

# **Housing and Community Development (HCD) Act of 1974**

## **Sec. 5301.\* Congressional Findings and Declaration of Purpose [\*Section 101 of the Act]**

- a. Critical social, economic, and environmental problems facing Nation's urban communities

The Congress finds and declares that the Nation's cities, towns, and smaller urban communities face critical social, economic, and environmental problems arising in significant measure from--

1. the growth of population in metropolitan and other urban areas, and the concentration of persons of lower income in central cities;
2. inadequate public and private investment and reinvestment in housing and other physical facilities, and related public and social services, resulting in the growth and persistence of urban slums and blight and the marked deterioration of the quality of the urban environment; and
3. increasing energy costs which have seriously undermined the quality and overall effectiveness of local community and housing development activities.
  - b. Establishment and maintenance of viable urban communities; systematic and sustained action by Federal, State, and local governments; expansion of and continuity in Federal assistance; increased private investment; streamlining programs and improvement of functioning of agencies; action to address consequences of scarce fuel supplies

The Congress further finds and declares that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable urban communities as social, economic, and political entities, and require--

1. systematic and sustained action by Federal, State, and local governments to eliminate blight, to conserve and renew older urban areas, to improve the living environment of low- and moderate-income families, and to develop new centers of population growth and economic activity;
2. substantial expansion of and greater continuity in the scope and level of Federal assistance, together with increased private investment in support of community development activities;
3. continuing effort at all levels of government to streamline programs and improve the functioning of agencies responsible for planning, implementing, and evaluating community development efforts; and

4. concerted action by Federal, State, and local governments to address the economic and social hardships borne by communities as a consequence of scarce fuel supplies.
  - c. Decent housing, suitable living environment, and economic opportunities for persons of low and moderate income; community development activities which may be supported by Federal assistance

The primary objective of this chapter and of the community development program of each grantee under this chapter is 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. Consistent with this primary objective, not less than 70 percent of the aggregate of the Federal assistance provided to States and units of general local government under section 5306 of this title and, if applicable, the funds received as a result of a guarantee or a grant under section 5308 of this title, shall be used for the support of activities that benefit persons of low and moderate income, and the Federal assistance provided in this chapter is for the support of community development activities which are directed toward the following specific objectives-

1. the elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally persons of low and moderate income;
2. the elimination of conditions which are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitation assistance, and related activities;
3. the conservation and expansion of the Nation's housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income;
4. the expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable urban communities;
5. a more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers;
6. the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods;
7. the restoration and preservation of properties of special value for historic, architectural, or esthetic reasons;

8. the alleviation of physical and economic distress through the stimulation of private investment and community revitalization in areas with population outmigration or a stagnating or declining tax base; and
9. the conservation of the Nation's scarce energy resources, improvement of energy efficiency, and the provision of alternative and renewable energy sources of supply.

It is the intent of Congress that the Federal assistance made available under this chapter not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance.

- d. Consolidation of complex and overlapping Federal assistance programs into consistent system of Federal aid

It is also the purpose of this chapter to further the development of a national urban growth policy by consolidating a number of complex and overlapping programs of financial assistance to communities of varying sizes and needs into a consistent system of Federal aid which--

1. provides assistance on an annual basis, with maximum certainty and minimum delay, upon which communities can rely in their planning;
2. encourages community development activities which are consistent with comprehensive local and areawide development planning;
3. furthers achievement of the national housing goal of a decent home and a suitable living environment for every American family; and
4. fosters the undertaking of housing and community development activities in a coordinated and mutually supportive manner by Federal agencies and programs, as well as by communities.

(Pub. L. 93-383, title I, Sec. 101, Aug. 22, 1974, 88 Stat. 633;

Pub. L. 95-128, title I, Sec. 101, Oct. 12, 1977, 91 Stat. 1111;

Pub. L. 96-399, title I, Sec. 104(a), Oct. 8, 1980, 94 Stat. 1616;

Pub. L. 98-181, title I, Sec. 101(a), Nov. 30, 1983, 97 Stat. 1159;

Pub. L. 100-242, title V, Sec. 502(a), (b), Feb. 5, 1988, 101 Stat. 1923;

Pub. L. 101-625, title IX, Secs. 902(a), 913(a), Nov. 28, 1990, 104 Stat. 4385, 4392;

Pub. L. 103-233, title II, Sec. 232(a)(2)(A), Apr. 11, 1994, 108 Stat. 367.)

## **Sec. 5302.\* General provisions [\* Section 102 of the Act]**

- a. Definitions

As used in this chapter--

1. The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions that, except as provided in section 5306(d)(4) of this title, is recognized by the Secretary; the District of Columbia; and the Trust Territory of the Pacific Islands. Such term also includes a State or a local public body or agency (as defined in section 4512 of this title), community association, or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 4513 of this title or title IV of the Housing and Urban Development Act of 1968  
[42 U.S.C. 3901 et seq.]
2. The term "State" means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico.
3. The term "metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget.
4. The term "metropolitan city" means
  - a. a city within a metropolitan area which is the central city of such area, as defined and used by the Office of Management and Budget, or
  - b. any other city, within a metropolitan area, which has a population of fifty thousand or more.

Any city that was classified as a metropolitan city for at least 2 years pursuant to the first sentence of this paragraph shall remain classified as a metropolitan city. Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this chapter, if it elects to have its population included in an urban county under subsection (d) of this section. Notwithstanding the second sentence of this paragraph, a city may elect not to retain its classification as a metropolitan city. Any city classified as a metropolitan city pursuant to this paragraph, and that no longer qualifies as a metropolitan city in a fiscal year beginning after fiscal year 1989, shall retain its classification as a metropolitan city for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year

- a. the amount of the grant to such city shall be 50 percent of the amount calculated under section 5306(b) of this title; and
- b. the remaining 50 percent shall be added to the amount allocated under section 5306(d) of this title to the State in which the city is located and the city shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 5306(d) of this title as increased by this sentence.

Any unit of general local government that was classified as a metropolitan city in any fiscal year, may, upon submission of written notification to the Secretary, relinquish such classification for all purposes under this chapter if it elects to have its population included with the population of a

county for purposes of qualifying for assistance (for such following fiscal year) under section 5306 of this title as an urban county under paragraph (6)(D). Any metropolitan city that elects to relinquish its classification under the preceding sentence and whose port authority shipped at least 35,000,000 tons of cargo in 1988, of which iron ore made up at least half, shall not receive, in any fiscal year, a total amount of assistance under section 5306 of this title from the urban county recipient that is less than the city would have received if it had not relinquished the classification under the preceding sentence.

5. The term "city" means
  - a. any unit of general local government which is classified as a municipality by the United States Bureau of the Census or
  - b. any other unit of general local government which is a town or township and which, in the determination of the Secretary,
    - i. possesses powers and performs functions comparable to these associated with municipalities,
    - ii. is closely settled, and
    - iii. contains within its boundaries no incorporated places as defined by the United States Bureau of the Census which have not entered into cooperation agreements with such town or township to undertake or to assist in the undertaking of essential community development and housing assistance activities.
6.
  - A. The term "urban county" means any county within a metropolitan area which--
    - i. is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government; and
    - ii. either--
      - I. has a population of 200,000 or more (excluding the population of metropolitan cities therein) and has a combined population of 100,000 or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (and in the case of counties having a combined population of less than 200,000, the areas and units of general local government must include the areas and units of general local government which in the aggregate have the preponderance of the persons of low and moderate income who reside in the county)
        - a. in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded, or

- b. with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities;  
or

- II. has a population in excess of 100,000, a population density of at least 5,000 persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census

B. Any county that was classified as an urban county for at least 2 years pursuant to subparagraph (A), (C), or (D) shall remain classified as an urban county, unless it fails to qualify as an urban county pursuant to subparagraph (A) by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or not to renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.

- C. Notwithstanding the combined population amount set forth in clause (ii) of subparagraph (A), a county shall also qualify as an urban county for purposes of assistance under section 5306 of this title if such county--
  - i. complies with all other requirements set forth in the first sentence;
  - ii. has, according to the most recent available decennial census data, a combined population between 190,000 and 199,999, inclusive (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county;
  - iii. had a population growth rate of not less than 15 percent during the most recent 10-year period measured by applicable censuses; and
  - iv. has submitted data satisfactory to the Secretary that it has a combined population of not less than 200,000 (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county.
- D. Such term also includes a county that--
  - i. has a combined population in excess of 175,000, has more than 50 percent of the housing units of the area unsewered, and has an aquifer that was designated before March 1, 1987, a sole source aquifer by the Environmental Protection Agency;
  - ii. has taken steps, which include at least one public referendum, to consolidate substantial public services with an adjoining metropolitan city, and in the opinion of the Secretary, has consolidated these services with the city in an effort that is expected to result in the unification of the two governments within 6 years of February 5, 1988;

- iii. had a population between 180,000 and 200,000 on October 1, 1987, was eligible for assistance under section 5318 of this title in fiscal year 1986, and does not contain any metropolitan cities;
- iv. has entered into a local cooperation agreement with a metropolitan city that received assistance under section 5306 of this title because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for purposes of qualifying as an urban county; except that to qualify as an urban county under this clause
  - I. the county must have a combined population of not less than 195,000,
  - II. more than 15 percent of the residents of the county shall be 60 years of age or older (according to the most recent decennial census data),
  - III. not less than 20 percent of the total personal income in the county shall be from pensions, social security, disability, and other transfer programs, and
  - IV. not less than 40 percent of the land within the county shall be publicly owned and not subject to property tax levies
- v.
  - I. has a population of 175,000 or more (including the population of metropolitan cities therein),
  - II. before January 1, 1975, was designated by the Secretary of Defense pursuant to section 608 of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1763), as a Trident Defense Impact Area, and
  - III. has located therein not less than 1 unit of general local government that was classified as a metropolitan city and
    - a. which county each such unit of general local government therein has relinquished its classification as a metropolitan city under the 6th sentence of paragraph (4), or for
    - b. that has entered into cooperative agreements with each metropolitan city therein to undertake or to assist in the undertaking of essential community development and housing assistance activities;
- vi. has entered into a local cooperation agreement with a metropolitan city that received assistance under section 5306 because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for the purposes of qualifying as an urban

county, except that to qualify as an urban county under this clause, the county must--

- I. have a combined population of not less than 210,000, excluding any metropolitan city located in the county that is not relinquishing its metropolitan city classification, according to the 1990 decennial census of the Bureau of the Census of the Department of Commerce;
- II. including any metropolitan cities located in the county, have had a decrease in population of 10,061 from 1992 to 1994, according to the estimates of the Bureau of the Census of the Department of Commerce; and
- III. have had a Federal naval installation that was more than 100 years old closed by action of the Base Closure and Realignment Commission appointed for 1993 under the Base Closure and Realignment Act of 1990, directly resulting in a loss of employment by more than 7,000 Federal Government civilian employees and more than 15,000 active duty military personnel, which naval installation was located within one mile of an enterprise community designated by the Secretary pursuant to section 1391 of the Internal Revenue Code of 1986, which enterprise community has a population of not less than 20,000, according to the 1990 decennial census of the Bureau of the Census of the Department of Commerce

vii.

- I. has consolidated its government with one or more municipal governments, such that within the county boundaries there are no unincorporated areas;
- II. has a population of not less than 650,000;
- III. for more than 10 years, has been classified as a metropolitan city for purposes of allocating and distributing funds under section 106; and
- IV. as of the date of enactment of this clause, has over 90 percent of the county's population within the jurisdiction of the consolidated government; or

viii. notwithstanding any other provision of this section, any county that was classified as an urban county pursuant to subparagraph (A) for fiscal year 1999, at the option of the county, may hereafter remain classified as an urban county for purposes of this Act.



E. Any county classified as an urban county pursuant to subparagraph (A), (B), or (C) of this paragraph, and that no longer qualifies as an urban county under such subparagraph in a fiscal year beginning after fiscal year 1989, shall retain its classification as an urban county for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year

- i. the amount of the grant to such an urban county shall be 50 percent of the amount calculated under section 5306(b) of this title; and
- ii. the remaining 50 percent shall be added to the amount allocated under section 5306(d) of this title to the State in which the urban county is located and the urban county shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 5306(d) of this title as increased by this sentence.

The term "nonentitlement area" means an area which is not a metropolitan city or part of an urban county and does not include Indian tribes.

The term "population" means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

The term "extent of poverty" means the number of persons whose incomes are below the poverty level. Poverty levels shall be determined by the Secretary pursuant to criteria provided by the Office of Management and Budget, taking into account and making adjustments, if feasible and appropriate and in the sole discretion of the Secretary, for regional or area variations in income and cost of living, and shall be based on data referable to the same point or period in time.

The term "extent of housing overcrowding" means the number of housing units with 1.01 or more persons per room based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

The term "age of housing" means the number of existing housing units constructed in 1939 or earlier based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

The term "extent of growth lag" means the number of persons who would have been residents in a metropolitan city or urban county, in excess of the current population of such metropolitan city or urban county, if such metropolitan city or urban county had had a population growth rate between 1960 and the date of the most recent population count referable to the same point or period in time equal to the population growth rate for such period of all metropolitan cities. Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on

the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries.

- The term "housing stock" means the number of existing housing units based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.
- The term "adjustment factor" means the ratio between the age of housing in the metropolitan city or urban county and the predicted age of housing in such city or county.
- The term "predicted age of housing" means the arithmetic product of the housing stock in the metropolitan city or urban county multiplied times the ratio between the age of housing in all metropolitan areas and the housing stock in all metropolitan areas.
- The term "adjusted age of housing" means the arithmetic product of the age of housing in the metropolitan city or urban county multiplied times the adjustment factor.
- The term "Indian tribe" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) [25 U.S.C. 450 et seq.]

or was considered an eligible recipient under chapter 67 of title 31 prior to the repeal of such chapter.

- The term "Federal grant-in-aid program" means a program of Federal financial assistance other than loans and other than the assistance provided by this chapter.
- The term "Secretary" means the Secretary of Housing and Urban Development.
  - A. □ The terms "persons of low and moderate income" and "low- and moderate-income persons" mean families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term "persons of low income" means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term "persons of moderate income" means families and individuals whose incomes exceed 50 percent, but do not exceed 80 percent, of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 1437f of this title.
  - B. The Secretary may establish percentages of median income for any area that are higher or lower than the percentages set forth in subparagraph (A), if the Secretary finds such variations to be necessary because of unusually high or low family incomes in such area.

- The term "buildings for the general conduct of government" means city halls, county administrative buildings, State capitol or office buildings, or other facilities in which the legislative or general administrative affairs of the government are conducted. Such term does not include such facilities as neighborhood service centers or special purpose buildings located in low- and moderate-income areas that house various nonlegislative functions or services provided by government at decentralized locations.
- The term "microenterprise" means a commercial enterprise that has 5 or fewer employees, 1 or more of whom owns the enterprise.
- The term "small business" means a business that meets the criteria set forth in section 632(a) of title 15.

b. Basis and modification of definitions

Where appropriate, the definitions in subsection (a) of this section shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available ninety days prior to the beginning of such fiscal year. The Secretary may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) of this section in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

c. Designation of public agencies

One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake activities assisted under this chapter.

d. Local governments, inclusion in urban county population

With respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 1982 under section 5303 of this title, the population of any unit of general local government which is included in that of an urban county as provided in subparagraph (A)(ii) or (D) of subsection (a)(6) of this section shall be included in the population of such urban county for three program years beginning with the program year in which its population was first so included and shall not otherwise be eligible for a grant under section 5306 of this title as a separate entity, unless the urban county does not receive a grant for any year during such three-year period.

e. Exclusion of local governments from urban county population; notification of election

Any county seeking qualification as an urban county, including any urban county seeking to continue such qualification, shall notify, as provided in this subsection, each unit of

general local government, which is included therein and is eligible to elect to have its population excluded from that of an urban county under subsection (a)(6)(A)(ii)(I)(a) of this section, of its opportunity to make such an election. Such notification shall, at a time and in a manner prescribed by the Secretary, be provided so as to provide a reasonable period for response prior to the period for which such qualification is sought. The population of any unit of general local government which is provided such notification and which does not inform, at a time and in a manner prescribed by the Secretary, the county of its election to exclude its population from that of the county shall, if the county qualifies as an urban county, be included in the population of such urban county as provided in subsection (d) of this section.

(Pub. L. 93-383, title I, Sec. 102, Aug. 22, 1974, 88 Stat. 635;  
Pub. L. 95-128, title I, Sec. 102, Oct. 12, 1977, 91 Stat. 1111;  
Pub. L. 96-153, title I, Sec. 103(f), Dec. 21, 1979, 93 Stat. 1102;  
Pub. L. 96-399, title I, Secs. 101(a), (b)(1), (c), 111(a), Oct. 8, 1980, 94 Stat. 1614, 1620;  
Pub. L. 97-35, title III, Secs. 309(a)-(c), 310, Aug. 13, 1981, 95 Stat. 396, 397;  
Pub. L. 97-289, Sec. 5, Oct. 6, 1982, 96 Stat. 1231;  
Pub. L. 98-181, title I, Sec. 102, Nov. 30, 1983, 97 Stat. 1159;  
Pub. L. 98-479, title I, Sec. 101(a)(1)-(4), title II, Sec. 203(l)(1), Oct. 17, 1984, 98 Stat. 2218, 2219, 2231;  
Pub. L. 99-120, Sec. 5(a), Oct. 8, 1985, 99 Stat. 504;  
Pub. L. 99-156, Sec. 5(a), Nov. 15, 1985, 99 Stat. 816;  
Pub. L. 99-219, Sec. 5(a), Dec. 26, 1985, 99 Stat. 1731;  
Pub. L. 99-267, Sec. 5(a), Mar. 27, 1986, 100 Stat. 74;  
Pub. L. 99-272, title III, Sec. 3011(a), title XIV, Sec. 14001(b)(3), Apr. 7, 1986, 100 Stat. 106, 328;  
Pub. L. 99-289, Sec. 1(b), May 2, 1986, 100 Stat. 412;  
Pub. L. 99-345, Sec. 1, June 24, 1986, 100 Stat. 673;  
Pub. L. 99-430, Sept. 30, 1986, 100 Stat. 986;  
Pub. L. 100-77, title IV, Sec. 442, July 22, 1987, 101 Stat. 509;  
Pub. L. 100-122, Sec. 1, Sept. 30, 1987, 101 Stat. 793;  
Pub. L. 100-154, Nov. 5, 1987, 101 Stat. 890;  
Pub. L. 100-170, Nov. 17, 1987, 101 Stat. 914;  
Pub. L. 100-179, Dec. 3, 1987, 101 Stat. 1018;  
Pub. L. 100-200, Dec. 21, 1987, 101 Stat. 1327;  
Pub. L. 100-202, Sec. 101(f) [title I, Sec. 101], Dec. 22, 1987, 101 Stat. 1329-187, 1329-193;  
Pub. L. 100-242, title V, Sec. 503, Feb. 5, 1988, 101 Stat. 1923;  
Pub. L. 100-628, title X, Secs. 1081, 1082(a), Nov. 7, 1988, 102 Stat. 3276, 3277;  
Pub. L. 101-235, title VII, Sec. 702(a), Dec. 15, 1989, 103 Stat. 2056;  
Pub. L. 101-507, title II, Nov. 5, 1990, 104 Stat. 1370;  
Pub. L. 101-625, title IX, Secs. 903(a)-(c)(2), 904(a), Nov. 28, 1990, 104 Stat. 4385-4387;  
Pub. L. 102-550, title VIII, Secs. 802(a), 803, 807(c)(2), Oct. 28, 1992, 106 Stat. 3845, 3849;

Pub. L. 104-204, title II, Sec. 216, Sept. 26, 1996, 110 Stat. 2904.)

Pub.L. 106-377, Sec. 217, Oct. 27, 2000, 114 Stat. 1441

### **Sec. 5303.\* Grants to States, units of general local government and Indian tribes; authorizations [\*Section 103 of the Act]**

The Secretary is authorized to make grants to States, units of general local government, and Indian tribes to carry out activities in accordance with the provisions of this chapter. For purposes of assistance under section 5306 of this title, there are authorized to be appropriated \$4,000,000,000 for fiscal year 1993 and \$4,168,000,000 for fiscal year 1994. Sums authorized pursuant to this section shall remain available until expended.

(Pub. L. 93-383, title I, § 103, Aug. 22, 1974, 88 Stat. 637; Pub. L. 94-375, § 15(a), Aug. 3, 1976, 90 Stat. 1076; Pub. L. 95-128, title I, § 103, Oct. 12, 1977, 91 Stat. 1113; Pub. L. 96-153, title I, § 103(a), (b), Dec. 21, 1979, 93 Stat. 1101, 1102; Pub. L. 96-399, title I, §§ 106, 111(b), Oct. 8, 1980, 94 Stat. 1618, 1621; Pub. L. 97-35, title III, § 301, Aug. 13, 1981, 95 Stat. 384; Pub. L. 98-181, title I, § 103, Nov. 30, 1983, 97 Stat. 1161; Pub. L. 100-242, title V, § 501(a), Feb. 5, 1988, 101 Stat. 1922; Pub. L. 101-625, title IX, § 901(a), Nov. 28, 1990, 104 Stat. 4384; Pub. L. 102-550, title VIII, § 801(a), Oct. 28, 1992, 106 Stat. 3843.)

### **Sec. 5304.\* Statement of Activities and Review [\* Section 104 of the Act]**

- a. Statement of objectives and projected use of funds by grantee prerequisite to receipt of grant; publication of proposals by grantees; notice and comment; citizen participation plan
  1. Prior to the receipt in any fiscal year of a grant under section 5306(b) of this title by any metropolitan city or urban county, under section 5306(d) of this title by any State, or under section 5306(d)(2)(B) of this title by any unit of general local government, the grantee shall have prepared a final statement of community development objectives and projected use of funds and shall have provided the Secretary with the certifications required in subsection (b) of this section and, where appropriate, subsection (c) of this section. In the case of metropolitan cities and urban counties receiving grants pursuant to section 5306(b) of this title and in the case of units of general local government receiving grants pursuant to section 5306(d)(2)(B) of this title, the statement of projected use of funds shall consist of proposed community development activities. In the case of States receiving grants pursuant to section 5306(d) of this title, the statement of projected use of funds shall consist of the method by which the states will distribute funds to units of general local government.
  2. In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, the grantee shall in a timely manner--
    - A. furnish citizens or, as appropriate, units of general local government information concerning the amount of funds available for proposed

community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income and the plans of the grantee for minimizing displacement of persons as a result of activities assisted with such funds and to assist persons actually displaced as a result of such activities;

- B. publish a proposed statement in such manner to afford affected citizens or, as appropriate, units of general local government an opportunity to examine its content and to submit comments on the proposed statement and on the community development performance of the grantee;
- C. hold one or more public hearings to obtain the views of citizens on community development and housing needs;
- D. provide citizens or, as appropriate, units of general local government with reasonable access to records regarding the past use of funds received under section 5306 of this title by the grantee; and
- E. provide citizens or, as appropriate, units of general local government with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of funds received under section 5306 of this title from one eligible activity to another or in the method of distribution of such funds.

In preparing the final statement, the grantee shall consider any such comments and views and may, if deemed appropriate by the grantee, modify the proposed statement. The final statement shall be made available to the public, and a copy shall be furnished to the Secretary together with the certifications required under subsection (b) of this section and, where appropriate, subsection (c) of this section. Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the same procedures required in this paragraph for the preparation and submission of such statement.

- 3. A grant under section 5306 of this title may be made only if the grantee certifies that it is following a detailed citizen participation plan which--
  - A. provides for and encourages citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blight areas and of areas in which section 106 [42 U.S.C. 5306] funds are proposed to be used, and in the case of a grantee described in section 5306(a) of this title, provides for participation of residents in low and moderate income neighborhoods as defined by the local jurisdiction;
  - B. provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds, as

required by regulations of the Secretary, and relating to the actual use of funds under this chapter;

- C. provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;
- D. provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;
- E. provides for a timely written answer to written complaints and grievances, within 15 working days where practicable; and
- F. identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

This paragraph may not be construed to restrict the responsibility or authority of the grantee for the development and execution of its community development program.

b. Certification of enumerated criteria by grantee to Secretary

Any grant under section 5306 of this title shall be made only if the grantee certifies to the satisfaction of the Secretary that--

- 1. the grantee is in full compliance with the requirements of subsection (a)(2)(A), (B), and (C) of this section and has made the final statement available to the public;
- 2. the grant will be conducted and administered in conformity with the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] and the Fair Housing Act [42 U.S.C. 3601 et seq.], and the grantee will affirmatively further fair housing;
- 3. the projected use of funds has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight, and the projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs, except that
  - A. the aggregate use of funds received under section 5306 of this title and, if applicable, as a result of a guarantee or a grant under section 5308 of this title, during a period specified by the grantee of not more than 3 years,

shall principally benefit persons of low and moderate income in a manner that ensures that not less than 70 percent of such funds are used for activities that benefit such persons during such period; and

- B. a grantee that borders on the Great Lakes and that experiences significant adverse financial and physical effects due to lakefront erosion or flooding may include in the projected use of funds activities that are clearly designed to alleviate the threat posed, and rectify the damage caused, by such erosion or flooding if such activities will principally benefit persons of low and moderate income and the grantee certifies that such activities are necessary to meet other needs having a particular urgency;
  - 4. it has developed a community development plan pursuant to subsection (m) of this section, for the period specified by the grantee under paragraph (3), that identifies community development needs and specifies both short- and long-term community development objectives that have been developed in accordance with the primary objective and requirements of this chapter;
  - 5. the grantee will not attempt to recover any capital costs of public improvements assisted in whole or part under section 5306 of this title or with amounts resulting from a guarantee under section 5308 of this title by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless
    - A. funds received under section 5306 of this title are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this chapter; or
    - B. for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under section 5306 of this title to comply with the requirements of subparagraph (A); and
  - 6. the grantee will comply with the other provisions of this chapter and with other applicable laws.
- c. Special certifications required for certain grants

A grant may be made under section 5306(b) of this title only if the unit of general local government certifies that it is following--

- 1. a current housing affordability strategy which has been approved by the Secretary in accordance with section 12705 of this title, or
- 2. a housing assistance plan which was approved by the Secretary during the 180-day period beginning on November 28, 1990, or during such longer period as may be prescribed by the Secretary in any case for good cause.



d. Residential antidisplacement and relocation assistance plan; certification of adherence; contents

1. A grant under section 5306 or 5318 of this title may be made only if the grantee certifies that it is following a residential antidisplacement and relocation assistance plan. A grantee receiving a grant under section 5306(a) of this title or section 5318 of this title shall so certify to the Secretary. A unit of general local government receiving amounts from a State under section 5306(d) of this title shall so certify to the State, and a unit of general local government receiving amounts from the Secretary under section 5306(d) of this title shall so certify to the Secretary.
2. The residential antidisplacement and relocation assistance plan shall in connection with a development project assisted under section 5306 or 5318 of this title--
  - A. in the event of such displacement, provide that--
    - i. governmental agencies or private developers shall provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units demolished or converted to a use other than for housing for low and moderate income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 1437f of this title;
    - ii. such comparable replacement dwellings shall be designed to remain affordable to persons of low and moderate income for 10 years from the time of initial occupancy;
    - iii. relocation benefits shall be provided for all low or moderate income persons who occupied housing demolished or converted to a use other than for low or moderate income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and in the case of displaced persons of low and moderate income, provide either--
      - I. compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or
      - II. if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (I) to permit the household to secure participation in a housing cooperative or mutual housing association; and
    - iv. persons displaced shall be relocated into comparable replacement housing that is--
      - I. decent, safe, and sanitary;

- II. adequate in size to accommodate the occupants;
  - III. functionally equivalent; and
  - IV. in an area not subject to unreasonably adverse environmental conditions;
- B. provide that persons displaced shall have the right to elect, as an alternative to the benefits under this subsection, to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) if such persons determine that it is in their best interest to do so; and
  - C. provide that where a claim for assistance under subparagraph (A)(iv) is denied by a grantee, the claimant may appeal to the Secretary in the case of a grant under section 5306 or 5318 of this title or to the appropriate State official in the case of a grant under section 5306(d) of this title, and that the decision of the Secretary or the State official shall be final unless a court determines the decision was arbitrary and capricious.
- 3. Paragraphs (2)(A)(i) and (2)(A)(ii) shall not apply in any case in which the Secretary finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low and moderate income persons. A determination under this paragraph is final and nonreviewable.
- e. Submission of performance and evaluation report by grantee to Secretary; contents; availability for citizen comment; annual review and audit by Secretary of program implementation; adjustments in amount of annual grants

Each grantee shall submit to the Secretary, at a time determined by the Secretary, a performance and evaluation report concerning the use of funds made available under section 5306 of this title, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a) of this section and to the requirements of subsection (b)(3) of this section. Such report shall also be made available to the citizens in each grantee's jurisdiction in sufficient time to permit such citizens to comment on such report prior to its submission, and in such manner and at such times as the grantee may determine. The grantee's report shall indicate its programmatic accomplishments, the nature of and reasons for changes in the grantee's program objectives, indications of how the grantee would change its programs as a result of its experiences, and an evaluation of the extent to which its funds were used for activities that benefited low- and moderate-income persons. The report shall include a summary of any comments received by the grantee from citizens in its jurisdiction respecting its program. The Secretary shall encourage and assist national associations of grantees eligible under section 5306(d)(2)(B) of this title, national associations of States, and national associations of units of general local government in nonentitlement areas to develop and recommend to the Secretary, within one year after November 30, 1983, uniform recordkeeping, performance reporting, and evaluation reporting, and auditing

requirements for such grantees, States, and units of general local government, respectively. Based on the Secretary's approval of these recommendations, the Secretary shall establish such requirements for use by such grantees, States, and units of general local government. The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine--

1. in the case of grants made under section 5306(b) or section 5306(d)(2)(B) of this title, whether the grantee has carried out its activities and, where applicable, its housing assistance plan in a timely manner, whether the grantee has carried out those activities and its certifications in accordance with the requirements and the primary objectives of this chapter and with other applicable laws, and whether the grantee has a continuing capacity to carry out those activities in a timely manner; and
2. in the case of grants to States made under section 5306(d) of this title, whether the State has distributed funds to units of general local government in a timely manner and in conformance to the method of distribution described in its statement, whether the State has carried out its certifications in compliance with the requirements of this chapter and other applicable laws, and whether the State has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria described in paragraph (1) of this subsection.

The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with the Secretary's findings under this subsection. With respect to assistance made available to units of general local government under section 5306(d) of this title, the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under this chapter shall not be recaptured or deducted from future assistance to such units of general local government.

- f. Audit of grantees by General Accounting Office; access to books, accounts, records, etc., by representatives of General Accounting Office

Insofar as they relate to funds provided under this chapter, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

- g. Environmental protection measures applicable for release of funds to applicants for projects; issuance of regulations by Secretary subsequent to consultation with Council on Environmental Quality; request and certification to Secretary for approval of release of funds; form, contents and effect of certification

1. In order to assure that the policies of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this chapter, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to recipients of assistance under this chapter who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this subsection only after consultation with the Council on Environmental Quality.
2. The Secretary shall approve the release of funds for projects subject to the procedures authorized by this subsection only if, at least fifteen days prior to such approval and prior to any commitment of funds to such projects other than for purposes authorized by section 5305(a)(12) of this title or for environmental studies, the recipient of assistance under this chapter has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.
3. A certification under the procedures authorized by this subsection shall--
  - A. be in a form acceptable to the Secretary,
  - B. be executed by the chief executive officer or other officer of the recipient of assistance under this chapter qualified under regulations of the Secretary,
  - C. specify that the recipient of assistance under this chapter has fully carried out its responsibilities as described under paragraph (1) of this subsection, and
  - D. specify that the certifying officer (i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to paragraph (1) of this subsection, and (ii) is authorized and consents on behalf of the recipient of assistance under this chapter and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

4. In the case of grants made to States pursuant to section 5306(d) of this title, the State shall perform those actions of the Secretary described in paragraph (2) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such paragraph.
- h. Payments; revolving loan fund: establishment in private financial institution for rehabilitation activities; standards for payments: criteria
1. Units of general local government receiving assistance under this chapter may receive funds, in one payment, in an amount not to exceed the total amount designated in the grant (or, in the case of a unit of general local government receiving a distribution from a State pursuant to section 5306(d) of this title, not to exceed the total amount of such distribution) for use in establishing a revolving loan fund which is to be established in a private financial institution and which is to be used to finance rehabilitation activities assisted under this chapter. Rehabilitation activities authorized under this section shall begin within 45 days after receipt of such payment and substantial disbursements from such fund must begin within 180 days after receipt of such payment.
  2. The Secretary shall establish standards for such cash payments which will insure that the deposits result in appropriate benefits in support of the recipient's rehabilitation program. These standards shall be designed to assure that the benefits to be derived from the local program include, at a minimum, one or more of the following elements, or such other criteria as determined by the Secretary--
    - A. leverage of community development block grant funds so that participating financial institutions commit private funds for loans in the rehabilitation program in amounts substantially in excess of deposit of community development funds;
    - B. commitment of private funds for rehabilitation loans at below-market interest rates or with repayment periods lengthened or at higher risk than would normally be taken;
    - C. of administrative services in support of the rehabilitation program by the participating lending institutions; and
    - D. interest earned on such cash deposits shall be used in a manner which supports the community rehabilitation program.
- i. Metropolitan city as part of urban county

In any case in which a metropolitan city is located, in whole or in part, within an urban county, the Secretary may, upon the joint request of such city and county, approve the inclusion of the metropolitan city as part of the urban county for purposes of submitting a statement under subsection (a) of this section and carrying out activities under this chapter.

j. Retention of program income; condition of distribution

Notwithstanding any other provision of law, any unit of general local government may retain any program income that is realized from any grant made by the Secretary, or any amount distributed by a State, under section 5306 of this title if

1. such income was realized after the initial disbursement of the funds received by such unit of general local government under such section; and
2. such unit of general local government has agreed that it will utilize the program income for eligible community development activities in accordance with the provisions of this chapter; except that the Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with this subsection creates an unreasonable administrative burden on the unit of general local government. A State may require as a condition of any amount distributed by such State under section 5306(d) of this title that a unit of general local government shall pay to such State any such income to be used by such State to fund additional eligible community development activities, except that such State shall waive such condition to the extent such income is applied to continue the activity from which such income was derived.

k. Provision of benefits to displaced persons

Each grantee shall provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of assistance received under this chapter to acquire or substantially rehabilitate property.

l. Protection of individuals engaging in nonviolent civil rights demonstrations

No funds authorized to be appropriated under section 5303 of this title may be obligated or expended to any unit of general local government that--

1. fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; or
2. fails to adopt and enforce a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction.

m. Community development plans

1. *In general*

Prior to the receipt in any fiscal year of a grant from the Secretary under subsection (b), (d)(1), or (d)(2)(B) of section 5306 of this title, each recipient shall have prepared and submitted in accordance with this subsection and in such

standardized form as the Secretary shall, by regulation, prescribe a description of its priority nonhousing community development needs eligible for assistance under this chapter.

## 2. *Local governments*

In the case of a recipient that is a unit of general local government--

- A. prior to the submission required by paragraph (1), the recipient shall, to the extent practicable, notify adjacent units of general local government and solicit the views of citizens on priority nonhousing community development needs; and
- B. the description required under paragraph (1) shall be submitted to the Secretary, the State, and any other unit of general local government within which the recipient is located, in such standardized form as the Secretary shall, by regulation, prescribe.

## 3. *States*

In the case of a recipient that is a State, the description required by paragraph (1)--

- A. shall include only the needs within the State that affect more than one unit of general local government and involve activities typically funded by such States under this chapter; and
- B. shall be submitted to the Secretary in such standard form as the Secretary, by regulation, shall prescribe.

## 4. *Effect of submission*

A submission under this subsection shall not be binding with respect to the use or distribution of amounts received under section 5306 of this title.

(Pub. L. 93-383, title I, Sec. 104, Aug. 22, 1974, 88 Stat. 638;  
Pub. L. 95-128, title I, Secs. 104, 110(a), Oct. 12, 1977, 91 Stat. 1114, 1125;  
Pub. L. 95-557, title I, Sec. 103(a)-(d), Oct. 31, 1978, 92 Stat. 2083;  
Pub. L. 96-153, title I, Secs. 103(c), (g), 109(a), Dec. 21, 1979, 93 Stat. 1102, 1105;  
Pub. L. 96-399, title I, Secs. 101(d), 104(b), 105(a), 109, 111(c), Oct. 8, 1980, 94 Stat. 1615, 1616, 1618, 1619, 1621;  
Pub. L. 97-35, title III, Secs. 302(b), (c)(1), (d)-(f), 309(d), Aug. 13, 1981, 95 Stat. 384, 386, 387, 396;  
Pub. L. 98-181, title I, Secs. 101(b), 104, Nov. 30, 1983, 97 Stat. 1159, 1161;  
Pub. L. 98-479, title I, Sec. 101(a)(5)-(7), Oct. 17, 1984, 98 Stat. 2219;  
Pub. L. 100-242, title V, Secs. 502(c), 505-509(a), Feb. 5, 1988, 101 Stat. 1923, 1926, 1927;

Pub. L. 100-628, title X, Sec. 1083, Nov. 7, 1988, 102 Stat. 3277;  
Pub. L. 101-625, title IX, Secs. 902(b), 905, 906, 922, Nov. 28, 1990, 104 Stat. 4385, 4387, 4402;  
Pub. L. 102-550, title VIII, Secs. 804, 808, 812, Oct. 28, 1992, 106 Stat. 3845, 3850;  
Pub. L. 103- 233, title II, Sec. 232(a)(2)(B), Apr. 11, 1994, 108 Stat. 367.)

## **Sec. 5305.\* Activities eligible for assistance [\* Section 105 of the Act]**

### a. Enumeration of eligible activities

Activities assisted under this chapter may include only--

1. the acquisition of real property (including air rights, water rights, and other interests therein) which is
    - A. blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;
    - B. appropriate for rehabilitation or conservation activities;
  2. appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;
  3. to be used for the provision of public works, facilities, and improvements eligible for assistance under this chapter; or
  4. to be used for other public purposes;
- b. the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements;
- c. code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public or private improvements or services to be provided, may be expected to arrest the decline of the area;
- d. clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned properties, and including the renovation of closed school buildings);
- e. special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;



- f. payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this chapter;
- g. disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this chapter or its retention for public purposes;
- h. provision of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this chapter, and which are to be used for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 15 per centum of the amount of any assistance to a unit of general local government (or in the case of nonentitled communities not more than 15 per centum statewide) under this chapter including program income may be used for activities under this paragraph unless such unit of general local government used more than 15 percent of the assistance received under this chapter for fiscal year 1982 or fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98-8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such fiscal year, whichever method of calculation yields the higher amount, except that of any amount of assistance under this chapter (including program income) in each of fiscal years 1993 through 2001 to the City of Los Angeles and County of Los Angeles, each such unit of general government may use not more than 25 percent in each such fiscal year for activities under this paragraph, and except that of any amount of assistance under this chapter (including program income) in each of the fiscal years 1999, 2000, and 2001, to the City of Miami, such city may use not more than 25 percent in each fiscal year for activities under this paragraph;

Section 218 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105-276, approved October 21, 1998 amended this paragraph by striking "1998" and inserting "1999", as shown, to extend the public services cap exception applicable to the City and County of Los Angeles through the end of fiscal year 1999. However, section 596 of such Act also amended this paragraph, but by striking "1998" and inserting "2000". The result of including both amendments in the same Act is unclear.

- i. payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of activities assisted under this chapter;
- j. payment of the cost of completing a project funded under title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.];

- k. relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;
- l. activities necessary
  - A. to develop a comprehensive community development plan, and
  - B. to develop a policy-planning- management capacity so that the recipient of assistance under this chapter may more rationally and effectively
    - i. determine its needs,
    - ii. set long-term goals and short-term objectives,
    - iii. devise programs and activities to meet these goals and objectives,
    - iv. evaluate the progress of such programs in accomplishing these goals and objectives, and
    - v. carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

payment of reasonable administrative costs related to establishing and administering federally approved enterprise zones and payment of reasonable administrative costs and carrying charges related to

- . administering the HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] ; and
- A. the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in section 461(e) of title 40 on August 12, 1981;

provision of assistance including loans (both interim and long-term) and grants for activities which are carried out by public or private nonprofit entities, including

- . acquisition of real property;
- A. acquisition, construction, reconstruction, rehabilitation, or installation of
  - . public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and
  - i. commercial or industrial buildings or structures and other commercial or industrial real property improvements; and
- B. planning;

assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of the communities in

nonentitlement areas, or entities organized under section 681(d) of title 15 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of section 5301(c) of this title, and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in section 1437a(b)(3) of this title) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;

activities necessary to the development of energy use strategies related to a recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as--

- . an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and
- A. a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;

provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that--

- . creates or retains jobs for low- and moderate-income persons;
- A. prevents or eliminates slums and blight;
- B. meets urgent needs;
- C. creates or retains businesses owned by community residents;
- D. assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or
- E. provides technical assistance to promote any of the activities under subparagraphs (A) through (E);

the rehabilitation or development of housing assisted under section 1437o of this title;

provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, which assistance shall not be considered a planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13);

housing services, such as housing counseling in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] , energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act;

provision of assistance by recipients under this chapter to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;

provision of assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by--

- . providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises;
- A. providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and
- B. providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises;

activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods;

provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to--

- . subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;
- A. finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers;

- B. acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this chapter may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this chapter may not directly provide such guarantees);
- C. provide up to 50 percent of any downpayment required from low- or moderate-income homebuyer; or
- D. pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyer; an

lead-based paint hazard evaluation and reduction, as defined in section 4851b of this title.

- Reimbursement of Secretary for administrative services connected with rehabilitation of properties

Upon the request of the recipient of assistance under this chapter, the Secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation of properties as authorized under subsection (a)(4) of this section.

- Activities benefiting persons of low and moderate income
  1. In any case in which an assisted activity described in paragraph (14) or (17) of subsection (a) of this section is identified as principally benefiting persons of low and moderate income, such activity shall--
    - A. be carried out in a neighborhood consisting predominately of persons of low and moderate income and provide services for such persons; or
    - B. involve facilities designed for use predominately by persons of low and moderate income; or
    - C. involve employment of persons, a majority of whom are persons of low and moderate income.
  2.
    - A. In any case in which an assisted activity described in subsection (a) of this section is designed to serve an area generally and is clearly designed to meet identified needs of persons of low and moderate income in such area, such activity shall be considered to principally benefit persons of low and moderate income if
      - i. not less than 51 percent of the residents of such area are persons of low and moderate income;

- ii. in any metropolitan city or urban county, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income; or
- iii. the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

B. The requirements of subparagraph (A) do not prevent the use of assistance under this chapter for the development, establishment, and operation for not to exceed 2 years after its establishment of a uniform emergency telephone number system if the Secretary determines that--

- i. such system will contribute substantially to the safety of the residents of the area served by such system;
- ii. not less than 51 percent of the use of the system will be by persons of low and moderate income; and
- iii. other Federal funds received by the grantee are not available for the development, establishment, and operation of such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee

The percentage of the cost of the development, establishment, and operation of such a system that may be paid from assistance under this chapter and that is considered to benefit low and moderate income persons is the percentage of the population to be served that is made up of persons of low and moderate income.

- 3. Any assisted activity under this chapter that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons.
- 4. For the purposes of subsection (c)(1)(C) of this section--
  - A. if an employee resides in, or the assisted activity through which he or she is employed, is located in a census tract that meets the Federal enterprise zone eligibility criteria, the employee shall be presumed to be a person of low- or moderate-income; or

- B. if an employee resides in a census tract where not less than 70 percent of the residents have incomes at or below 80 percent of the area median, the employee shall be presumed to be a person of low or moderate income.

Training program

The Secretary shall implement, using funds recaptured pursuant to section 5318(o) of this title, an on-going education and training program for officers and employees of the Department, especially officers and employees of area and other field offices of the Department, who are responsible for monitoring and administering activities pursuant to paragraphs (14), (15), and (17) of subsection (a) of this section for the purpose of ensuring that

- A. such personnel possess a thorough understanding of such activities; and
- B. regulations and guidelines are implemented in a consistent fashion.

Guidelines for evaluating and selecting economic development projects

1. Establishment

The Secretary shall establish, by regulation, guidelines to assist grant recipients under this chapter to evaluate and select activities described in subsection (a)(14), (15), and (17) of this section for assistance with grant amounts. The Secretary shall not base a determination of eligibility of the use of funds under this chapter for such assistance solely on the basis that the recipient fails to achieve one or more of the guidelines' objectives as stated in paragraph (2).

2. Project costs and financial requirements

The guidelines established under this subsection shall include the following objectives:

- A. The project costs of such activities are reasonable.
- B. To the extent practicable, reasonable financial support has been committed for such activities from non-Federal sources prior to disbursement of Federal funds.
- C. To the extent practicable, any grant amounts to be provided for such activities do not substantially reduce the amount of non-Federal financial support for the activity.
- D. Such activities are financially feasible.
- E. To the extent practicable, such activities provide not more than a reasonable return on investment to the owner.

- F. To the extent practicable, grant amounts used for the costs of such activities are disbursed on a pro rata basis with amounts from other sources.

### 3. Public benefit

The guidelines established under this subsection shall provide that the public benefit provided by the activity is appropriate relative to the amount of assistance provided with grant amounts under this chapter.

- Assistance to for-profit entities

In any case in which an activity described in paragraph (17) of subsection (a) of this section is provided assistance such assistance shall not be limited to activities for which no other forms of assistance are available or could not be accomplished but for that assistance.

- Microenterprise and small business program requirements

In developing program requirements and providing assistance pursuant to paragraph (17) of subsection (a) of this section to a microenterprise or small business, the Secretary shall--

1. take into account the special needs and limitations arising from the size of the entity; and
2. not consider training, technical assistance, or other support services costs provided to small businesses or microenterprises or to grantees and subgrantees to develop the capacity to provide such assistance, as a planning cost pursuant to subsection (a)(12) of this section or an administrative cost pursuant to subsection (a)(13) of this section.

- Prohibition on use of assistance for employment relocation activities

Notwithstanding any other provision of law, no amount from a grant under section 5306 made in fiscal year 1999 or any succeeding fiscal year may be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from 1 area to another area, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs.

(Pub. L. 93-383, title I, Sec. 105, Aug. 22, 1974, 88 Stat. 641;  
Pub. L. 94-375, Sec. 15(b), Aug. 3, 1976, 90 Stat. 1076;  
Pub. L. 95-128, title I, Sec. 105, Oct. 12, 1977, 91 Stat. 1116;  
Pub. L. 95-557, title I, Sec. 103(e), Oct. 31, 1978, 92 Stat. 2084;  
Pub. L. 96-399, title I, Sec. 104(c)-(e), Oct. 8, 1980, 94 Stat. 1616-1618;



Pub. L. 97-35, title III, Secs. 303(a), 309(e)-(g), Aug. 13, 1981, 95 Stat. 387, 396;  
 Pub. L. 98-181, title I, Sec. 105(a), (b)(1), (c)-(e), title III, Sec. 302(a), Nov. 30, 1983, 97 Stat. 1163, 1164, 1206;  
 Pub. L. 98-479, title I, Sec. 101(a)(8), (9)(A), Oct. 17, 1984, 98 Stat. 2219;  
 Pub. L. 100-242, title V, Secs. 504, 510, 511, Feb. 5, 1988, 101 Stat. 1925, 1929;  
 Pub. L. 100-404, title I, Aug. 19, 1988, 102 Stat. 1019;  
 Pub. L. 101-625, title IX, Secs. 907, 908, Nov. 28, 1990, 104 Stat. 4387, 4389;  
 Pub. L. 102-550, title VIII, Secs. 805, 806(a), (b), (c), 807(a), (b)(3), (c)(1), (d)-(f), 809, title X, Sec. 1012(f), Oct. 28, 1992, 106 Stat. 3846, 3847, 3849, 3850, 3905;  
 Pub. L. 103-195, Sec. 2(a), Dec. 14, 1993, 107 Stat. 2297;  
 Pub. L. 103-233, title II, Sec. 207, Apr. 11, 1994, 108 Stat. 365;  
 Pub. L. 104-134, title I, Sec. 101(e) (title II, Sec. 225), Apr. 26, 1996, 110 Stat. 1321-257, 1321-291;  
 renumbered title I, Pub. L. 104-140, Sec. 1(a), May 2, 1996, 110 Stat. 1327;  
 Pub. L. 104-204, title II, Sec. 220, Sept. 26, 1996, 110 Stat. 2906;  
 Pub. L. 105-276, title II, Sec. 218, 232, title V, Sec. 588, 596(a), Oct. 21, 1998, 112 Stat. 2487, 2492, 2651, 2659.)  
 Pub.L. 106-377, Sec. (1)(a)(1), Oct. 27, 2000, 114 Stat. 1441

### **Sec. 5306.\* Allocation and distribution of funds[\* Section 106 of the Act]**

- a. Amounts allocated to Indian tribes, discretionary fund, and metropolitan cities and urban counties; limitations on amount of annual grants
  1. For each fiscal year, of the amount approved in an appropriation Act under section 5303 of this title for grants in any year (excluding the amounts provided for use in accordance with section 5307 of this title), the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment. Notwithstanding any other provision of this Act, such grants to Indian tribes shall not be subject to the requirements of section 5304 of this title, except subsections (f), (g), and (k) of such section.
  2. After reserving such amounts for Indian tribes, the Secretary shall allocate amounts provided for use under section 5307 of this title.
  3. Of the amount remaining after allocations pursuant to paragraphs (1) and (2), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b) of this section.

- b. Computation of amount allocated to metropolitan cities and urban counties
  - 1. The Secretary shall determine the amount to be allocated to each metropolitan city which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either--
    - A. the average of the ratios between--
      - i. the population of that city and the population of all metropolitan areas;
      - ii. the extent of poverty in that city and the extent of poverty in all metropolitan areas; and
      - iii. the extent of housing overcrowding in that city and the extent of housing overcrowding in all metropolitan areas; or
    - B. the average of the ratios between--
      - i. the extent of growth lag in that city and the extent of growth lag in all metropolitan cities;
      - ii. the extent of poverty in that city and the extent of poverty in all metropolitan areas; and
      - iii. the age of housing in that city and the age of housing in all metropolitan areas.
  - 2. The Secretary shall determine the amount to be allocated to each urban county, which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either--
    - A. the average of the ratios between--
      - i. the population of that urban county and the population of all metropolitan areas;
      - ii. the extent of poverty in that urban county and the extent of poverty in all metropolitan areas; and
      - iii. the extent of housing overcrowding in that urban county and the extent of housing overcrowding in all metropolitan areas; or
    - B. the average of the ratios between--
      - i. the extent of growth lag in that urban county and the extent of growth lag in all metropolitan cities and urban counties;

- ii. the extent of poverty in that urban county and the extent of poverty in all metropolitan areas; and
  - iii. the age of housing in that urban county and the age of housing in all metropolitan areas.
  
- 3. In determining the average of ratios under paragraphs (1)(A) and (2)(A), the ratio involving the extent of poverty shall be counted twice, and each of the other ratios shall be counted once; and in determining the average of ratios under paragraphs (1)(B) and (2)(B), the ratio involving the extent of growth lag shall be counted once, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving the age of housing shall be counted two and one-half times.
  
- 4. In computing amounts or exclusions under this section with respect to any urban county, there shall be excluded units of general local government located in the county the populations of which are not counted in determining the eligibility of the urban county to receive a grant under this subsection, except that there shall be included any independent city (as defined by the Bureau of the Census) which-
  - A. is not part of any county;
  - B. is not eligible for a grant pursuant to subsection (b)(1) of this section;
  - C. is contiguous to the urban county;
  - D. has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to such independent city; and
  - E. is not included as a part of any other unit of general local government for purposes of this section.

Any independent city which is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence shall not be eligible to receive assistance under subsection (d) of this section with respect to such fiscal year.

- 5. In computing amounts under this section with respect to any urban county, there shall be included all of the area of any unit of local government which is part of, but is not located entirely within the boundaries of, such urban county if the part of such unit of local government which is within the boundaries of such urban county would otherwise be included in computing the amount for such urban county under this section, and if the part of such unit of local government which is

not within the boundaries of such urban county is not included as a part of any other unit of local government for the purpose of this section. Any amount received by such urban county under this section may be used with respect to the part of such unit of local government which is outside the boundaries of such urban county.

6.

A. Where data are available, the amount determined under paragraph (1) for a metropolitan city that has been formed by the consolidation of one or more metropolitan cities with an urban county shall be equal to the sum of the amounts that would have been determined under paragraph (1) for the metropolitan city or cities and the balance of the consolidated government, if such consolidation had not occurred. This paragraph shall apply only to any consolidation that--

- i. included all metropolitan cities that received grants under this section for the fiscal year preceding such consolidation and that were located within the urban county;
- ii. included the entire urban county that received a grant under this section for the fiscal year preceding such consolidation; and
- iii. took place on or after January 1, 1983.

B. The population growth rate of all metropolitan cities referred to in section 5302(a)(12) of this title shall be based on the population of

- i. metropolitan cities other than consolidated governments the grant for which is determined under this paragraph; and
- ii. cities that were metropolitan cities before their incorporation into consolidated governments. For purposes of calculating the entitlement share for the balance of the consolidated government under this paragraph, the entire balance shall be considered to have been an urban county.

c. Reallocation of undistributed funds within same metropolitan area as original allocation; amount and calculation of reallocation grant; disaster relief

1. Except as provided in paragraphs (2) and (4), any amounts allocated to a metropolitan city or an urban county pursuant to the preceding provisions of this section which are not received by the city or county for a fiscal year because of failure to meet the requirements of subsection (a), (b), (c), or (d) of section 5304 of this title, or which become available as a result of actions under section 5304(e) or 5311 of this title, shall be reallocated in the succeeding fiscal year to the other metropolitan cities and urban counties in the same metropolitan area which certify to the satisfaction of the Secretary that they would be adversely affected by the loss of such amounts from the metropolitan area. The amount of the share of

funds reallocated under this paragraph for any metropolitan city or urban county shall bear the same ratio to the total of such reallocated funds in the metropolitan area as the amount of funds awarded to the city or county for the fiscal year in which the reallocated funds become available bears to the total amount of funds awarded to all metropolitan cities and urban counties in the same metropolitan area for that fiscal year, except that--

- A. in determining the amounts awarded to cities or counties for purposes of calculating shares pursuant to this sentence, there shall be excluded from the award of any city or county any amounts which become available as a result of actions against such city or county under section 5311 of this title;
- B. in reallocating amounts resulting from an action under section 5304(e) of this title or section 5311 of this title, a city or county against whom any such action was taken in a fiscal year shall be excluded from a calculation of share for purposes of reallocating, in the succeeding year, the amounts becoming available as a result of such action; and
- C. in no event may the share of reallocated funds for any metropolitan city or urban county exceed 25 per centum of the amount awarded to the city or county under subsection (b) of this section for the fiscal year in which the reallocated funds under this paragraph become available.

Any amounts allocated under subsection (b) of this section which become available for reallocation and for which no metropolitan city or urban county qualifies under this paragraph shall be added to amounts available for allocation under such subsection (b) of this section in the succeeding fiscal year.

- 2. Notwithstanding any other provision of this chapter, the Secretary shall make grants from amounts authorized for use under subsection (b) of this section by the Department of Housing and Urban Development--Independent Agencies Appropriation Act, 1981, in accordance with the provisions of this chapter which governed grants with respect to such amounts, as such provisions existed prior to October 1, 1981, except that any such amounts which are not obligated before January 1, 1982, shall be reallocated in accordance with paragraph (1).
- 3. Notwithstanding the provisions of paragraph (1), the Secretary may upon request transfer responsibility to any metropolitan city for the administration of any amounts received, but not obligated, by the urban county in which such city is located if
  - A. such city was an included unit of general local government in such county prior to the qualification of such city as a metropolitan city;

- B. such amounts were designated and received by such county for use in such city prior to the qualification of such city as a metropolitan city; and
  - C. such city and county agree to such transfer of responsibility for the administration of such amounts.
- 4.
- A. Notwithstanding paragraph (1), in the event of a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], the Secretary shall make available, to metropolitan cities and urban counties located or partially located in the areas affected by the disaster, any amounts that become available as a result of actions under section 5304(e) or 5311 of this title.
  - B. In using any amounts that become available as a result of actions under section 5304(e) or 5311 of this title, the Secretary shall give priority to providing emergency assistance under this paragraph.
  - C. The Secretary may provide assistance to any metropolitan city or urban county under this paragraph only to the extent necessary to meet emergency community development needs, as the Secretary shall determine (subject to subparagraph (D)), of the city or county resulting from the disaster that are not met with amounts otherwise provided under this chapter, the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], and other sources of assistance.
  - D. Amounts provided to metropolitan cities and urban counties under this paragraph may be used only for eligible activities under section 5305 of this title, and in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.
  - E. The Secretary shall provide for applications (or amended applications and statements under section 5304 of this title) for assistance under this paragraph.
  - F. A metropolitan city or urban county eligible for assistance under this paragraph may receive such assistance only in each of the fiscal years ending during the 3-year period beginning on the date of the declaration of

the disaster by the President.

- G. This paragraph may not be construed to require the Secretary to reserve any amounts that become available as a result of actions under section 5304(e) or 5311 of this title for assistance under this paragraph if, when such amounts are to be reallocated under paragraph (1), no metropolitan city or urban county qualifies for assistance under this paragraph.
- d. Allocation among States for nonentitlement areas; amount and calculation of grants; distributions by State or Secretary; certain distributions made pursuant to prior provisions; certifications required by Governor enumerated; responsibility for administration and administrative expenses; reallocation; certifications required of units of general local government in nonentitlement areas; applicability of this chapter and other law
1. Of the amount approved in an appropriation Act under section 5303 of this title that remains after allocations pursuant to paragraphs (1) and (2) of subsection (a) of this section, 30 per centum shall be allocated among the States for use in nonentitlement areas. The allocation for each State shall be the greater of an amount that bears the same ratio to the allocation for such areas of all States available under this subparagraph as either--
- A. the average of the ratios between--
- i. the population of the nonentitlement areas in that State and the population of the nonentitlement areas of all States;
  - ii. the extent of poverty in the nonentitlement areas in that State and the extent of poverty in the nonentitlement areas of all States; and
  - iii. the extent of housing overcrowding in the nonentitlement areas in that State and the extent of housing overcrowding in the nonentitlement areas of all States; or
- B. the average of the ratios between--
- i. the age of housing in the nonentitlement areas in that State and the age of housing in the nonentitlement areas of all States;
  - ii. the extent of poverty in the nonentitlement areas in that States and the extent of poverty in the nonentitlement areas of all States; and
  - iii. the population of the nonentitlement areas in that State and the population of the nonentitlement areas of all States.

In determining the average of the ratios under subparagraph (A) the ratio involving the extent of poverty shall be counted twice and each of the other ratios shall be counted once; and in determining

the average of the ratios under subparagraph (B), the ratio involving the age of housing shall be counted two and one-half times, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving population shall be counted once. The Secretary shall, in order to compensate for the discrepancy between the total of the amounts to be allocated under this paragraph and the total of the amounts available under such paragraph, make a pro rata reduction of each amount allocated to the nonentitlement areas in each State under such paragraph so that the nonentitlement areas in each State will receive an amount which represents the same percentage of the total amount available under such paragraph as the percentage which the nonentitlement areas of the same State would have received under such paragraph if the total amount available under such paragraph had equaled the total amount which was allocated under such paragraph.

2.

- A. Amounts allocated under paragraph (1) shall be distributed to units of general local government located in nonentitlement areas of the State to carry out activities in accordance with the provisions of this chapter--
- i. by a State that has elected, in such manner and at such time as the Secretary shall prescribe, to distribute such amounts, consistent with the statement submitted under section 5304(a) of this title; or
  - ii. by the Secretary, in any case described in subparagraph (B), for use by units of general local government in accordance with paragraph (3)(B).

Any election to distribute funds made after the close of fiscal year 1984 is permanent and final. Notwithstanding any provision of this chapter, the Secretary shall make grants from amounts authorized for use in nonentitlement areas by the Department of Housing and Urban Development--Independent Agencies Appropriation Act, 1981, in accordance with the provisions of this chapter which governed grants with respect to such amounts, as such provisions existed prior to October 1, 1981. Any amounts under the preceding sentence (except amounts for which preapplications have been approved by the Secretary prior to October 1, 1981, and which have been obligated by January 1, 1982) which are or become available for obligation after fiscal year 1981 shall be available for distribution in the State in which the grants from such amounts were made, by the State or by the Secretary, whichever is distributing the State allocation in the fiscal year in which such amounts are or become available.



- B. The Secretary shall distribute amounts allocated under paragraph (1) if the State has not elected to distribute such amounts.
  - C. To receive and distribute amounts allocated under paragraph (1), the State must certify that it, with respect to units of general local government in nonentitlement areas--
    - i. engages or will engage in planning for community development activities;
    - ii. provides or will provide technical assistance to units of general local government in connection with community development programs;
    - iii. will not refuse to distribute such amounts to any unit of general local government on the basis of the particular eligible activity selected by such unit of general local government to meet its community development needs, except that this clause may not be considered to prevent a State from establishing priorities in distributing such amounts on the basis of the activities selected; and
    - iv. has consulted with local elected officials from among units of general local government located in nonentitlement areas of that State in determining the method of distribution of funds required by subparagraph (A).
  - D. To receive and distribute amounts allocated under paragraph (1), the State shall certify that each unit of general local government to be distributed funds will be required to identify its community development and housing needs, including the needs of low and moderate income persons, and the activities to be undertaken to meet such needs.
- 3.
- A. If the State receives and distributes such amounts, it shall be responsible for the administration of funds so distributed. The State shall pay from its own resources all administrative expenses incurred by the State in carrying out its responsibilities under this chapter or section 1437o(e)(1) of this title, except that from the amounts received for distribution in nonentitlement areas, the State may deduct an amount to cover such expenses and its administrative expenses under section 1706e of title 12 not to exceed the sum of \$100,000 plus 50 percent of any such expenses under this chapter in excess of \$100,000. Amounts deducted in excess of \$100,000 shall not exceed 2 percent of the amount so received.
  - B. If the Secretary distributes such amounts, the distribution shall be made in accordance with determinations of the Secretary pursuant to statements submitted and the other requirements of section 5304 of this title (other

than subsection (c)) and in accordance with regulations and procedures prescribed by the Secretary.

C. Any amounts allocated for use in a State under paragraph (1) that are not received by the State for any fiscal year because of failure to meet the requirements of subsection (a), (b), or (d) of section 5304 of this title or to make the certifications required in subparagraphs (C) and (D) of paragraph (2), or that become available as a result of actions against the State under section 5304(e) or 5311 of this title, shall be added to amounts allocated to all States under paragraph (1) for the succeeding fiscal year.

D. Any amounts allocated for use in a State under paragraph (1) that become available as a result of actions under section 5304(e) or 5311 of this title against units of general local government in nonentitlement areas of the State or as a result of the closeout of a grant made by the Secretary under this section in nonentitlement areas of the State shall be added to amounts allocated to the State under paragraph (1) for the fiscal year in which the amounts become so available.

4. Any combination of units of general local governments may not be required to obtain recognition by the Secretary pursuant to section 5302(a)(1) of this title to be treated as a single unit of general local government for purposes of this subsection.

5. \1\ From the amounts received under paragraph (1) for distribution in nonentitlement areas, the State may deduct an amount, not to exceed 1 percent of the amount so received, to provide technical assistance to local governments and nonprofit program recipients.

\1\ So in original. Two pars. (5) have been enacted.

5. \1\ No amount may be distributed by any State or the Secretary under this subsection to any unit of general local government located in a nonentitlement area unless such unit of general local government certifies that--

A. it will minimize displacement of persons as a result of activities assisted with such amounts;

B. its program will be conducted and administered in conformity with the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] and the Fair Housing Act [42 U.S.C. 3601 et seq.], and that it will affirmatively further fair housing;

C. it will provide for opportunities for citizen participation, hearings, and access to information with respect to its community development program that are comparable to those required of grantees under section 5304(a)(2) of this title; and

D. it will not attempt to recover any capital costs of public improvements assisted in whole or part under this section or with amounts resulting from a guarantee under section 5308 of this title by assessing any amount against properties owned and

occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless

- i. funds received under this section are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this chapter; or
  - ii. for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary or such State, as the case may be, that it lacks sufficient funds received under this section to comply with the requirements of clause (i).
6. Any activities conducted with amounts received by a unit of general local government under this subsection shall be subject to the applicable provisions of this chapter and other Federal law in the same manner and to the same extent as activities conducted with amounts received by a unit of general local government under subsection (a) of this section.
- e. Qualification or submission dates, and finality and conclusiveness of computations and determinations

The Secretary may fix such qualification or submission dates as he determines are necessary to permit the computations and determinations required by this section to be made in a timely manner, and all such computations and determinations shall be final and conclusive.

- f. Pro rata adjustment of entitlement amounts

If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section is insufficient to provide the amounts to which metropolitan cities and urban counties would be entitled under subsection (b) of this section, and funds are not otherwise appropriated to meet the deficiency, the Secretary shall meet the deficiency through a pro rata reduction of all amounts determined under subsection (b) of this section. If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section exceeds the amounts to which metropolitan cities and urban counties would be entitled under subsection (b) of this section, the Secretary shall distribute the excess through a pro rata increase of all amounts determined under subsection (b) of this section.

(Pub. L. 93-383, title I, Sec. 106, Aug. 22, 1974, 88 Stat. 642;

Pub. L. 95-128, title I, Sec. 106, Oct. 12, 1977, 91 Stat. 1117;

Pub. L. 96-153, title I, Sec. 103(d), (e), Dec. 21, 1979, 93 Stat. 1102;

Pub. L. 96-399, title I, Secs. 102, 103, 111(d)-(g), 112, Oct. 8, 1980, 94 Stat. 1615, 1621, 1622;

Pub. L. 97-35, title III, Secs. 304, 309(h), Aug. 13, 1981, 95 Stat. 388, 396;

Pub. L. 98-181, title I, Sec. 106, Nov. 30, 1983, 97 Stat. 1164;

Pub. L. 98-479, title I, Sec. 101(a)(10)-(12), Oct. 17, 1984, 98 Stat. 2219, 2220;  
Pub. L. 100-242, title V, Secs. 512, 513, 517(b)(1), Feb. 5, 1988, 101 Stat. 1930, 1936;  
Pub. L. 100-628, title X, Sec. 1082(b), (c), Nov. 7, 1988, 102 Stat. 3277;  
Pub. L. 101-235, title VII, Sec. 702(b), Dec. 15, 1989, 103 Stat. 2056;  
Pub. L. 101-625, title IX, Secs. 913(b), 933, Nov. 28, 1990, 104 Stat. 4392, 4403;  
Pub. L. 102- 550, title VIII, Secs. 802(b), 808, 811, title XII, Sec. 1204(i), Oct. 28, 1992, 106 Stat. 3845, 3850, 3940.)

## **Sec. 5307.\* Special Purpose Grants[\* Section 107 of the Act]**

- a. Set-aside
  - 1. In general

For each fiscal year (except as otherwise provided in this paragraph), of the total amount provided in appropriation Acts under section 5303 of this title for the fiscal year, \$60,000,000 shall be set aside for grants under subsection (b) of this section for such year for the following purposes:

- A. \$7,000,000 shall be available for grants under subsection (b)(1) of this section;
- B. \$6,500,000 shall be available for grants under subsection (b)(3) of this section;
- C. \$6,000,000 shall be available for grants under subsection (b)(5) of this section;
- D. \$6,000,000 shall be available in fiscal year 1993 for grants under subsection (b)(7) of this section;
- E. \$3,000,000 shall be available for grants under subsection (c) of this section;
- F. such sums as may be necessary shall be available for grants under paragraphs (2), (4), and (6) of subsection (b) of this section;
- G. \$2,000,000 shall be available in fiscal year 1993 for a grant to the City of Bridgeport, Connecticut, subject to the approval of sufficient amounts in an appropriation Act and to binding commitments made by the City of Bridgeport and the State of Connecticut that the city and State, respectively, will supplement such amount with \$2,000,000 of additional funds; and
- H. \$7,500,000 shall be available to carry out the Community Outreach Partnership Act of 1992.

2. Treatment of grants

Any grants made under this section shall be in addition to any other grants that may be made under this chapter to the same entities for the same purposes.

b. Permissible uses of funds

From amounts set aside under subsection (a) of this section, the Secretary is authorized to make grants--

1. in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;
2. to States and units of general local government for the purpose of allocating amounts to any such State or unit of general local government that is determined by the Secretary to have received insufficient amounts under section 5306 of this title as a result of a miscalculation of its share of funds under such section;
3. to historically Black colleges;
4. to States, units of general local government, Indian tribes, or areawide planning organizations for the purpose of providing technical assistance in planning, developing, and administering assistance under this chapter and section 1706e of title 12; to groups designated by such governmental units to assist them in carrying out assistance under this chapter; to qualified groups for the purpose of assisting more than one such governmental unit to carry out assistance under this chapter; the Secretary may also provide technical assistance, directly or through contracts, to such governmental units and groups; for purposes of this paragraph the term "technical assistance" means the facilitating of skills and knowledge in planning, developing, and administering activities under this chapter in entities that may need but do not possess such skills and knowledge, and includes assessing programs and activities under this chapter; except that any recipient of a grant under this paragraph that provides technical assistance pursuant to this paragraph shall provide for the notification of the availability of such assistance and shall have specific criteria for selection of recipients of such assistance that are published and publicly available;
5. to States and units of general local government and institutions of higher education having a demonstrated capacity to carry out eligible activities under this chapter, except that the Secretary may make a grant under this paragraph only to a State or unit of general local government that jointly, with an institution of higher education, has prepared and submitted to the Secretary an application for such grant, as the Secretary shall by regulation require;

6. to units of general local government in nonentitlement areas for planning community adjustments and economic diversification activities, which may include any eligible activities under section 5305 of this title, required--
  - A. by the proposed or actual establishment, realignment, or closure of a military installation,
  - B. by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, or
  - C. by a publicly announced planned major reduction in Department of Defense spending that would directly and adversely affect a unit of general local government and will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a 5-year period in the unit of general local government and the surrounding area, or
 

if the Secretary (in consultation with the Secretary of Defense) determines that an action described in subparagraph (A), (B), or (C) is likely to have a direct and significant adverse consequence on the unit of general local government; and
7. for the purposes of rebuilding and revitalizing distressed areas of the Los Angeles metropolitan area.

- c. Assistance to economically disadvantaged and minority students participating in community development work study programs

Of the amount set aside for use under subsection (b) of this section in any fiscal year, the Secretary shall,

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make grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management.

\1\ So in original. The comma probably should not appear.

- d. Continued availability of unused funds

Amounts set aside for use under subsection (b) of this section in any fiscal year but not used in that year shall remain available for use in subsequent fiscal years in accordance with the provisions of that subsection.

- e. Satisfactory assurances required, special assurances required of Indian tribes
  - 1. Except as provided in paragraph (2), no grant may be made under this section or section 5318 of this title and no assistance may be made available under section 1437o of this title unless the grantee provides satisfactory assurances that its program will be conducted and administered in conformity with the Civil Rights Act of 1964

[42 U.S.C. 2000a et seq.]  
and the Fair Housing Act  
[42 U.S.C. 3601 et seq.]

- 2. No grant may be made to an Indian tribe under this section, section 5306(a)(1) of this title, or section 5318 of this title unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of Public Law 90- 284

[25 U.S.C. 1301 et seq.]

. The Secretary may waive, in connection with grants to Indian tribes, the provisions of section 5309 of this title and section 5310 of this title.

- 3. The Secretary may accept a certification from the grantee or applicant that it has complied with the requirements of paragraph (1) or (2), as appropriate.

f. Criteria for selection of recipients

Any grant made under this section shall be made pursuant to criteria for selection of recipients of such grants that the Secretary shall by regulation establish and which the Secretary shall publish together with any notification of availability of amounts under this section.

(Pub. L. 93-383, title I, Sec. 107, Aug. 22, 1974, 88 Stat. 647;

Pub. L. 94-375, Sec. 15(c), Aug. 3, 1976, 90 Stat. 1076;

Pub. L. 95-128, title I, Sec. 107, Oct. 12, 1977, 91 Stat. 1123;

Pub. L. 95-557, title I, Sec. 103(f), Oct. 31, 1978, 92 Stat. 2084;

Pub. L. 96-399, title I, Secs. 107, 117(b), Oct. 8, 1980, 94 Stat. 1618, 1624;

Pub. L. 97-35, title III, Sec. 305, Aug. 13, 1981, 95 Stat. 391;

Pub. L. 98-181, title I, Sec. 107, title III, Sec. 302(b), Nov. 30, 1983, 97 Stat. 1167, 1206;

Pub. L. 100-242, title V, Secs. 501(b), 517(b)(2), 522(b), Feb. 5, 1988, 101 Stat. 1922, 1936, 1939;

Pub. L. 101-235, title I, Sec. 105(a)-(c), (e), Dec. 15, 1989, 103 Stat. 1998, 1999;

Pub. L. 101-625, title IX, Secs. 901(c), 913(c), Nov. 28, 1990, 104 Stat. 4385, 4393;

Pub. L. 102- 550, title VIII, Secs. 801(c)(1), (2), (4), 808, Oct. 28, 1992, 106 Stat. 3843-3845, 3850.

Pub.L. 106-569, Title I, Sec. 102(f), Dec. 27, 2000, 114 Stat. 2947

**Sec. 5308.\* Guarantee and commitment to guarantee loans for acquisition of property [\*Section 108 of the Act]**

- a. Authority of Secretary; issuance of obligations by eligible public entities or designated public agencies; form, denomination, maturity, and conditions of notes or other obligations; percentage allocation requirements

The Secretary is authorized, upon such terms and conditions as the Secretary may prescribe, to guarantee and make commitments to guarantee, only to such extent or in such amounts as provided in appropriation Acts, the notes or the obligations issued by eligible public entities, or by public agencies designated by such eligible public entities, for the purposes of financing

1. acquisition of real property or the rehabilitation of real property owned by the eligible public entity (including such related expenses as the Secretary may permit by regulation);
2. housing rehabilitation;
3. economic development activities permitted under paragraphs (14), (15), and (17) of section 5305(a) of this title;
4. construction of housing by nonprofit organizations for homeownership under section 1437o(d) of this title or title VI of the Housing and Community Development Act of 1987;
5. the acquisition, construction, reconstruction, or installation of public facilities (except for buildings for the general conduct of government); or
6. in the case of colonias (as such term is defined in section 916 of the Cranston-Gonzalez National Affordable Housing Act), public works and site or other improvements.

A guarantee under this section may be used to assist a grantee in obtaining financing only if the grantee has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee. Notes or other obligations guaranteed pursuant to this section shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk. Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts,



the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of \$2,000,000,000 for fiscal year 1993 and \$2,000,000,000 for fiscal year 1994. Of the amount approved in any appropriation Act for guarantees under this section in any fiscal year, the Secretary shall allocate 70 percent for guarantees for metropolitan cities, urban counties, and Indian tribes and 30 percent for guarantees for units of general local government in nonentitlement areas. The Secretary may waive the percentage requirements of the preceding sentence in any fiscal year only to the extent that there is an absence of qualified applicants or proposed activities from metropolitan cities, urban counties, and Indian tribes or units of general local government in nonentitlement areas.

b. Prerequisites

No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the issuer's total outstanding notes or obligations guaranteed under this section (excluding any amount defeased under the contract entered into under subsection (d)(1)(A) of this section) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to section 5306 or 5307 of this title.

c. Payment of principal, interest and costs

Notwithstanding any other provision of this chapter, grants allocated to an issuer pursuant to this chapter (including program income derived therefrom) are authorized for use in the payment of principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on the notes or other obligations guaranteed pursuant to this section.

d. Repayment contract; security; pledge by State

1. To assure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving such guarantees, the Secretary shall require the issuer to--
  - A. enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed hereunder;
  - B. pledge any grant for which the issuer may become eligible under this chapter; and
  - C. furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this chapter or dispositions proceeds from the sale of land or rehabilitated property.
2. To assist in assuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this chapter as security for notes or other obligations and charges issued under this section by any unit of general local government in a nonentitlement area in the State.

e. Pledged grants for repayments

The Secretary is authorized, notwithstanding any other provision of this chapter, to apply grants pledged pursuant to paragraphs (1)(B) and (2) of subsection (d) of this section to any repayments due the United States as a result of such guarantees.

f. Full faith and credit of United States pledged for payment; conclusiveness and validity of guarantee

The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

g. Issuance of obligations by Secretary to Secretary of the Treasury to satisfy authorized guarantee obligations; establishment of maturities and rates of interest and purchase of obligations by Secretary of the Treasury

The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his obligations under guarantees authorized by this section. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this section, and for such purposes is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which such securities may be issued under such chapter are extended to include the purchases of the Secretary's obligations hereunder.

h. Federal taxation of guaranteed obligations; grants to borrowing entity or agency of taxable obligations for net interest costs, etc.; limitation on amount of grant; assistance to issuer in hardship cases

Obligations guaranteed under this section shall be subject to Federal taxation as provided in subsection (j) of this section. The Secretary is authorized to make, and to contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of the issuing eligible public entity or public agency to cover not to exceed 30 per centum of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriation Acts, assist the issuer of a note or other obligation guaranteed under this section in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

i. Omitted

- j. Inclusion within gross income for purpose of chapter 1 of title 26 of interest paid on taxable obligations  
With respect to any obligation issued by a

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eligible public entity or designated agency which is guaranteed pursuant to this section, the interest paid on such obligation shall be included in gross income for the purpose of chapter 1 of title 26.

\2\ So in original. Probably should be "an".

- k. Outstanding obligations; limitation; monitoring use of guarantees under this section
  - 1. The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (a) of this section shall not at any time exceed \$4,500,000,000 or such higher amount as may be authorized to be appropriated for sections 5306 and 5307 of this title for any fiscal year.
  - 2. The Secretary shall monitor the use of guarantees under this section by eligible public entities. If the Secretary finds that 50 percent of the aggregate guarantee authority has been committed, the Secretary may--
    - A. impose limitations on the amount of guarantees any one entity may receive in any fiscal year of \$35,000,000 for units of general local government receiving grants under section 5306(b) of this title and \$7,000,000 for units of general local government receiving grants under section 5306(d) of this title; or
    - B. request the enactment of legislation increasing the aggregate limitation on guarantees under this section.
- l. Purchase of guaranteed obligations by Federal Financing Bank  
Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.
- m. Limitation on imposition of fee or charge  
No fee or charge may be imposed by the Secretary or any other Federal agency on or with respect to a guarantee made by the Secretary under this section after February 5, 1988.
- n. State assistance in submission of applications  
Any State that has elected under section 5306(d)(2)(A) of this title to distribute funds to units of general local government in nonentitlement areas may assist such units in the submission of applications for guarantees under this section.

- o. "Eligible public entity" defined  
For purposes of this section, the term "eligible public entity" means any unit of general local government, including units of general local government in nonentitlement areas.
- p. Training and information activities relating to home guarantee program
  - 1. The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this section. Such activities shall commence not later than 1 year after November 28, 1990.
  - 2. The Secretary may use amounts set aside under section 5307 of this title to carry out this subsection.
- q. Economic development grants
  - 1. Authorization  
The Secretary may make grants in connection with notes or other obligations guaranteed under this section to eligible public entities for the purpose of enhancing the security of loans guaranteed under this section or improving the viability of projects financed with loans guaranteed under this section.
  - 2. Eligible activities  
Assistance under this subsection may be used only for the purposes of and in conjunction with projects and activities assisted under subsection (a) of this section.
  - 3. Applications  
Applications for assistance under this subsection may be submitted only by eligible public entities, and shall be in the form and in accordance with the procedures established by the Secretary. Eligible public entities may apply for grants only in conjunction with requests for guarantees under subsection (a) of this section.
  - 4. Selection criteria  
The Secretary shall establish criteria for awarding assistance under this subsection. Such criteria shall include--
    - A. the extent of need for such assistance;
    - B. the level of distress in the community to be served and in the jurisdiction applying for assistance;
    - C. the quality of the plan proposed and the capacity or potential capacity of the applicant to successfully carry out the plan; and
    - D. such other factors as the Secretary determines to be appropriate.

r. Guarantee of obligations backed by loans

1. Authority

The Secretary may, upon such terms and conditions as the Secretary considers appropriate, guarantee the timely payment of the principal of and interest on such trust certificates or other obligations as may--

- A. be offered by the Secretary or by any other offeror approved for purposes of this subsection by the Secretary; and
- B. be based on and backed by a trust or pool composed of notes or other obligations guaranteed or eligible for guarantee by the Secretary under this section.

2. Full faith and credit

To the same extent as provided in subsection (f) of this section, the full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee made by the Secretary under this subsection.

3. Subrogation

If the Secretary pays a claim under a guarantee made under this section, the Secretary shall be subrogated for all the rights of the holder of the guaranteed certificate or obligation with respect to such certificate or obligation.

4. Effect of laws

No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of--

- A. the power to contract with respect to public offerings and other sales of notes, trust certificates, and other obligations guaranteed under this section upon such terms and conditions as the Secretary deems appropriate;
- B. the right to enforce any such contract by any means deemed appropriate by the Secretary; and
- C. any ownership rights of the Secretary, as applicable, in notes, certificates, or other obligations guaranteed under this section, or constituting the trust or pool against which trust certificates, or other obligations guaranteed under this section, are offered.

(Pub. L. 93-383, title I, Sec. 108, Aug. 22, 1974, 88 Stat. 647;

Pub. L. 95-128, title I, Sec. 108, Oct. 12, 1977, 91 Stat. 1123;

Pub. L. 96-399, title I, Sec. 108, Oct. 8, 1980, 94 Stat. 1619;

Pub. L. 97-35, title III, Sec. 309(i), Aug. 13, 1981, 95 Stat. 397;

Pub. L. 98-181, title I, Sec. 108, Nov. 30, 1983, 97 Stat. 1168;

Pub. L. 98-479, title II, Secs. 203(1)(2), 204(k)(1), Oct. 17, 1984, 98 Stat. 2231, 2233;

Pub. L. 99-272, title III, Sec. 3002(a), Apr. 7, 1986, 100 Stat. 102;

Pub. L. 100-242, title V, Sec. 514, Feb. 5, 1988, 101 Stat. 1930;  
Pub. L. 101- 625, title IX, Secs. 901(b), 910(b)-(g), Nov. 28, 1990, 104 Stat. 4385, 4389-4391;  
Pub. L. 102-550, title VIII, Sec. 801(b), Oct. 28, 1992, 106 Stat. 3843;  
Pub. L. 103-233, title II, Secs. 231, 232(a)(1), 233, Apr. 11, 1994, 108 Stat. 366, 368;  
Pub. L. 104-120, Sec. 3(b), Mar. 28, 1996, 110 Stat. 835.)

**Sec. 5309.\* Nondiscrimination in programs and activities [\* Section 109 of the Act]**

a. Prohibited conduct

No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this chapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.] or with respect to an otherwise qualified handicapped individual as provided in section 794 of title 29 shall also apply to any such program or activity.

b. Compliance procedures available to Secretary

Whenever the Secretary determines that a State or unit of general local government which is a recipient of assistance under this chapter has failed to comply with subsection (a) of this section or an applicable regulation, he shall notify the Governor of such State or the chief executive officer of such unit of local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed sixty days, the Governor or the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); (3) exercise the powers and functions provided for in section 5311(a) of this title; or (4) take such other action as may be provided by law.

c. Civil action by Attorney General

When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever he has reason to believe that a State government or unit of general local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

d. Waiver of race discrimination prohibitions regarding assistance to Hawaiian Home Land

The provisions of this section and section 5304(b)(2) of this title which relate to discrimination on the basis of race shall not apply to the provision of assistance by grantees under this chapter to the Hawaiian Home Lands.

(Pub. L. 93-383, title I, Sec. 109, Aug. 22, 1974, 88 Stat. 649;  
Pub. L. 97-35, title III, Sec. 306, Aug. 13, 1981, 95 Stat. 392;  
Pub. L. 101- 625, title IX, Secs. 911, 912(a), Nov. 28, 1990, 104 Stat. 4392.)

**Sec. 5310.\* Labor standards; rate of wages; exceptions; enforcement powers  
[\* Section 110 of the Act]**

- a. All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended

(40 U.S.C. 276a--276a-5)

: Provided, That this section shall apply to the rehabilitation of residential property only if such property contains not less than 8 units. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40.

- b. Subsection (a) of this section shall not apply to any individual that--

c.

1. performs services for which the individual volunteered;
- B. does not receive compensation for such services; or
- C. is paid expenses, reasonable benefits, or a nominal fee for such services; and

is not otherwise employed at any time in the construction work.

(Pub. L. 93-383, title I, Sec. 110, Aug. 22, 1974, 88 Stat. 649;  
Pub. L. 97-35, title III, Sec. 309(j), Aug. 13, 1981, 95 Stat. 397;  
Pub. L. 100- 242, title V, Sec. 523, Feb. 5, 1988, 101 Stat. 1939;  
Pub. L. 101-625, title IX, Sec. 955(a), Nov. 28, 1990, 104 Stat. 4420.)

**Sec. 5311.\* Remedies for noncompliance with community development  
requirements[\* Section 111 of the Act]**

- a. Notice and hearing; termination, reduction, or limitation of payments by Secretary

If the Secretary finds after reasonable notice and opportunity for hearing that a recipient

of assistance under this chapter has failed to comply substantially with any provision of this chapter, the Secretary, until he is satisfied that there is no longer any such failure to comply, shall--

1. terminate payments to the recipient under this chapter, or
  2. reduce payments to the recipient under this chapter by an amount equal to the amount of such payments which were not expended in accordance with this chapter, or
  3. limit the availability of payments under this chapter to programs, projects, or activities not affected by such failure to comply.
- b. Referral of matters to Attorney General; institution of civil action by Attorney General
1. In lieu of, or in addition to, any action authorized by subsection (a) of this section, the Secretary may, if he has reason to believe that a recipient has failed to comply substantially with any provision of this chapter, refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.
  2. Upon such a referral the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this chapter which was not expended in accordance with it, or for mandatory or injunctive relief.
- c. Petition for review of action of Secretary in Court of Appeals; filing of record of proceedings in court by Secretary; affirmance, etc., of findings of Secretary; exclusiveness of jurisdiction of court; review by Supreme Court on writ of certiorari or certification
1. Any recipient which receives notice under subsection (a) of this section of the termination, reduction, or limitation of payments under this chapter may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.
  2. The Secretary shall file in the court record of the proceeding on which he based his action, as provided in section 2112 of title 28. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.



3. The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify his findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and he shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file his recommendation, if any, for the modification or setting aside of his original action.
4. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 93-383, title I, Sec. 111, Aug. 22, 1974, 88 Stat. 650.)

**Sec. 5312.\* Use of grants for settlement of outstanding urban renewal loans of units of general local government [\* Section 112 of the Act]**

- a. Limitation on amounts; prerequisites

The Secretary is authorized, notwithstanding any other provision of this chapter, to apply a portion of the grants, not to exceed 20 per centum thereof without the request of the recipient, made or to be made under section 5303 of this title in any fiscal year pursuant to an allocation under section 5306 of this title to any unit of general local government toward payment of the principal of, and accrued interest on, any temporary loan made in connection with urban renewal projects under title I of the Housing Act of 1949

[42 U.S.C. 1450 et seq.]

being carried out within the jurisdiction of such unit of general local government if--

1. the Secretary determines, after consultation with the local public agency carrying out the project and the chief executive of such unit of general local government, that the project cannot be completed without additional capital grants, or
2. the local public agency carrying out the project submits to the Secretary an appropriate request which is concurred in by the governing body of such unit of general local government.

In determining the amounts to be applied to the payment of temporary loans, the Secretary shall make an accounting for each project taking into consideration the costs incurred or to be incurred, the estimated proceeds upon any sale or disposition of property, and the capital grants approved for the project.

b. Approval by Secretary of financial settlement of urban renewal project

Upon application by any local public agency carrying out an urban renewal project under title I of the Housing Act of 1949

[42 U.S.C. 1450 et seq.]

, which application is approved by the governing body of the unit of general local government in which the project is located, the Secretary may approve a financial settlement of such project if he finds that a surplus of capital grant funds after full repayment of temporary loan indebtedness will result and may authorize the unit of general local government to use such surplus funds, without deduction or offset, in accordance with the provisions of this chapter.

(Pub. L. 93-383, title I, Sec. 112, Aug. 22, 1974, 88 Stat. 650;  
Pub. L. 97-35, title III, Sec. 309(k), Aug. 13, 1981, 95 Stat. 397;  
Pub. L. 98- 181, title I, Sec. 109, Nov. 30, 1983, 97 Stat. 1168;  
Pub. L. 98-479, title I, Sec. 101(a)(13)(A), Oct. 17, 1984, 98 Stat. 2220.)

### **Sec. 5313.\* Reporting requirements [\* Section 113 of the Act]**

- a. Not later than 180 days after the close of each fiscal year in which assistance under this chapter is furnished, the Secretary shall submit to the Congress a report which shall contain
  1. a description of the progress made in accomplishing the objectives of this chapter;
  2. a summary of the use of such funds during the preceding fiscal year;
  3. with respect to the action grants authorized under section 5318 of this title, a listing of each unit of general local government receiving funds and the amount of such grants, as well as a brief summary of the projects funded for each such unit, the extent of financial participation by other public or private entities, and the impact on employment and economic activity of such projects during the previous fiscal year; and
  4. a description of the activities carried out under section 5308 of this title.

- b. The Secretary is authorized to require recipients of assistance under this chapter to submit to him such reports and other information as may be necessary in order for the Secretary to make the report required by subsection (a) of this section.

(Pub. L. 93-383, title I, Sec. 113, Aug. 22, 1974, 88 Stat. 651;

Pub. L. 95-128, title I, Sec. 109, Oct. 12, 1977, 91 Stat. 1124;

Pub. L. 97-35, title III, Sec. 309(l), Aug. 13, 1981, 95 Stat. 397;

Pub. L. 101-625, title IX, Sec. 910(h), Nov. 28, 1990, 104 Stat. 4392.)

### **Sec. 5314.\* Consultation by Secretary with other Federal departments, etc. [\* Section 114 of the Act]**

In carrying out the provisions of this chapter including the issuance of regulations, the Secretary shall consult with other Federal departments and agencies administering Federal grant-in-aid programs.

(Pub. L. 93-383, title I, Sec. 114, Aug. 22, 1974, 88 Stat. 651.)

### **Sec. 5315.\* Interstate agreements or compacts; purposes [\* Section 115 of the Act]**

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in support of community development planning and programs carried out under this chapter as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

(Pub. L. 93-383, title I, Sec. 115, Aug. 22, 1974, 88 Stat. 651.)

### **Sec. 5316 Transition provisions [\*Section 116 of the Act]**

- (a) Prohibition on new grants or loans after January 1, 1975; exceptions

Except with respect to projects and programs for which funds have been previously committed, no new grants or loans shall be made after January 1, 1975, under (1) title I of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3301 et seq.], (2) title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.] (3) section 702 or section 703 of the Housing and Urban Development Act of 1965 [42 U.S.C. 3102 or 3103], (4) title II of the Housing Amendments of 1955 [42 U.S.C. 1491 et seq.], or (5) title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.].

- (b) Final date in fiscal year for submission of application for grant; establishment by Secretary  
In the case of funds available for any fiscal year, the Secretary shall not consider any statement under section 5304(a) of this title, unless such statement is submitted on or prior to such date as the Secretary shall establish as the final date for submission of statements for that year.

(Pub. L. 93–383, title I, § 116, Aug. 22, 1974, 88 Stat. 652; Pub. L. 94–375, § 15(d), Aug. 3, 1976, 90 Stat. 1076; Pub. L. 96–399, title I, § 111(h), Oct. 8, 1980, 94 Stat. 1622; Pub. L. 97–35, title III, § 309(m), Aug. 13, 1981, 95 Stat. 397; Pub. L. 98–181, title I, § 110(a), Nov. 30, 1983, 97 Stat. 1168.)

### **Sec. 5317.\* Liquidation of superseded or inactive programs [\* Section 117 of the Act]**

The Secretary is authorized to transfer the assets and liabilities of any program which is superseded or inactive by reason of this chapter to the revolving fund for liquidating programs established pursuant to title II of the Independent Offices Appropriation Act, 1955 (Public Law 83-428; 68 Stat. 272, 295)

[12 U.S.C. 1701g-5]

(Pub. L. 93-383, title I, Sec. 117(b), Aug. 22, 1974, 88 Stat. 653;  
Pub. L. 98-479, title II, Sec. 204(k)(2), Oct. 17, 1984, 98 Stat. 2233.)

### **Sec. 5318.\* Urban development action grants [\* Section 118 of the Act]**

a. Authorization; purpose; amount

The Secretary is authorized to make urban development action grants to cities and urban counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery. There are authorized to be appropriated to carry out this section \$225,000,000 for fiscal year 1988, and \$225,000,000 for fiscal year 1989. Any amount appropriated under this subsection shall remain available until expended.

b. Eligibility of cities and urban counties; criteria and standards; regulations

1. Urban development action grants shall be made only to cities and urban counties which have, in the determination of the Secretary, demonstrated results in providing housing for low- and moderate-income persons and in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. The Secretary shall issue regulations establishing criteria in accordance with the preceding sentence and setting forth minimum standards for determining the level of economic distress of cities and urban counties for eligibility for such grants. These standards shall take into account factors such as the age of housing; the extent of poverty; the extent of population lag; growth of per capita income; and the extent of unemployment, job

lag, or surplus labor. Any city that has a population of less than 50,000 persons and is not the central city of a metropolitan area, and that was eligible for fiscal year 1983 under this paragraph for assistance under this section, shall continue to be eligible for such assistance until the Secretary revises the standards for eligibility for such cities under this paragraph and includes the extent of unemployment, job lag, or labor surplus as a standard of distress for such cities. The Secretary shall make such revision as soon as practicable following November 30, 1983.

2. A city or urban county which fails to meet the minimum standards established pursuant to paragraph (1) shall be eligible for assistance under this section if it meets the requirements of the first sentence of such paragraph and--
  - A. in the case of a city with a population of fifty thousand persons or more or an urban county, contains an area
    - i. composed of one or more contiguous census tracts, enumeration districts, neighborhood statistics areas, or block groups, as defined by the United States Bureau of the Census, having at least a population of ten thousand persons or 10 per centum of the population of the city or urban county;
    - ii. in which at least 70 per centum of the residents have incomes below 80 per centum of the median income of the city or urban county; and
    - iii. in which at least 30 per centum of the residents have incomes below the national poverty level; or
  - B. in the case of a city with a population of less than fifty thousand persons, contains an area
    - i. composed of one or more contiguous census tracts, enumeration districts, neighborhood statistics areas, or block groups or other areas defined by the United States Bureau of the Census or for which data certified by the United States Bureau of the Census are available having at least a population of two thousand five hundred persons or 10 per centum of the population of the city, whichever is greater;
    - ii. in which at least 70 per centum of the residents have incomes below 80 per centum of the median income of the city; and
    - iii. in which at least 30 per centum of the residents have incomes below the national poverty level.

The Secretary shall use up to, but not more than, 20 per centum of the funds appropriated for use in any fiscal year under this section for the purpose of making grants to cities and urban counties eligible under this paragraph.

- c. Applications; documentation of eligibility; proposed plan; assurance of notice and comment; assurance of consideration on historical landmarks

Applications for assistance under this section shall--

1. in the case of an application for a grant under subsection (b)(2) of this section, include documentation of grant eligibility in accordance with the standards described in that subsection;
2. set forth the activities for which assistance is sought, including
  - A. an estimate of the costs and general location of the activities;
  - B. a summary of the public and private resources which are expected to be made available in connection with the activities, including how the activities will take advantage of unique opportunities to attract private investment; and
  - C. an analysis of the economic benefits which the activities are expected to produce;
3. contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application,
  - A. has held public hearings to obtain the views of citizens, particularly residents of the area in which the proposed activities are to be carried out;
  - B. has analyzed the impact of these proposed activities on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood in which they are to be carried out; and
  - C. has made available the analysis described in clause (B) to any interested person or organization residing or located in the neighborhood in which the proposed activities are to be carried out; and
4. contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application,
  - A. has identified all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made;

- B. has identified all other properties, if any, which will be affected by such project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on such Register, together with documentation relating to the inclusion of such properties on the Register;
  - C. has determined the effect, as determined by the applicant, of the project on the properties identified pursuant to clauses (A) and (B); and
  - D. will comply with the requirements of section 5320 of this title.
- d. Mandatory selection criteria; award of points; distribution of funds; number of competitions per year; use of distress conditions data by urban counties
- 1. Except in the case of a city or urban county eligible under subsection (b)(2) of this section, the Secretary shall establish selection criteria for a national competition for grants under this section which must include--
    - A. the comparative degree of economic distress among applicants, as measured (in the case of a metropolitan city or urban county) by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in the metropolitan city or urban county;
    - B. other factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration in cities and urban counties;
    - C. the following other criteria:
      - i. the extent to which the grant will stimulate economic recovery by leveraging private investment;
      - ii. the number of permanent jobs to be created and their relation to the amount of grant funds requested;
      - iii. the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed;
      - iv. the extent to which the project will retain jobs that will be lost without the provision of a grant under this section;
      - v. the extent to which the project will relieve the most pressing employment or residential needs of the applicant by--
        - I. reemploying workers in a skill that has recently suffered a sharp increase in unemployment locally;
        - II. retraining recently unemployed residents in new skills;
        - III. providing training to increase the local pool of skilled labor; or

- IV. producing decent housing for low- and moderate- income persons in cases where such housing is in severe shortage in the area of the applicant, except that an application shall be considered to produce housing for low- and moderate-income persons under this clause only if such application proposes that
  - a. not less than 51 percent of all funds available for the project shall be used for dwelling units and related facilities; and
  - b. not less than 30 percent of all funds used for dwelling units and related facilities shall be used for dwelling units to be occupied by persons of low and moderate income, or not less than 20 percent of all dwelling units made available to occupancy using such funds shall be occupied by persons of low and moderate income, whichever results in the occupancy of more dwelling units by persons of low and moderate income;

vi. the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested;

vii. the extent to which State or local Government

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funding or special economic incentives have been committed; and

\1\ So in original. Probably should not be capitalized.

viii. the extent to which the project will have a substantial impact on physical and economic development of the city or urban county, the proposed activities are likely to be accomplished in a timely fashion with the grant amount available, and the city or urban county has demonstrated performance in housing and community development programs; and

D. additional consideration for projects with the following characteristics:



- i. projects to be located within a city or urban county which did not receive a preliminary grant approval under this section during the 12-month period preceding the date on which applications are required to be submitted for the grant competition involved; and
- ii. twice the amount of the additional consideration provided under clause (i) for projects to be located in cities or urban counties which did not receive a preliminary grant approval during the 24-month period preceding the date on which applications under this section are required to be submitted for the grant competition involved.

If a city or urban county has submitted and has pending more than one application, the additional consideration provided by subparagraph (D) of the preceding sentence shall be available only to the project in such city or urban county which received the highest number of points under subparagraph (C) of such sentence.

2. For the purpose of making grants with respect to areas described in subsection (b)(2) of this section, the Secretary shall establish selection criteria, which must include
  - A. factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration among eligible areas, and
  - B. such other criteria as the Secretary may determine, including at a minimum the criteria listed in paragraph (1)(C) of this subsection.
3. The Secretary shall award points to each application as follows:
  - A. not more than 35 points on the basis of the criteria referred to in paragraph (1)(A);
  - B. not more than 35 points on the basis of the criteria referred to in paragraph (1)(B);
  - C. not more than 33 points on the basis of the criteria referred to in paragraph (1)(C); and
  - D.
    - i. 1 additional point on the basis of the criterion referred to in paragraph (1)(D)(i); or
    - ii. 2 additional points on the basis of the criterion referred to in paragraph (1)(D)(ii).

4. The Secretary shall distribute grant funds under this section so that to the extent practicable during each funding cycle--
  - A. 65 percent of the funds is first made available utilizing all of the criteria set forth in paragraph (1); and
  - B. 35 percent of the funds is then made available solely on the basis of the factors referred to in subparagraphs (C) and (D) of paragraph (1).
5.
  - A. Within 30 days of the start of each fiscal year, the Secretary shall announce the number of competitions for grants to be held in that fiscal year. The number of competitions shall be not less than two nor more than three.
  - B. Each competition for grants described in any clause of subparagraph (A) shall be for an amount equal to the sum of--
    - i. approximately the amount of the funds available for such grants for the fiscal year divided by the number of competitions for those funds;
    - ii. any funds available for such grants in any previous competition that are not awarded; and
    - iii. any funds available for such grants in any previous competition that are recaptured.
  - C. Notwithstanding any other provision of this section, in each competition for grants under this section, no city or urban county may be awarded a grant or grants in an amount in excess of \$10,000,000 until all cities and urban counties which submitted fundable applications have been awarded a grant. If funds are available for additional grants after each city and urban county submitting a fundable application is awarded one or more grants under the preceding sentence, then additional grants shall be made so that each city or urban county that has submitted multiple applications is awarded one additional grant in order of ranking, with no single city or urban county receiving more than one grant approval in any subsequent series of grant determinations within the same competition.
  - D. All grants under this section, including grants to cities and urban counties described in subsection (b)(2) of this section, shall be awarded in accordance with subparagraph (C) so that all grants under this section are made in order of ranking.

e. Limitations on power of Secretary to approve grants; waiver

The Secretary may not approve any grant to a city or urban county eligible under subsection (b)(2) of this section unless--

1. the grant will be used in connection with a project located in an area described in subsection (b)(2) of this section, except that the Secretary may waive this requirement where the Secretary determines
    - A. that there is no suitable site for the project within that area,
    - B. the project will be located directly adjacent to that area, and
    - C. the project will contribute substantially to the economic development of that area;
  2. the city or urban county has demonstrated to the satisfaction of the Secretary that basic services supplied by the city or urban county to the area described in subsection (b)(2) of this section are at least equivalent, as measured by per capita expenditures, to those supplied to other areas within the city or urban county which are similar in population size and physical characteristics and which have median incomes above the median income for the city or urban county;
  3. the grant will be used in connection with a project which will directly benefit the low- and moderate-income families and individuals residing in the area described in subsection (b)(2) of this section; and
  4. the city or urban county makes available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non- Federal share requirements of Federal grant-in-aid programs, an amount equal to 20 per centum of the grant to be available under this section to be used in carrying out the activities described in the application.
- f. Permissibility of consistent but unenumerated activities; report on use of repaid grant funds for economic development activities
- Activities assisted under this section may include such activities, in addition to those authorized under section 5305(a) of this title, as the Secretary determines to be consistent with the purposes of this section. In any case in which the project proposes the repayment to the applicant of the grant funds, such funds shall be made available by the applicant for economic development activities that are eligible activities under this section or section 5305 of this title. The applicant shall annually provide the Secretary with a statement of the projected receipt and use of repaid grant funds during the next year together with a report acceptable to the Secretary on the use of such funds during the most recent preceding full fiscal year of the applicant.

- g. Annual review and audit; adjustments, withdrawals and reduction permitted  
 The Secretary shall, at least on an annual basis, make reviews and audits of recipients of grants under this section as necessary to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables. The Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with the findings of these reviews and audits, except that funds already expended on eligible activities under this chapter shall not be recaptured or deducted from future grants made to the recipient.
  
- h. Limitations on grants for industrial or commercial relocations or expansions; appeal of denial or cancellation of assistance; grants to adversely affected individuals
  - 1. *Speculative projects*  
 No assistance may be provided under this section for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated. The provisions of this paragraph shall apply only to projects that do not have identified intended occupants.
  
  - 2. *Projects with identified intended occupants*  
 No assistance may be provided or utilized under this section for any project with identified intended occupants that is likely to facilitate--
    - A. a relocation of any operation of an industrial or commercial plant or facility or other business establishment--
      - i. from any city, urban county, or identifiable community described in subsection (p) of this section, that is eligible for assistance under this section; and
      - ii. to the city, urban county, or identifiable community described in subsection (p) of this section, in which the project is located; or
  
    - B. an expansion of any such operation that results in a reduction of any such operation in any city, county, or community described in subparagraph (A)(i).
  
  - 3. *Significant and adverse effect*  
 The restrictions established in paragraph (2) shall not apply if the Secretary determines that the relocation or expansion does not significantly and adversely affect the employment or economic base of the city, county, or community from which the relocation or expansion occurs.

4. *Appeal of adverse determination*

Following notice of intent to withhold, deny, or cancel assistance under paragraph (1) or (2), the Secretary shall provide a period of not less than 90 days in which the applicant can appeal to the Secretary the withholding, denial, or cancellation of assistance. Notwithstanding any other provision of this section, nothing in this section or in any legislative history related to the enactment of this section may be construed to permit an inference or conclusion that the policy of the Congress in the urban development action grant program is to facilitate the relocation of businesses from one area to another.

5. *Assistance for individuals adversely affected by prohibited relocations*

A. Any amount withdrawn by, recaptured by, or paid to the Secretary due to a violation (or a settlement of an alleged violation) of this subsection (or of any regulation issued or contractual provision entered into to carry out this subsection) by a project with identified intended occupants shall be made available by the Secretary as a grant to the city, county, or community described in subsection (p) of this section, from which the operation of an industrial or commercial plant or facility or other business establishment relocated or in which the operation was reduced.

B.

i. Any amount made available under this paragraph shall be used by the grantee to assist individuals who were employed by the operation involved prior to the relocation or reduction and whose employment or terms of employment were adversely affected by the relocation or reduction. The assistance shall include job training, job retraining, and job placement.

ii. If any amount made available to a grantee under this paragraph is more than is required to provide assistance under clause (i), the grantee shall use the excess amount to carry out community development activities eligible under section 5305(a) of this title.

C.

i. The provisions of this paragraph shall be applicable to any amount withdrawn by, recaptured by, or paid to the Secretary under this section, including any amount withdrawn, recaptured, or paid before the effective date of this paragraph.

ii. Grants may be made under this paragraph only to the extent of amounts provided in appropriation Acts.

6. *Definition*

For purposes of this subsection, the term "*operation*" includes any plant, equipment, facility, position, employment opportunity, production capacity, or product line.

7. *Regulations*

Not later than 60 days after February 5, 1988, the Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection. Such regulations shall include specific criteria to be used by the Secretary in determining whether there is a significant and adverse effect under paragraph (3).

- i. Minimum percentage of funds to be allocated to certain noncentral cities; application by consortia of cities of less than 50,000 population

Not less than 25 per centum of the funds made available for grants under this section shall be used for cities with populations of less than fifty thousand persons which are not central cities of a metropolitan statistical area. The Secretary shall encourage cooperation by geographically proximate cities of less than 50,000 population by permitting consortia of such cities, which may also include county governments that are not urban counties, to apply for grants on behalf of a city that is otherwise eligible for assistance under this section. Any grants awarded to such consortia shall be administered in compliance with eligibility requirements applicable to individual cities.

- j. Grant contingent on factors related to non-Federal funds

A grant may be made under this section only where the Secretary determines that there is a strong probability that

1. the non-Federal investment in the project would not be made without the grant, and
2. the grant would not substitute for non-Federal funds which are otherwise available to the project.

- k. Duty of Secretary to minimize amount

In making grants under this section, the Secretary shall take such steps as the Secretary deems appropriate to assure that the amount of the grant provided is the least necessary to make the project feasible.

- l. Power of Secretary to waive requirement that town or township be closely settled

For purposes of this section, the Secretary may reduce or waive the requirement in section 5302(a)(5)(B)(ii) of this title that a town or township be closely settled.

- m. Notice to State historic preservation officer and Secretary of the Interior required with regard to affected landmark property; opportunity for comment

In the case of any application which identifies any property in accordance with subsection (c)(4)(B) of this section, the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the provisions of section 5302(b) of this title.

- n. Territories, tribes, and certain Hawaiian counties included in term "*city*"
  - 1. For the purposes of this section, the term "*city*" includes Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and Indian tribes. Such term also includes the counties of Kauai, Maui and Hawaii in the State of Hawaii.
  - 2. The Secretary may not approve a grant to an Indian tribe under this section unless the tribe
    - A. is located on a reservation, or on former Indian reservations in Oklahoma as determined by the Secretary of the Interior, or in an Alaskan Native Village, and
    - B. was an eligible recipient under chapter 67 of title 31 prior to the repeal of such chapter.

- o. Special provisions for years after 1983

If no amounts are set aside under, or amounts are precluded from being appropriated for this section for fiscal years after fiscal year 1983, any amount which is or becomes available for use under this section after fiscal year 1983 shall be added to amounts appropriated under section 5303 of this title, except that amounts available to the Secretary for use under this subsection as of October 1, 1993, and amounts released to the Secretary pursuant to subsection (t) of this section may be used to provide grants under section 5308(q) of this title..

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- p. Unincorporated portions of urban counties

An unincorporated portion of an urban county that is approved by the Secretary as an

identifiable community for purposes of this section is eligible for a grant under subsection (b)(2) of this section if such portion meets the eligibility requirements contained in the first sentence of subsection (b)(1) of this section and the requirements of subsection (b)(2)(B) of this section (applied to the population of the portion of the urban county) and if it otherwise complies with the provisions of this section.

q. Technical assistance grants

Of the amounts appropriated for purposes of this section for any fiscal year, not more than \$2,500,000 may be used by the Secretary to make technical assistance grants to States or their agencies, municipal technical advisory services operated by universities, or State associations of counties or municipalities, to enable such entities to assist units of general local government described in subsection (i) of this section in developing, applying for assistance for, and implementing programs eligible for assistance under this section.

r. Nondiscrimination by Secretary against type of activity or applicant

In utilizing the discretion of the Secretary when providing assistance and applying selection criteria under this section, the Secretary may not discriminate against applications on the basis of

1. the type of activity involved, whether such activity is primarily housing, industrial, or commercial; or
2. the type of applicant, whether such applicant is a city or urban county.

s. Maximum grant amount for fiscal years 1988 and 1989

For fiscal years 1988 and 1989, the maximum grant amount for any project under this section is \$10,000,000.

t. UDAG retention program

If a grant or a portion of a grant under this section remains unexpended upon the issuance of a notice implementing this subsection, the grantee may enter into an agreement, as provided under this subsection, with the Secretary to receive a percentage of the grant amount and relinquish all claims to the balance of the grant within 90 days of the issuance of notice implementing this subsection (or such later date as the Secretary may approve). The Secretary shall not recapture any funds obligated pursuant to this section during a period beginning on April 11, 1994, until 90 days after the issuance of a notice implementing this subsection. A grantee may receive as a grant under this subsection--

1. 33 percent of such unexpended amounts if--
  - A. the grantee agrees to expend not less than one-half of the amount received for activities authorized pursuant to section 5308(q) of this title and to expend such funds in conjunction with a loan guarantee made under



section 5308 of this title at least equal to twice the amount of the funds received; and

- B.
  - i. the remainder of the amount received is used for economic development activities eligible under this chapter; and
  - ii. except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of activities under subparagraph (B) are derived from such unexpended amounts;

or

- 2. 25 percent of such unexpended amounts if--
  - A. the grantee agrees to expend such funds for economic development activities eligible under this chapter; and
  - B. except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of such activities are derived from such unexpended amount.

(Pub. L. 93-383, title I, Sec. 119, as added Pub. L. 95-128, title I, Sec. 110(b), Oct. 12, 1977, 91 Stat. 1125;

amended Pub. L. 95-557, title I, Sec. 103(g), (h), Oct. 31, 1978, 92 Stat. 2084;

Pub. L. 96-153, title I, Secs. 104, 105, Dec. 21, 1979, 93 Stat. 1102, 1104;

Pub. L. 96-399, title I, Secs. 110(a), (b), 117(a), Oct. 8, 1980, 94 Stat. 1619, 1623;

Pub. L. 97-35, title III, Sec. 308(a), Aug. 13, 1981, 95 Stat. 392;

Pub. L. 98-181, title I, Sec. 121, Nov. 30, 1983, 97 Stat. 1168;

Pub. L. 98-454, title VI, Sec. 601(c), Oct. 5, 1984, 98 Stat. 1736;

Pub. L. 98-479, title II, Sec. 203(l)(3), Oct. 17, 1984, 98 Stat. 2231;

Pub. L. 99-272, title XIV, Sec. 14001(b)(6), Apr. 7, 1986, 100 Stat. 329;

Pub. L. 99-500, Sec. 101(g), Oct. 18, 1986, 100 Stat. 1783-242, and Pub. L. 99-591, Sec. 101(g), Oct. 30, 1986, 100 Stat. 3341-242;

Pub. L. 100-202, Secs. 101(f) [title I, Sec. 101], 106, Dec. 22, 1987, 101 Stat. 1329-187, 1329-193, 1329-433;

Pub. L. 100-242, title V, Secs. 501(c), 515(a)-(d), (g)(2)-(i), 516(a), Feb. 5, 1988, 101 Stat. 1923, 1930-1934;

Pub. L. 100-404, title I, Aug. 19, 1988, 102 Stat. 1020;

Pub. L. 100-628, title X, Sec. 1084, Nov. 7, 1988, 102 Stat. 3277;

Pub. L. 103-233, title II, Sec. 232(b), (c)(1), Apr. 11, 1994, 108 Stat. 367.)

**Sec. 5319.\* Community participation in programs [\* section 120 of the act]**

No community shall be barred from participating in any program authorized under this chapter solely on the basis of population, except as expressly authorized by statute.

(Pub. L. 93-383, title I, Sec. 120, as added Pub. L. 95-557, title I, Sec. 103(i), Oct. 31, 1978, 92 Stat. 2084.)

**Sec. 5320.\* Historic preservation requirements [\* section 121 of the Act]**

a. Regulations

With respect to applications for assistance under section 5318 of this title, the Secretary of the Interior, after consulting with the Secretary, shall prescribe and implement regulations concerning projects funded under section 5318 of this title and their relationship with--

1. "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 14, 1966, as amended

[16 U.S.C. 470 et seq.]

; and

2. "An Act to provide for the preservation of historical and archaeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam", approved June 27, 1960, as amended

[16 U.S.C. 469 to 469c-1]

b. Actions by State historic preservation officer and Secretary of the Interior

In prescribing and implementing such regulations with respect to applications submitted under section 5318 of this title which identify any property pursuant to subsection (c)(4)(B) of such section, the Secretary of the Interior shall provide at least that--

1. the appropriate State historic preservation officer (as determined in accordance with regulations prescribed by the Secretary of the Interior) shall, not later than 45 days after receiving information from the applicant relating to the identification of properties which will be affected by the project for which the application is made and which may meet the criteria established by the Secretary of the Interior for inclusion on the National Register of Historic Places (together with documentation relating to such inclusion), submit his or her comments, together with such other information considered necessary by the officer, to the applicant concerning such properties; and

2. the Secretary of the Interior shall, not later than 45 days after receiving from the applicant the information described in paragraph (1) and the comments submitted to the applicant in accordance with paragraph (1), make a determination as to whether any of the properties affected by the project for which the application is made is eligible for inclusion on the National Register of Historic Places.
- c. Regulations by Advisory Council on Historic Preservation providing for expeditious action

The Advisory Council on Historic Preservation shall prescribe regulations providing for expeditious action by the Council in making its comments under section 106 of the Act

[16 U.S.C. 470f]

referred to in subsection (a)(1) in the case of properties which are included on, or eligible for inclusion on, the National Register of Historic Places and which are affected by a project for which an application is made under section 5318 of this title.

(Pub. L. 93-383, title I, Sec. 121, as added Pub. L. 96-399, title I, Sec. 110(c), Oct. 8, 1980, 94 Stat. 1620; amended Pub. L. 97-35, title III, Sec. 308(b), Aug. 13, 1981, 95 Stat. 396.)

### **Sec. 5321.\* Suspension of requirements for disaster areas [\* Section 122 of the Act]**

For funds designated under this chapter by a recipient to address the damage in an area for which the President has declared a disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act

[42 U.S.C. 5170 et seq.]

, the Secretary may suspend all requirements for purposes of assistance under section 5306 of this title for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and requirements that activities benefit persons of low- and moderate-income.

(Pub. L. 93-383, title I, Sec. 122, as added Pub. L. 103-233, title II, Sec. 234, Apr. 11, 1994, 108 Stat. 369.)