Such "activity delivery" costs are not considered to be general administrative costs that would be subject to the 20 percent cap.

In regard to the nature of the entities carrying out activities under this eligibility category and their familiarity with the needs of microenterprises, HUD has interpreted the statutory provision as broadly as possible in developing this rule. This should permit grantees significant flexibility in determining how, and by whom, microenterprise assistance activities should be carried out, based on local needs and priorities. The specific selection of service providers is a matter of local discretion.

Issue. Four commenters recommended that some form of "appropriate" test be required for microenterprise assistance carried out under the new eligibility category or that the rule include some language stating that such assistance must be reasonable and necessary. (2 local government agencies, 1 state agency, and 1 HUD Field staff person)

Response. As noted in the preamble to the proposed rule, this new microenterprise eligibility category was added to the Act as a new Section 105(a)(23). This new paragraph of the statute does not contain any requirement that assistance for such activities be determined to be "appropriate." In addition, this new paragraph is not included among those eligibility categories listed as covered by