grantees may request a waiver of regulations for projects which would exceed this level. The "CDBG cost per job" and the "CDBG cost per low- and moderate-income person served" standards are designed to establish absolute upper limits for what HUD would consider to be reasonable on an individual project basis. Grantees are free to set lower per-job maximums for their own projects, if they wish.

Another example of high-cost projects which the Department has become aware of is the removal of environmental contaminants as part of a redevelopment project. The use of CDBG funds for such "brownfields remediation" activities is of growing interest among grantees. Projects of this nature can present high costs relative to the amount of public benefit as defined in these regulations. However, grantees may have additional flexibility in structuring the use of CDBG funds to treat environmental conditions. For example, publicly-owned land may be cleaned up before title is transferred to a private owner. In this way, the environmental remediation activity would not be subject to the public benefit standards.

Issue. Two commenters opined that the proposed \$1,000 per area-resident standard is similarly too high to ensure reasonable public benefit; one recommended \$50 instead.

Response. The Department has decided to leave the per-area-resident standard as proposed. A lower figure could hinder economic development activities in small communities or sparsely-populated rural areas. Grantees are free to set lower per-area-resident maximums for their own projects, if they wish.

"Insufficient Public Benefit" Activities

The proposed regulations contained a list of activities for which HUD believes insufficient public benefit is derived; these activities would therefore not be eligible for CDBG assistance. Six comments were received on this list of activities (one each from a citizen, a local government, a national association and a HUD staff person, and two from states). Three commenters suggested additional activities to be added to the list of activities, two commenters objected to the inclusion of one activity on the list, and two commenters requested clarification of language.

Issue. Use of grant funds for projects that will directly compete with existing businesses should be prohibited.

Response. The Department believes this proposal would severely restrict grantees' use of CDBG funds for economic development and would handcuff the Department's efforts to make CDBG a more flexible funding resource. There is nothing which would prevent individual grantees from adopting such a policy, if they wish.

Issue. Gaming facilities (whether on or off Indian Reservations) should also be made ineligible.

Response. The Department has considered this issue in the past and has decided not to pursue it.

Issue. Job Pirating (the use of CDBG funds to move a business from one community to another, with no net expansion of activity) is a waste of taxpayers' money and should be determined to be an ineligible activity.

Response. The Department has studied the problem of job piracy a number of times in the past, but has not taken action to prohibit this activity. Determining whether a business is relocating principally because of the CDBG assistance, or because of other reasons, is a particularly intractable problem in attempting to define job piracy. Recently, Congress has shown interest in legislating on this issue. The Department has therefore decided to defer action on the issue of job piracy until it is clear what action might be taken in authorizing legislation.

Issue. Three commenters opposed including the acquisition of land for which no specific use has been determined on the list of "insufficient public benefit" activities. Commenters argued that this would eliminate future economic development activities, and that forcing grantees to prematurely identify the use of land drives up the development cost. One commenter suggested that HUD require land acquisition to meet a national objective within two years of the expenditure of funds.

Response. The Department does not find the arguments for removing this activity from the list to be convincing. The Department is aware of a number of situations in which land has been purchased using CDBG funds with no specific use in mind, and in which the Department later determined that no national objective was ever met by the acquisition. In the Department's opinion, "landbanking" with CDBG funds does not provide any public benefit. It should be noted that the proposed regulation would not prohibit the construction of speculative buildings for which no tenant has been identified; nor does it mean that a specific occupant must be identified before land can be purchased. However, a grantee should at least be able to identify the intended use of the property (such as for a shopping center or office building). That does not mean, however, that grantees could satisfy the regulatory intent simply by identifying just any vaguely described proposed use. The language has been revised slightly in the final regulations to refer to "acquisition of land for which the specific use has not been identified".

Issue. One commenter requested specific examples of types of privatelyowned recreational facilities serving a predominantly-higher income clientele which might be determined ineligible under the proposed regulations. Concerning another activity on the list, this commenter also noted that the proposed language would not prevent the provision of assistance to a "corporate shell" or another corporate entity established by the same owner(s) of a business which is the subject of unresolved findings.

Response. The Department has chosen not to try to develop such a list of recreational facilities, as that list might be misinterpreted as all-encompassing; furthermore, a comparison of the recreational benefits vs. other benefit to low- and moderate-income persons must of necessity be done on a case-bycase basis. The Department concurs with the second comment; the final regulations have been revised to include other businesses owned by the same owner(s). The final rule also makes minor clarifying revisions to several of the other "insufficient public benefit" activities.

Aggregate Activity Standards

Issue. Three commenters argued that the aggregate standards are too complex, and so should be eliminated. Some commenters feared that grantees may focus only on the individual activity standards and overlook the aggregate standards; the human tendency will be to fund high-profile, high-cost-perbenefit projects first and "make it up later" with smaller projects. Another commenter expressed concern that for low-volume economic development programs, the individual and aggregate standards would effectively be the same; if a grantee does one loan early in a year with a per-job cost over \$35,000 and then ends up making no other loans, the grantee automatically fails the aggregate standard.

Response. To reinforce the significance of the aggregate public standards, the regulations concerning public benefit have been re-ordered to discuss the aggregate standards first. It is not the Department's intent to unduly penalize low-volume economic development programs for noncompliance by one or two loans. However, in evaluating projects for possible funding, all grantees are well