

**Community Development Block Grant (CDBG)
Title 25, California Code of Regulations**

**Proposed Amendments to
Sections 7056, 7060, 7062.1, 7064, 7066, 7078.4**

1. AMEND SECTION 7056 AS FOLLOWS:

7056. Application and Funding Requirements.

(a) The applicant shall meet the following requirements when the application is submitted:

(1) The applicant shall submit all the application information required in Section 7026.1 and/or Section 7070 as applicable.

(2) The applicant shall have resolved any audit findings, performance problems for program income or performance problems for prior CDBG grants awarded by an urban county, by HUD under the Small Cities Program or by the State under this subchapter. The Director may waive this requirement when such problems or findings result in no obligation to return funds to the grantor, arrangements satisfactory to the grantor have been made for repayment, disencumbrance, or performance, or a formal action to resolve the matter has been taken.

(b) Applicants shall meet the following requirements prior to an award of grant funds:

(1) As a condition of receiving funds pursuant to this subchapter, an eligible city or county shall have submitted a housing element to the Department in accordance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. However, except as otherwise provided in Section 50830 of the Health and Safety Code, no application for funds shall be denied because of the content of the housing element or because of the findings made by the Department pursuant to Section 65585 of the Government Code.

(2) (A) Except as otherwise provided in subparagraphs (B) and (C), no city or county shall be eligible to receive funds pursuant to this Subchapter if the city or county has adopted a general plan, ordinance, or other measure which directly limits, by number, either of the following:

1. The building permits that may be issued for residential construction.

2. The buildable lots which may be developed for residential purposes.

(B) Subparagraph (A) shall not apply to either of the following:

1. An ordinance adopted by a city or county which does any of the following:

a. Imposes a moratorium, to protect the public health and safety, on residential construction for a specified period of time, if, under the terms of the ordinance, the moratorium will cease when the public health or safety is no longer jeopardized by the construction.

b. Creates agricultural preserves pursuant to Chapter 7 (commencing with Section 51200) of Part 2 of Division 1 of Title 5 of the Government Code.

c. Was adopted pursuant to a specific requirement of a state or multi-state board, agency, department, or commission.

2. A city or county which has a housing element that the department has found to be adequate pursuant to subdivision (c) of [Section 65585 of the Government Code](#) or which is deemed to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code pursuant to [Section 65586 of the Government Code](#) at the time the city or county applies for funds under the program, unless a final order has been issued by a court in which the court determined that the housing element is not in compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(C) A city or county which has adopted a general plan, ordinance, or other measure subject to the restrictions of subparagraph (A), which are not exempted by subdivision (B), may, notwithstanding subparagraph (A), receive funds pursuant to this subchapter if the use of the funds is restricted for housing for the targeted income group. However, applications from cities or counties which have not adopted a general plan, ordinance, or other measure subject to the restrictions of subparagraph (A) shall, to the extent that eligible applications for grants exceed the amount available for distribution pursuant to this Subchapter have priority over applications from cities or counties which have adopted such a general plan, ordinance, or other measure which are not exempted by subdivision (B).

(3) At least fifty-one percent (51%) of the funds applied for shall benefit the targeted income group. No activity or portion of a program assisted by these funds may exclude from its benefits the lowest targeted income group. Individual activities shall meet one of the three national objectives which are: (1) the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income; (2) aiding in the prevention or elimination of slums or blight; or (3) meeting other community development needs having a particular urgency. For the purposes of

this section, "slums" and "blight" means a blighted area or structure characterized by one or more of the following conditions: (1) the buildings and structures, used or intended to be used for living, commercial, industrial, or other purposes, which are unfit to occupy for such purposes and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime because of factors listed in [Health and Safety Code Section 33031](#); and (2) properties which suffer from economic dislocation, deterioration, or disuse because of factors listed in [Health and Safety Code, Section 33032](#). For the purposes of this section, an activity will be considered to address the standard of urgency if the applicant certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the applicant is unable to finance the activity on its own, and that other sources of funding are not available to meet such needs. For the purposes of this section, any condition which has existed longer than eighteen (18) months prior to the final filing date for applications shall not be considered to meet the standard of urgency.

(4) The single-year program described in the application must be scheduled for completion within ~~thirty (30)~~ twenty four (24) months from the date the grant agreement is executed by the State. The multi-year, two or three year program described in the application must be scheduled for completion within 36 or 48 months, respectively. The Department may waive this provision in writing if it determines that the program, by its nature, cannot be completed within ~~thirty (30) months~~ the 24, 36, or 48 month period, or that conditions beyond the grantee's or State's control hinder program completion.

(5)(A) If CDBG grant funds or local program income will be used to operate a program (i.e., activities serving multiple separate projects, not persons), the applicant shall submit program guidelines to the Department for approval. No CDBG grant funds or local program income shall be expended to operate a program until the Department has approved the program guidelines in writing.

(B) The program guidelines shall describe how the program will be operated and how it will comply with State and federal regulations. In addition, program guidelines shall address the following topics:

- i. Loan terms and interest rates;
- ii. Loan underwriting standards;
- iii. Loan application processing procedures and timing for loan approvals;
- iv. Procedures for resolving disputes between the participant and the CDBG grantee;
- v. Description of any property restrictions imposed as a condition of receiving the loan (e.g., resale controls, equity sharing);

- vi. Loan servicing policies addressing the issues of: subordination; refinancing; change in occupancy, change in use, assumptions, and verification of payment of taxes and insurance.
- vii. If the program will involve rehabilitation or construction, procedures for developing the scope of work, description of the contractor procurement and payment process, and a description of the conflict resolution process in the event of a dispute between the contractor and the program participant.

Note: Authority cited: [Sections 50406\(h\) and \(n\), Health and Safety Code](#); and [24 CFR 570.489\(b\)](#). Reference: Sections 51200, et seq., and [Sections 65580 et seq., Government Code](#); [Sections 33031, 33032, 50406, 50407, 50829 and 50830, Health and Safety Code](#); [42 U.S.C. 5304 and 5306](#); [24 CFR 570.489\(a\) and \(b\)](#) and [24 CFR 570.901\(b\)\(3\)](#).

2. AMEND SECTION 7060 AS FOLLOWS

7060. Eligible Applicants.

Any city or county is eligible to apply for the State CDBG Program except a city or county which participates in or is eligible to participate in the HUD administered Community Development Block Grant Entitlement Program. The following restrictions shall apply to all applicants under the State Program.

(a) Except as provided in the Sections 7062 and 7062.1, an applicant may submit only one application each funding cycle for activities in its jurisdiction. A grantee receiving a grant award for ~~two~~ up to three consecutive annual funding awards ~~cycles~~ pursuant to Section 7064(c) that does not undertake the portion of the program funded from the second or third funding cycle may submit a new application provided the multi year award ~~first year program~~ has been terminated under the terms of the grant agreement. A grantee that has received a ~~grant~~ multiple year award for ~~two~~ up to three years consecutive funding cycle, where any of the annual awards is less than \$500,000, may submit an application under the second and/or third year funding cycle for ~~second~~ additional awards, which when combined with their existing annual funding awards, do not to exceed \$1 million less the amount of the first award \$500,000 per year.

(b) Applications may be submitted by individual eligible applicants or by groups of eligible applicants in any of the following forms. Except as provided in paragraphs (5) and (6) below, no eligible applicant may be included in more than one application that provides direct program benefits to that political subdivision.

- (1) An eligible applicant may apply on its own behalf.
 - (2) An eligible applicant may apply on its own behalf and in the same application on behalf of one or more other eligible applicants.
 - (3) An eligible applicant may apply on behalf of one or more other eligible applicants in the same application or may apply on behalf of one or more other eligible applicants in separate applications.
 - (4) Two or more eligible applicants which share a program may submit a joint application.
 - (5) In addition to an application submitted under Section 7060(a), an eligible applicant may apply separately for activities in target areas within or outside of the applicant's jurisdiction when there are concentrations of Native American Indians as described in Section 7062 provided the concentration is within an eligible city or county. Applications for target areas outside the applicant's jurisdiction must include a joint powers agreement with the city or county in which the target area is located.
 - (6) In addition to an application submitted under Section 7060(a) or Section 7060(b)(5), an eligible applicant may apply separately for activities under Section 7062.1.
- (c) Cooperation agreements. Executed joint powers agreements, consistent with the requirements of [Section 6500 et seq. of the Government Code](#) must be submitted with joint applications and applications on behalf of another unit or units of local government. These agreements must be on a form provided by the Department.

Note: Authority cited: [Sections 50406\(h\) and \(n\), Health and Safety Code](#); [24 CFR 570.489\(b\)](#). Reference: [Sections 6500, et seq., Government Code](#); [Sections 50406 and 50407, Health and Safety Code](#); [42 U.S.C. 5303](#) and [5306\(d\)\(2\)](#); and [24 CFR 570.489](#).

3. AMEND SECTION 6062.1 AS FOLLOWS:

7062.1. Special Allocation for Economic Development.

- (a) The Department shall set aside from the total amount available from HUD, for grants to cities and counties an amount equal to thirty percent (30%) for the activities specified in this section. Applications submitted under this section must comply with all the requirements of this subchapter except where noted in this section. Economic Development Allocation funds shall be awarded through three components: the California Community Economic Enterprise Fund ("Enterprise Fund") set forth in subsection (b); the Over-the-Counter Component ("OTC Component") set forth in

subsection (c); and the Planning and Technical Assistance Component ("Planning Component") set forth in subsection (d).

(1) Activities eligible for funding under the Economic Development Allocation are those activities which are subject to the Standards for Evaluating Public Benefits set forth in subsection (f) of [24 CFR Section 570.482](#) as well as activities which assist microenterprises. Eligible activities shall also meet a national objective as specified in Section 104(b)(3) of the Act ([42 U.S.C. Sec. 5304\(b\)\(3\)](#)) and [24 CFR Section 570.483](#). The Department shall utilize Section 105(a) of the Act ([42 U.S.C. Sec. 5305\(a\)](#)), [24 CFR Section 570.482](#), and Subpart C of Part 570 of the federal CDBG regulations commencing with Section 570.200, for guidance in determining the eligibility of activities proposed under this section. Where CDBG funds are used for public improvements (e.g., water, sewer or road improvements) the national objective shall be met pursuant to [24 CFR Section 570.483](#).

(2) In order to be eligible for funding from the Enterprise Fund or the OTC Component, with the exception of assistance to microenterprises, a project or activity (hereinafter collectively referred to as an "activity") shall be capable of generating sufficient public benefit relative to the amount of CDBG assistance provided as required by the Act. The Department, with respect to activities funded from the OTC Component, and Grantees with respect to activities funded with Enterprise Funds, shall utilize the federal standards specified at [24 CFR Section 570.484\(f\)](#) to determine whether sufficient public benefit will be generated by a proposed activity.

(3) Prior to the funding of any activity from either the Enterprise Fund or the OTC Component, the activity shall be underwritten to insure that: (i) the activity's costs are reasonable; (ii) that all sources of activity financing are committed; (iii) that to the extent practicable, CDBG funds are not substituted for non-Federal financial support; (iv) that the activity is financially feasible; (v) that to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and (vi) that to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the activity. Activities shall be underwritten by the Department, with respect to activities funded from the OTC Component, and by Grantees with respect to activities funded with Enterprise Funds, utilizing the federal Guidelines and Objectives for Evaluating Project Costs and Financial Requirements set forth as Appendix A to 24 CFR Part 570.

(4) An activity funded from the Enterprise Fund or the OTC Component shall be reevaluated by the Department or grantee pursuant to subsections (a)(2) and (a)(3) of this Section if the underlying assumptions relied upon by the Department or the Enterprise Fund grant recipient in making its original funding decision materially change. A "material change", for these purposes, means: (1) a change in the size, scope, location or public benefit of the activity; or (2) a change in the terms or the amount of the private funds (including lender's funds and equity capital) to be invested in the activity; or (3) a change in the terms or the amount of the CDBG assistance to be made available to the activity. If a material change has occurred and a reevaluation of the

activity indicates that the financial elements and public benefit to be derived have also changed, then appropriate adjustments in the amount, the type of CDBG assistance and/or the terms and conditions under which that assistance has been offered shall be made to reflect the impact of the material change.

(5) In the event that an activity funded under the Enterprise Fund or OTC Component fails to meet a federal national objective or state or federal eligibility requirement, at the Department's discretion, a Grantee may be required to repay all or a portion of the grant amount from a non-federal source of revenue, and/or may be required to return all or part of any program income received from the CDBG-assisted activity to the Department. In determining the appropriate remedy, the Department shall, at a minimum, consider the following factors: (1) actions taken by the Grantee to avoid the adverse circumstances in the first place; (2) actions taken by the Grantee to mitigate the circumstances once the problem was discovered; and (3) timeliness of steps taken to protect and/or recover CDBG funds. Failure by a Grantee to comply with any requirements or written instructions issued by the Department pursuant to this subsection shall be considered a failure by the Grantee to resolve any "audit findings or performance problems" as that phrase is used in Section 7056(a)(2).

(6)) Funding maximums from the Economic Development Allocation and the Planning component shall be set forth in Health and Safety Code Section 50832 subdivision (a) and Section 50833 subdivision (a) and (b). The Department may waive the eight hundred thousand dollar (\$800,000) and five hundred thousand dollar (\$500,000) limitation for the Economic Development Allocation after ~~December 31~~ September 1 of each year.

(7) All Economic Development Allocation funds returned, disencumbered or paid to the State in the form of program income ("returned funds") shall be made available to fund current-year applications to the Enterprise Fund or the OTC Component. On May 1 of each year, if there are any unawarded Enterprise Funds or OTC Component funds, including returned funds, the Department may reallocate funds between the components based on relative demand, notwithstanding the provisions in subsection (b) of this Section. On June 1 of each year, unawarded funds remaining in the Enterprise Fund, the OTC Component, or the Planning Component, including returned funds, shall be made available to fund unfunded applications submitted pursuant to Section 7072.

(8) Grants to eligible local governments may be passed through to qualified organizations chartered to perform economic development activities.

(9) Notwithstanding any other provision of this Section, the Director may alter the order applications are reviewed for applicants requesting funds for an urgent need such as an imminent plant closure, an emergency recognized by the State. The Director's decision to alter the order an application is reviewed shall be in writing and made part of the application file.

(b) Enterprise Fund. Economic Development Allocation funds set aside for use pursuant to this subsection shall be known as the California Community Economic Enterprise Fund (Enterprise Fund). The purpose of the Enterprise Fund is to provide a source of funds to establish or enhance local revolving loan fund programs. For the 1995 program year only, not more than fifty percent (50%) of the Economic Development Allocation funds shall be allocated to the Enterprise Fund. For all subsequent program years, not more than seventy percent (70%) of all Economic Development Allocation funds shall be allocated to the Enterprise Fund.

(1) At least seventy (70) days prior to the due date for applications, the Department shall notify all eligible cities and counties of the anticipated level of funding for the Enterprise Fund through a Notice of Funding Availability (NOFA) and the deadline for receipt of applications. The Department shall also make available application forms and a training manual which will provide eligible applicants with a consistent format for presenting proposals, information on proposal review factors, and guidance on program policies that may affect an applicant's program design.

(2) The maximum Enterprise Fund grant award to a single applicant in a program year shall not exceed \$500,000, except as specified at 7062.1(a)(6). The Director may establish a lower maximum award through each year's NOFA. A decision to reduce the maximum award shall be based upon the relative demand for Enterprise Fund grants and OTC Component funds during the previous year and the total Economic Development Allocation funds available.

(3) Activities which are eligible for funding from a local revolving loan fund include, but are not limited to: construction loans; new equipment purchase loans; working capital loans; land acquisition loans; loan guarantees; loans for privately owned on-site improvements; grants for public off-site sewer, water and road improvements; and assistance to microenterprises.

(4) The cost-per-job created or retained for a grantee's aggregate activities proposed for funding from the Enterprise Fund shall not exceed \$35,000 in CDBG funds, or \$50,000 in CDBG funds per job created or retained for each activity. Any activity funded under this component shall meet the standards for public benefit set forth in subsection (f) of [24 CFR Section 570.482](#).

(5) Allocation Review Procedures and Evaluation Criteria.

(A) Each eligible applicant shall submit an original and two (2) copies of its application to the Department by the application deadline specified in the NOFA. Applications submitted by mail shall be received no later than the deadline. Applications delivered to the Department must be date stamped by the Department prior to 5 P.M. on the due date.

(B) In order to be considered complete, an application shall contain the information

requested in the NOFA and such other information as necessary for the Department to evaluate the application using the points and rating factors set forth in subsection (b)(5)(D) of this Section. If an application contains a description or analysis which includes quantified information, the source of the information, and the method of computation shall be described. If the Department determines that the method of computation leads to conclusions which are inaccurate or misleading, it may, after consultation with the applicant, adjust the method of computation or the conclusions during the evaluation process.

(C) Within thirty (30) days of receipt of an incomplete application, the Department shall return the application to the applicant with a written explanation of the reasons why the application is incomplete.

(D) The Department shall evaluate, rate and rank each complete application utilizing the following evaluation criteria and assigned points:

Evaluation Criterion	
Need for Program:	30 Total Points
Relative Poverty Index	15 Points
Relative Unemployment Rate	10 points
Adverse Economic Event	5 Points
Local Program Capacity:	50 Total Points
Performance on Past CDBG ED Grants	20 points
Relative Strength of Basic Program Design	10 Points
Relative Experience of Program Operators	10 Points
Other Local Organizational Support	10 Points
Program Effectiveness:	20 Points
Commitment of Other (non-state, non-federal)	
Funding Sources	10 Points
Extent to Which Program Complements	
Local or Regional Economic	
Development Plan	10 points
Maximum Total Points	100 Points

(E) For purposes of this subsection (b)(5), the foregoing terms shall be defined or applied as follows:

1. "adverse economic event" shall mean an event of recent origin which has the effect of significantly reducing employment opportunities for the labor force within the applicant's jurisdiction.
2. "unemployment rate" shall mean the unemployment rate for the city or county applicant as measured by the applicant county's unemployment rate as published in the most recently available State Employment Development Department's "Monthly Labor Force For Counties".
3. Factors which shall be considered in assessing an applicant's performance on past CDBG grants shall include: Achievement of job creation or job retention objectives specified in the grant agreement; leveraging of other funds as specified in the grant agreement; and, timely expenditure of CDBG funds.

4. "basic program design" shall be evaluated as follows: The extent to which the applicant's program guidelines are consistent with CDBG program requirements and reflect prudent lending practices and procedures.

5. "other local organizational support" shall mean: The documented intent of local economic development organizations, such as local economic development corporations, Economic Development Districts, or Small Business Development Corporations, to commit resources towards implementation of the Enterprise Fund program.

(F) The Department shall complete the ranking of applications within eighty (80) days from the application deadline. Applicants shall be notified in writing of point scores, fund reservations and any adjustments necessary to comply with national objective or eligibility requirements. The Department may condition its award of funds in order to achieve the purposes of this subchapter and to ensure compliance with applicable State and federal requirements.

(G) Successful applicants shall receive a reservation of Enterprise Funds equal to the approved grant amount. These reserved funds shall be held by the Department pending drawdown requests for specific eligible activities.

(H) Successful applicants shall be subject to the requirements of Section 7076(d) in ensuring timely execution of the grant agreement and in the timing for incurring costs under the grant agreement.

(6) The assessment of a specific proposed activity's eligibility for funding for activities of \$50,000 or less shall be performed by Grantee and reviewed by the Department as part of the grant monitoring process. The assessment of eligibility for specific activities over \$50,000 shall be performed by the Department and shall occur prior to approval of the initial drawdown request for that activity.

(7) A Grantee's unused Enterprise Fund grant funds shall be disencumbered twenty-four months after grant agreement execution. The Department may waive this provision in writing if it determines that compelling circumstances warrant the waiver. For purposes of this subsection only, for activities of \$50,000 or less, funds shall be considered "unused" if not approved by the local loan committee for disbursement as a loan to a specified borrower; for activities over \$50,000, funds shall be considered unused if the Department has not yet received complete documentation, as determined by the Department, of the proposed borrower's eligibility.

(8) Upon receipt of an application and based on availability of funds, the Director may allocate a portion of the Enterprise Funds to assist eligible jurisdictions directly affected by announced military base closures or reductions. Enterprise Funds shall be made available pursuant to this subdivision (b)(8) only if the Enterprise Funds will be used to obtain federal funds for capitalizing local revolving loan funds which will be

used to mitigate the economic displacement caused by such base closures or reductions.

(c) Over-the-Counter Component. Economic Development Allocation funds not allocated to either the Enterprise Fund or the Planning Component shall be made available for award pursuant to this subsection (c), which shall be known as the "Over-the-Counter-Component" or "OTC Component". Through the OTC Component, the Department shall provide grants to eligible cities and counties to: make loans to employers for an identified CDBG-eligible activity, provided the loan will result in the creation or retention of permanent jobs; or to construct infrastructure improvements which are necessary to accommodate the creation, expansion or retention of a business that will create or retain jobs.

(1) Through a notice of funding availability ("NOFA"), each program year the Department shall notify all eligible cities and counties of the anticipated level of funding for the OTC Component. OTC Component applications shall be accepted on a continuous basis.

(2) Awards from the OTC Component to a single city or county in a single program year shall not exceed \$500,000, regardless of the number of applications, except as specified in subsection 7062.1(a)(6).

(3) Notwithstanding Section 7064(c), two or more applicants may submit a joint application for an OTC Component award. The maximum award for a joint application shall be five hundred thousand dollars (\$500,000) per participating applicant per program year.

(4) In order to be considered complete, an application shall contain the information requested in the NOFA, and such other information as necessary for the Department to evaluate the application using the points and rating factors set forth in subsection (c)(7) of this section and the following information as appropriate:

(A) If an applicant contains a description or analysis which includes quantified information, the source of the information, and the method of computation shall be described. If the Department determines that the method of computation leads to conclusions which are inaccurate or misleading, it may, after consultation with the applicant, adjust the method of computation or the conclusions during the evaluation process.

(B) Evidence that activities proposed for funding meet one of the national objectives specified under Section 7056(b)(3) and detailed under [24 CFR Section 570.483](#).

(C) If an applicant asserts that an activity will meet the national objective of principally benefitting the TIG, the application shall include a description of the means of verification which the applicant will use to determine the number and income of those households actually benefitting from the program.

(D) A schedule demonstrating that any new jobs that will be generated by the program will be available within 24 months of execution of the grant agreement by the Department.

(E) For off-site public improvement activities, the application shall document the following: how the activity meets the national objective and public benefit requirements specified in [24 CFR Section 570.482\(f\)](#); that the applicant has negotiated with the businesses and other beneficiaries that will be served by these improvements and obtained an appropriate funding contribution towards the cost of the improvements; and how the activity meets the requirements of paragraphs (2) and (3) of subsection (a) of this Section.

(5) The Department shall review applications based on order of receipt. Within thirty (30) days of receipt of an incomplete application, the Department shall notify the applicant in writing of the reasons why the application is incomplete.

(6) Within 60 days of the date an application is determined to be complete, the Department shall review the application for compliance with state and federal program requirements and provide the applicant, in writing, the Department's decision to approve or deny funding for the application. Applications eligible for funding shall be funded in order of receipt of a complete application.

(7) In making funding decisions, the Department shall first evaluate the application using the following factors and points as threshold criteria.

Factor Points

(A) Percent of county-wide unemployment relative to the Statewide average A maximum of twenty-five points

(B) Ratio of CDBG funds per job - maximum ratio of \$35,000 per job created or retained A maximum of fifteen points

(C) Ratio of private funds to CDBG funds A maximum of fifteen points

(D) Quality of applicant's past performance for CDBG economic development contracts A maximum of fifteen points

(E) Percent of funds allocated to applicant's general administrative costs (for this purpose, general administrative costs do not include funds budgeted for planning studies). A maximum of ten points

(8) Applications which have received 50 or more points shall be reviewed for funding using the following factors:

(A) the extent of the applicant's need for CDBG funds,

(B) the market feasibility of the proposed activities,

(C) the feasibility of the proposed activities under local and other regulatory requirements,

(D) the financial feasibility of the proposed activities. (In analyzing this factor, the Department may determine that an activity is feasible even though other funding sources have not committed their funding to an activity. If the application documents the terms and conditions that will be offered by the other funding sources, then the Department may conditionally commit to funding. This commitment of funding by the Department shall be conditioned upon the final commitment from the other funding sources.),

(E) the capacity of the applicant and its borrower, subcontractors or subgrantees to manage the proposed activities,

(F) the appropriateness of the terms proposed by the applicant, given the documented needs of the business and given the amount of public benefit in the form of job creation or job retention that will result from the CDBG-assisted activity,

(G) the status of the ownership or control of any real estate needed for the proposed activities,

(H) the extent to which the proposed activities involve intrastate relocation of jobs or business, and

(I) the extent of recruitment, training and promotional opportunities for targeted income groups.

(d) Planning and Technical Assistance Component. Through the Planning and Technical Assistance Component ("Planning Component"), eligible cities and counties may apply for, and the Department may award, grants for economic development planning and technical assistance activities. No single city or county shall receive more than two grants or thirty five thousand dollars (\$35,000) per year. Two or more applicants which share a planning program may submit a joint application. The maximum award for a joint application shall be thirty five thousand dollars (\$35,000) per participating applicant.

(1) Eligible Activities. To be eligible for funding under the Planning Component, the proposed planning studies or technical assistance must assist or support an economic development activity which, if brought to completion, will meet a national objective as specified in [24 CFR Section 570.483](#) and result in job creation or retention. For purposes of this subsection (d)(1), an activity shall be considered as meeting the national objective of principally benefitting TIG persons if the applicant presents

convincing information that at least fifty-one percent (51%) of the anticipated beneficiaries of the economic development activity assisted with funds provided by this component will be members of the TIG. General studies not reasonably related to an economic development activity likely to result in the creation or retention of jobs are not eligible for funding under the Planning Component; nor are activities related to implementation of a program.

(2) As a condition of receiving a commitment of funds under the Planning Component, successful applicants shall be required to provide a cash match the amount of which shall be based on the amount of the applicant's local sales and use tax revenues relative to the sales and use tax revenues for each potentially eligible city and county, up to a maximum of twenty-five percent (25%) of the CDBG grant award.

(3) Application Procedures and Evaluation Criteria. Each program year, the Department shall notify all eligible cities and counties of the anticipated level of funding for the Planning Component and the earliest date for submitting applications through a notice of funding availability ("NOFA"). The Department shall review Planning Component applications to determine if they meet minimum program eligibility and cash match requirements. The Department shall notify applicants, in writing, within 60 days of receipt of a complete application of the Department's funding determination. To be eligible for funding consideration, an application must meet the following requirements:

(A) The funding request shall contain all the information required in the NOFA and shall contain a certified resolution adopted by the governing body of the eligible jurisdiction documenting the availability of the cash match;

(B) The funding request shall be for an eligible activity and must meet a national objective as specified in [24 CFR Section 570.483](#); and

(C) If funds will be used to provide direct assistance to an identified business, the activity shall be considered to be technical assistance to a private, for-profit business and the application must include a letter from the benefitted business which: (i) explains why the benefitting business is unable to provide funding for the activity; and (ii) conditionally commits the business to proceeding with the activities which are the subject of the CDBG grant.

Note: Authority cited: [Sections 50406\(h\) and \(n\), Health and Safety Code](#); and [24 CFR 570.489\(b\)](#). Reference: [Sections 50406, 50407, 50832, 50833 and 50834, Health and Safety Code](#); [42 U.S.C. 5304\(b\)\(3\)](#), [42 U.S.C. 5305\(a\)](#) and [42 USC 5306\(d\)\(2\) and \(3\)](#); [24 CFR 570.482, 570.483, 570.489 and 570.493](#).

4. AMEND SECTION 7064 AS FOLLOWS:

7064. Grant Funding.

(a) The amount of funds available for grants is equal to the total allocation of federal funds made available to the State under the Act after subtracting an allowable amount for State administrative costs. Grant funding is subject to the availability of federal funds.

(b) Eligible applicants may apply for funds to undertake any one or any combination of the eligible activities described in Section 7058.

(c) Except as provided in Section 7062.1, applicants may apply for funds ~~in~~ from either one, ~~or~~ two or three annual consecutive funding awards ~~eyele~~s. The maximum grant amount per application for one funding award ~~eyele~~, regardless of the number of cities and counties included in the application, is five hundred thousand dollars (\$500,000). The maximum grant amount per application for ~~two~~ up to three annual consecutive funding awards ~~eyeles~~ regardless of the number of cities and counties included in the application, is one million, five hundred thousand dollars (~~\$1,000,000~~ 1,500,000). Funds applied for under Section 7062 are not included in these funding maximums. There is no maximum amount for applications submitted under Section 7062 other than the amount of funds set aside for this purpose. ~~Applications for a grant for two consecutive funding cycles will only be funded by the Department when the applicant is applying for a single activity which cannot be completed in segments.~~ In the annual application process, priority for funding will be given to applicants that received prior State approval for a grant for a ~~the~~ second or third year funding award ~~eyele~~. These priorities are subject to the availability of federal funds and the satisfactory performance by grantees. If federal funding to the State is insufficient to meet commitments for the second or third part of a two or three year funding ~~eyele~~ award, the Department will establish a procedure for awarding available funds based on previous rankings and program performance.

Note: Authority cited: [Sections 50406\(h\) and \(n\), Health and Safety Code](#). Reference: [Section 50832\(a\), Health and Safety Code](#); and [42 U.S.C. 5306\(d\)\(2\)](#).

5. AMEND SECTION 7066 AS FOLLOWS:

7066. Procedure for Continuation of Funding.

(a) Grantees with prior State approval for two or three year funding ~~eyele~~ awards shall notify the Department in writing by the final date for submitting applications of their intent to continue the second or third year part of their program. Failure by the Grantee to so notify the Department will be deemed a waiver of continued funding.

(b) Funding will be continued provided adequate funds have been received by the Department from HUD, and the Grantee has performed in accordance with the grant agreement. Disencumbrance of funds not expended in accordance with the grant agreement and the performance measures described in Sections 7078.4 and 7062.1(b)(7) shall constitute satisfactory performance under the grant agreement.

(b) Funding will be continued provided the Grantee has performed in accordance with the grant agreement and adequate funds have been received by the Department from HUD.

Note: Authority cited: Sections 50406(h) and (n), Health and Safety Code; 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 5306(d)(2) and (3); 24 CFR 570.489 and 570.491.

6. AMEND SECTION 7078.4 AS FOLLOWS:

7078.4. Prior Performance Operating CDBG Grants (150 points).

(a) The Department shall rate applications based on the applicant's performance in administering non-economic development grants for grants funded within the four (4) program years preceding the program year under which the application has been submitted. Applicants that have not received a non-economic development grant during this period shall be rated on their capacity to administer a CDBG grant as set forth in section 7078.5 below.

(b) The Department shall give greater weight to performance under the general allocation and Native American grants than to performance under planning and technical assistance grants.

(c) The Department shall rate applicant's performance based on the following criteria:

~~(1) For housing rehabilitation activities, competitive applicants will have expended 25 percent of awarded dollars by the twelfth month of the State CDBG contract, and 75 percent by the twenty-fourth month.~~

(1) For housing rehabilitation program, housing acquisition program, public works, housing new construction, community facilities, and public service activities under a single year funding award 24 month contract, competitive applicants will have expended twenty five (25%) of awarded dollars by the twelfth month of the State CDBG Program contract and seventy-five percent (75%) by the eighteenth (18th) month. Grantees that do not make the 25% milestone will receive a hold out letter for the next funding cycle. A waiver from hold out status may be granted if the grantee makes the 75% milestone by the 18th month. Grantees may choose to disencumber the difference in funds between

what they have expended and the amount of the 75% milestone and so come into compliance with CDBG performance milestones and obtain a waiver.

~~(2) For public works, community facilities, and new construction activities, competitive applicants will have expended 50 percent of awarded dollars by the eighteenth month and 75 percent by the twenty fourth month.~~

~~(3) For public services, competitive applicants will have expended their CDBG dollars on a timely basis throughout the grant term while the service is being provided.~~

(2) For each program activity with multi-year funding awards, grantees will have milestones for each year of funding. If Grantees do not spend twenty-five percent (25%) of their first year of funding by the twelfth month, then the Department will disencumber the difference between what was expended for that program activity and the 25% milestone. In the same way, if grantees do not spend seventy-five percent (75%) of their annual award at the 18th month, then the Department may disencumber the difference between what was expended for the program activity and the 75% milestone. Any unexpended funds for that specific activity under the specific annual award will be disencumbered after the 24th month. This annual set of milestones will apply to each year of the multi year funding awards. This disencumberance of funds will not allow the grantee to apply for any additional funding in future application cycles other than the original difference, if any, as described in Section 7060 between annual award and maximum annual allowed (\$500,000). Having more than 50% of the multi year funding award disencumbered during the life of the program will be grounds for negative performance under rating and ranking.

(3) Grantees who have multiple year funding awards for single project specific activities, will designate in their application at what time the CDBG funding will be needed. Department staff shall assign milestones based on the project's timeline shown in the application if it does not hinder the Department's timely expenditure of CDBG funds. If the grantee does not meet the milestones assigned to the specific project, then Department staff may disencumber funds up to the designated milestone

(4) For all CDBG activities from open grants, the most competitive applicants will have expended a larger percentage of the awarded dollars than as set forth in this section.

(5) For all CDBG activities described within this section, competitive applicants will have expended all dollars and concluded all work by the date specified in the CDBG contract with the State. If there are delays in expenditures, circumstances must be described to the Department, in writing, at the time of the delay. If the Department previously has advised the jurisdiction in writing that there will be no performance consequences as a result of the delay, then the jurisdiction will not be at a competitive disadvantage.

(d) The Department shall also rate applications based on the applicant's timeliness in reporting to the Department, pursuant to Section 7110. The most competitive applicants will have submitted all required reports for past non- economic development grants to the Department in accordance with deadlines established and publicized by the Department. Such reports include, but are not limited to annual grantee performance reports, quarterly or other periodic reports, and close out reports.

(e) The Department shall also rate applications based on the applicant's timeliness in resolving audit and monitoring findings, if any. Where a jurisdiction demonstrates a good faith attempt to resolve outstanding issues, they will not suffer a competitive disadvantage.

(f) Applicants with no CDBG grant experience within the timeframe described in 7078.4(a), will be at no competitive disadvantage compared to those applicants who have met but not exceeded their milestones and will receive all of the available performance points, except those points awarded under Section 7078.4(c)(4).

(g) The Department shall also rate applications based on the applicant's timeliness in clearing special conditions or starting the project.

Note: Authority cited: [Sections 50406\(h\) and \(n\), Health and Safety Code](#). Reference: [Sections 50406](#) and [50407, Health and Safety Code](#); and [24 CFR 570.489](#).