CHDOs that cannot meet the general CDBG Entitlement qualification requirements for CBDOs. An example of such an entity would be a CHDO that meets only the minimum HOME percentage requirement for low- and moderate-income persons on its board (33 percent) and cannot show that it has sufficient types of representatives on that board to meet the 51 percent standard delineated in § 570.204(c)(1)(iv).

In assessing the comments on this issue, HUD has determined that it is appropriate to provide organizations with an additional alternative for qualifying as a CBDO under this section of the CDBG regulations. Thus, in this final rule, HUD has added a new § 570.204(c)(3) under which an organization that does not qualify under either § 570.204(c) (1) or (2) may also be determined to qualify as an eligible entity under this section if the grantee demonstrates to the satisfaction of HUD, through the provision of information regarding the organization's charter and by-laws, that the organization is sufficiently similar in purpose, function, and scope to those entities qualifying under the above-referenced paragraphs. The Department intends to have this determination made at the HUD Field Office level.

Also in this regard, it should be noted that HUD expects that many Community Development Financial Institutions meeting the criteria in Title I, Subtitle A of the Riegle Community Development and Regulatory Improvement Act of 1994 (P. L. 103-325, enacted September 23, 1994) will qualify as CBDOs under § 570.204 of the CDBG Entitlement regulations. The above-referenced subtitle comprises the Community Development Banking and Financial Institutions Act. The purpose of this subtitle is to create a Community **Development Financial Institutions** Fund to promote economic revitalization and community development through investment in, and assistance to, CDFIs, including enhancing the liquidity of such institutions. The CDFI Fund is to be a wholly-owned Government corporation that will not be affiliated with any other agency of the Federal Government. In this final rule, HUD is adding to the Entitlement regulations a definition of the term CDFI that references the abovenoted new legislation. A CDFI is generally defined at Section 103 of that Act as an entity that (i) has a primary mission of promoting community development; (ii) serves an investment area or a targeted population; (iii) provides development services in conjunction with equity investments or

loans, directly or through a subsidiary or affiliate; (iv) maintains accountability to residents of its investment area or targeted population; and (v) is not a government agency or instrumentality. An "investment area" is defined as an area that either (i) meets objective criteria of economic distress developed by the Fund and has significant unmet needs for loans or equity investments; or (ii) is located in a designated Empowerment Zone or Enterprise Community. These CDFI criteria are similar to those now set forth in § 570.204(c).

It should again be noted that the requirements of § 570.204 only apply to the qualification of CBDOs serving *Entitlement* jurisdictions under the CDBG program. As discussed earlier in this preamble, Section 807(f) of the 1992 Act expanded the list of organizations eligible to carry out activities in *nonentitlement* areas under Section 105(a)(15) of the HCD Act. *Any* nonprofit organization serving the development needs of nonentitlement areas now qualifies under Section 105(a)(15) of the Act for the State CDBG program.

Issue. One commenter also recommended that HUD allow a limited partnership in which the managing general partner is an eligible CBDO to qualify under § 570.204. The commenter argues that the use of low-income tax credits (LITCs) necessitates a limited partnership structure and that adding the limited partnership itself as a qualifying entity would remove the necessity of having two levels of contracts—one between the grantee and the CBDO and one between that CBDO and the limited partnership. (1 local government agency)

Response. Limited partnerships are single purpose entities which exist to syndicate and develop one project. It would be difficult to construe the definitions of the statutorily eligible entities to include limited partnerships. Thus, HUD has decided against expressly adding a provision to the regulations to include the type of limited partnership described by the commenter. However, in cases in which the activities of an LIHTC limited partnership are controlled by a § 570.204 qualified entity, usually by that entity either serving as the general partner of the limited partnership or establishing such an entity as a subsidiary, the Department has accepted that CDBG assistance may be provided by the §570.204 qualified entity to the limited partnership for the purpose of carrying out all or part of the eligible project. The Department will continue

to explore ways of removing

unnecessary administrative burdens for such projects.

Issue. Specifically in regard to qualified entities in nonentitlement areas, one commenter (a state agency) took issue with the discussion of such entities contained in the preamble to the proposed rule. The state agency disagreed with HUD's statutory interpretation that the term "nonprofit organizations serving the development needs of communities in nonentitlement areas" excludes units of general local government. This interpretation, according to the state, would restrict the use of CDBG funds by certain State-sanctioned local entities.

Response. The Department has chosen not to accept this comment. The preamble to the proposed rule noted that a public nonprofit organization which meets Internal Revenue Service requirements for nonprofit status may qualify under Section 105(a)(15) of the Act. The Department does not define a number of terms ("neighborhood revitalization project", "community economic development project", "energy conservation project", "carrying out an activity") which are significant to the discussion of CBDOs above, in order to give States maximum flexibility to implement Section 105(a)(15) within the context of their particular situations.

National Objective Standards for Lowand Moderate-Income Area Benefit Activities

Issue. A total of seven commenters addressed the proposed revisions to § 570.208(a)(1)(i) of the Entitlement regulations and § 570.483(b)(1)(i) of the State regulations dealing with activities qualifying under the national objective of benefiting low- and moderate-income persons as area benefit activities. This revision relates specifically to a proposed presumption of compliance for special economic development activities that may be carried out under § 570.203 [Sections 105(a) (14) and (17) of the HCD Act] by a community development financial institution (CDFI) meeting certain criteria. Concerns raised by the commenters included statements both for and against the proposed presumption; requests for clarification of the types of entities that would qualify as CDFIs; and requests for revisions to the "primarily residential" and other aspects of the regulation. (1 local government agency, 1 state agency, 1 development organization, 1 national association, 1 private citizen, and 2 **HUD Field staff persons**)

Response. Supporting the development and growth of CDFIs can be a critical component in the comprehensive revitalization of