# SPECIAL PROVISIONS APPLICABLE TO COMMUNITY DEVELOPMENT BLOCK GRANTS (CDBG) AND RELATED PROGRAMS

1. CLAIMS IN CDBG AND RELATED PROGRAMS. Based upon interpretation by the Office of General Counsel of Title I of the Housing and Community Development Act of 1974, as amended ("Title I"), and the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982, "claims" or "debts" due the United States or HUD within the meaning of the latter Acts exist in programs authorized by Title I (Community Development Block Grants and related programs, including UDAG) only in certain classes of cases. As a general rule, such claims arise only in fact situations with respect to which, at the time the facts arose, the applicable grant agreement or regulations imposed upon the grant recipient a specific obligation to repay an amount to HUD or the United States. Cases in which HUD merely has a discretionary right to take program remedial actions (for example, if an auditor's recommendation for grant reduction based upon a finding of ineligible activities is sustained) are not to be treated as "claims" within the meaning of the Acts cited above. The following is a currently exclusive and comprehensive listing of the situations in which "claims" may arise under Title I programs and citations to the applicable obligations to repay.

   a. Interest has been earned by a CDBG grantee which is a unit of general local government as described in 24 CFR 570.3(v), an Indian tribe as described in 24 CFR 571.3(o), or a subgrantee or subrecipient thereof, on CDBG draws or advances prior to the initial disbursement of the funds for program purposes. Such interest is required to be returned to the Treasury by 24 CFR 570.506(a), 570.494(b)(4), or 571.505(a), and the claim is in the amount of the interest earned. However, States are not required to return interest earned on CDBG advances pending their disbursement for program purposes by 24 CFR 570.494(b)(4).

   b. A recipient of a loan guaranteed by HUD under Section 108 of Title I has failed to repay such loan on a timely basis. A claim in favor of HUD arises when HUD makes the loan payment on behalf of the recipient pursuant to HUD's guarantee, in the amount of HUD's payment. Normally, this claim is payable from Title I grants required by Section 108 to be pledged for such repayment, but it may be collected by other means, including legal action, should that source be unavailable.

   c. The recipient of a categorical program financial settlement grant under 24 CFR Part 570, Subpart H, has failed to repay the grant from available land sales proceeds, as required by 24 CFR 570.486 or 570.487(b). The claim is in the amount of the land sales proceeds earned, up to the amount of the grant, less the reasonable expenses of sale.

d. The recipient of a discretionary grant subject to the closeout requirement of 24 CFR 570.512 has failed to refund to HUD cash advanced in excess of the grant amount shown on the approved certificate of completion, as required by 24 CFR 570.512(i). The claim is in the amount of the excess funds.

e. Certain Secretary's fund grant agreements and UDAG agreements provide that the grantee is liable to refund or pay to HUD specific sums under specific circumstances. If the agreement is of this type and the grantee fails to pay the amount owed, HUD has a claim for that amount.

2. TREATMENT OF CDBG-RELATED CLAIMS. Claims described in the preceding paragraph which are identified through the audit process should be handled in accordance with the other provisions of this Notice. That is, once a finding that the claim exists is sustained, a Control Log should be prepared by the Action Official, the claim should be recorded on the applicable accounting records as an account receivable, demand letters should be sent to obtain collection, and the claim should be referred to the applicable Claims Collection Officer if payment is not timely obtained by the Action Official. Reimbursements by the grantee to its program account or letter-of-credit are not acceptable means of payment of these claims, nor in most cases is grant reduction pursuant to Section 104(d) or Section 111(a) of Title I. In addition, while they will not be discovered through audit and will be subject to different collection techniques, money judgments in favor of HUD (or the United States or the Secretary) are claims within the meaning of the Federal Claims Collection Act and should be recorded as judgments receivable when obtained.

3. TREATMENT OF NON-CLAIM AUDIT FINDINGS IN CDBG AND RELATED PROGRAMS. Many audit findings in Title I programs raise issues of noncompliance or other poor performance under applicable statutes and regulations, other than those cited in paragraph 1 of this appendix. Notwithstanding anything to the contrary in this Notice, such findings, even if they are designated as disallowed costs and are sustained, are not to be recorded as accounts receivable, routinely made the subject of letters demanding cash repayment and referred to Claims Collection Officers. This does not mean that such findings are considered unimportant. On the contrary, such findings shall be tracked and resolved according to the procedures and within the timetables prescribed in Handbook 2000.6 REV, "Audits Management System." However, such findings are subject to a comprehensive and exclusive system of regulatory corrective and remedial actions based upon the statutory remedies in sections 104(d), 109, 111, and 119 of Title I. This remedial system is set forth in detail in 24 CFR 570.499-.499a (State's Program),

24 CFR 571.706-.707 (grants from the Secretary's Fund to Indian tribes), and 24 CFR 570.909-.913 (other Title I grants). Except





where the claims described above are involved, the guiding principle of this remedial system is the discretionary application of the authorized remedial actions in order to improve the grantee's program performance, rather than the mandatory recovery of funds. While the statutory remedy of grant reduction described in these regulations may result in recovery by the Government in a sense, it is not primarily a collection device nor does a decision to employ it per se represent a claim within the meaning of the Federal Claims Collection Act. Therefore, there is no need to record an account receivable when the decision to reduce a grant is made. No legal opinion or analysis is required under the Claims Collection Act in order to justify a resolution which does not result in monetary recovery of disallowed or sustained costs identified in audit findings under Title I programs, unless the finding represents a claim as described in paragraph 1 of this Appendix. However, to the extent that a remedial decision not to seek monetary recovery differs from the decision made at the time an audit finding was sustained, the Office of Inspector General should be notified and any disputes should be resolved through the Audits Management System.