

§ 570.902

24 CFR Ch. V (4–1–06 Edition)

specified in its certification for activities that benefit low and moderate income persons;

(b) The requirement described at § 570.200(a)(2) that each CDBG assisted activity meets the criteria for one or more of the national objectives described at § 570.208;

(c) All other activity eligibility requirements defined in subpart C of this part;

(d) For entitlement grants only, the submission requirements of 24 CFR part 91 and the displacement policy requirements at § 570.606;

(e) For HUD-administered small cities grants only, the citizen participation requirements at § 570.431, the amendment requirements at § 570.427 (New York HUD-administered small cities) or § 570.430(f) (Hawaii HUD-administered small cities), and the displacement policy requirements of § 570.606;

(f) The grant administration requirements described in subpart J;

(g) Other applicable laws and program requirements described in subpart K; and

(h) Where applicable, the requirements pertaining to loan guarantees (subpart M) and urban renewal completions (subpart N).

[53 FR 34466, Sept. 6, 1988, as amended at 60 FR 1917, Jan. 5, 1995; 60 FR 56917, Nov. 9, 1995]

§ 570.902 Review to determine if CDBG funded activities are being carried out in a timely manner.

HUD will review the performance of each entitlement and HUD-administered small cities recipient to determine whether each recipient is carrying out its CDBG assisted activities in a timely manner.

(a) *Entitlement recipients.* (1) Before the funding of the next annual grant and absent contrary evidence satisfactory to HUD, HUD will consider an entitlement recipient to be failing to carry out its CDBG activities in a timely manner if:

(i) Sixty days prior to the end of the grantee's current program year, the amount of entitlement grant funds available to the recipient under grant agreements but undisbursed by the U.S. Treasury is more than 1.5 times

the entitlement grant amount for its current program year; and

(ii) The grantee fails to demonstrate to HUD's satisfaction that the lack of timeliness has resulted from factors beyond the grantee's reasonable control.

(2) Notwithstanding that the amount of funds in the line of credit indicates that the recipient is carrying out its activities in a timely manner pursuant to paragraph (a)(1) of this section, HUD may determine that the recipient is not carrying out its activities in a timely manner if:

(i) The amount of CDBG program income the recipient has on hand 60 days prior to the end of its current program year, together with the amount of funds in its CDBG line of credit, exceeds 1.5 times the entitlement grant amount for its current program year; and

(ii) The grantee fails to demonstrate to HUD's satisfaction that the lack of timeliness has resulted from factors beyond the grantee's reasonable control.

(3) In determining the appropriate corrective action to take with respect to a HUD determination that a recipient is not carrying out its activities in a timely manner pursuant to paragraphs (a)(1) or (a)(2) of this section, HUD will consider the likelihood that the recipient will expend a sufficient amount of funds over the next program year to reduce the amount of unexpended funds to a level that will fall within the standard described in paragraph (a)(1) of this section when HUD next measures the grantee's timeliness performance. For these purposes, HUD will take into account the extent to which funds on hand have been obligated by the recipient and its sub-recipients for specific activities at the time the finding is made and other relevant information.

(b) *HUD-administered Small Cities program.* The Department will, absent substantial evidence to the contrary, consider that a HUD-administered small cities recipient is carrying out its CDBG funded activities in a timely manner if the schedule for carrying out its activities as contained in the approved application, or subsequent

amendment, is being substantially met.

[53 FR 34466, Sept. 6, 1988, as amended at 60 FR 56917, Nov. 9, 1995]

§ 570.903 Review to determine if the recipient is meeting its consolidated plan responsibilities.

The consolidated plan, action plan, and amendment submission requirements referred to in this section are in 24 CFR part 91.

(a) *Review timing and purpose.* HUD will review the consolidated plan performance of each entitlement and Hawaii HUD-administered small cities grant recipient prior to acceptance of a grant recipient's annual certification under 24 CFR 91.225(b)(3) to determine whether the recipient followed its HUD-approved consolidated plan for the most recently completed program year, and whether activities assisted with CDBG funds during that period were consistent with that consolidated plan, except that grantees are not bound by the consolidated plan with respect to the use or distribution of CDBG funds to meet nonhousing community development needs.

(b) *Following a consolidated plan.* The recipient will be considered to be following its consolidated plan if it has taken all of the planned actions described in its action plan. This includes, but is not limited to:

(1) Pursuing all resources that the grantee indicated it would pursue;

(2) Providing certifications of consistency, when requested to do so by applicants for HUD programs for which the grantee indicated that it would support application by other entities, in a fair and impartial manner; and

(3) Not hindering implementation of the consolidated plan by action or willful inaction.

(c) *Disapproval.* If HUD determines that a recipient has not met the criteria outlined in paragraph (b) of this section, HUD will notify the recipient and provide the recipient up to 45 days to demonstrate to the satisfaction of the Secretary that it has followed its consolidated plan. HUD will consider all relevant circumstances and the recipient's actions and lack of actions affecting the provision of assistance covered by the consolidated plan within

its jurisdiction. Failure to so demonstrate in a timely manner will be cause for HUD to find that the recipient has failed to meet its certification. A complete and specific response by the recipient shall describe:

(1) Any factors beyond the control of the recipient that prevented it from following its consolidated plan, and any actions the recipient has taken or plans to take to alleviate such factors; and

(2) Actions taken by the recipient, if any, beyond those described in the consolidated plan performance report to facilitate following the consolidated plan, including the effects of such actions.

(d) *New York HUD-administered Small Cities.* New York HUD-administered grantees shall follow the provisions of paragraph (b) of this section for their abbreviated or full consolidated plan to the extent that the provisions of paragraph (b) of this section are applicable. If the grantee does not comply with the requirements of paragraph (b) of this section, and does not provide HUD with an acceptable explanation, HUD may decide, in accordance with the requirements of the notice of fund availability, that the grantee does not meet threshold requirements to apply for a new small cities grant.

[60 FR 56918, Nov. 9, 1995]

§ 570.904 Equal opportunity and fair housing review criteria.

(a) *General.* (1) Where the criteria in this section are met, the Department will presume that the recipient has carried out its CDBG-funded program in accordance with civil rights certifications and civil rights requirements of the Act relating to equal employment opportunity, equal opportunity in services, benefits and participation, and is affirmatively furthering fair housing unless:

(i) There is evidence which shows, or from which it is reasonable to infer, that the recipient, motivated by considerations of race, color, religion where applicable, sex, national origin, age or handicap, has treated some persons less favorably than others, or

(ii) There is evidence that a policy, practice, standard or method of administration, although neutral on its face,