

FAQs on 2016 ICDBG NOFA

Q1 The NOFA states in Section III.C.1.c. that HUD will not review your application if you have any ICDBGs that are open 2 or more years past the due date for closeout in your most recent HUD-approved implementation schedule for the grant. If a project was behind schedule but is now progressing satisfactory, will an application for 2016 funding be deemed to fail to meet this threshold for review?

A1 If HUD approved an extension of the implementation schedule and your project is on track toward meeting that deadline as of the application due date, the application meets the threshold and may be rated and ranked (as long as the applicant meets the other thresholds).

Q2 The NOFA says that the grant must serve “primarily” low income. If I have a tenant in a low rent home, who was low income when he/she qualified for the unit, that now is “over-income”, can I rehabilitate or do mold remediation on that unit now? What does primarily mean – 80% of the units served have to be low-income? Is there a percentage or number I have to meet?

A2 Every unit rehabilitated with ICDBG funds has to be occupied by a LMI resident, per the ICDBG regulations at 1003.208(c).

Q3 The NOFA in rating factor 1, subfactor 1.b., says that “*You must show that the project will be underway 180 days from the expected award date included in the NOFA*”. What is the expected award date and what does “underway” mean?

A3 The NOFA says in Section V.C. that the grants are expected to be announced in September 2016. The NOFA also indicates in Section IIA.3.D. that the anticipated start date for FY 2016 ICDBGs is October 3, 2016. However, the 180 day period during which the project must be underway begins when the grant agreement is signed.

“Underway” means that the grantee has started project specific work. This could include environmental reviews, design, procurement, as well as actual construction.

Q4 We are in the process of starting a Community Youth Center on an existing building on reservation land. This building is 20 years old and although structurally sound, it does need rehabilitation (air conditioning, sewer, electricity, new roof, paint (indoor/outdoor), and solar paneling).

(1) Are we allowed to ask for funds to cover the rehabilitation even though the Community Youth Center is not up and running yet?

(2) Can ICDBG funds be used to build a pool and/or playground for the Community Youth Center?

A4 Yes, you may request ICDBG funds to rehabilitate a building you plan to use for a Community Youth Center. You may also use ICDBG to build a pool and/or playground as long as you meet ICDBG program requirements and any criteria spelled out in the NOFA.

Q5 The NOFA in Rating Factor 4, contains new language on how Indian Housing Block Grant (IHBG) funds can be used for leverage in ICDBG applications.

If an applicant intends to use future IHBG funds (say FY17 & FY18) for this project do it only have to submit a written statement about that with the application? Or does it have to submit a commitment letter with the Executive Director signature on its letterhead as was required in the past? And, do future IHPs have to include this activity or is including it in this current year’s Indian Housing Plan sufficient?

A5 The NOFA says “If IHBG will be used, your current Indian Housing Plan must identify and commit IHBG funds to the project by fiscal year. If you intend to use future IHBG funds for this project you must include a written statement identifying and committing such funds by fiscal year”.

In FY 2016, applicants must include a written statement identifying the IHBG funding that will be budgeted in future years. A separate letter is not needed. However, the amounts of IHBG the applicant plans to commit in the future must be broken down by fiscal year in the written statement.

If the applicant intends to use FY 2016 IHBG funds for leverage the applicant's current Indian Housing Plan must indicate this. If it does not, the current plan must be amended.

Q6 What are the Section 3 requirements in this NOFA and how do they relate to tribal preferences?

A6 *The Section 3 regulations can be found at 24 CFR part 135. The purpose of section 3 is "...to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons."*

These requirements are discussed at two places in the NOFA; in the program specific requirements (Section III.C.3) and in Rating Factor 3 in Section V.A.1.

Section III.C.3. says: "Section 3 requirements under 24 CFR Part 135 apply to the ICDBG program but, as stated in §135.3(c), the procedures and requirements of Part 135 apply to the maximum extent consistent with, but not in derogation of, preferences for the benefit of Indians under §7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b))."

In this same section of the NOFA, Indian preference is discussed: "HUD has determined that the ICDBG program is subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C.450e(b)). The provisions and requirements for this section are found at 24 CFR 1003.510."

The NOFA also says that to get the full 14 points in Rating Factor 3, Subfactor 3.1, applicants must state that they will train and/or employ Section 3 residents or contract with Section 3 businesses in accordance with Section II.B.1.c. of this NOFA. This citation is incorrect. It should be in accordance with Section III.C.3.b. of this NOFA.

In summary, to get full points in subfactor 3.1, applicants must include one of two statements. The first is that they will either train /and or employ Section 3 residents or contract with Section 3 businesses. The second is that they will either provide preferences and opportunities for training and employment to Indians or give preference in the award of contracts and subcontracts to Indian organizations and Indian owned businesses.

Q7 For Imminent Threat grants, can the third party independent verification be from a different tribe other than the applicant?

A7 Yes, but the person providing the verification must be qualified to make the assessment and be an independent third party.

Q8 Can economic development feasibility studies be done in-house?

A8 Yes, if the analysis is prepared by a qualified party. The application should say why and how the person is qualified.

Q9 Is there is a certain level of insurance required on ICDBG-rehabilitated homes? Is just fire insurance okay?

A9 To receive full points in Rating Factor 3, subfactor 3.b. applicants for housing projects must describe the maintenance and insurance responsibilities of the applicant and/or participants in detail, as well

as how the maintenance and insurance responsibilities will be enforced and paid for.

Section VI.B. of the NOFA requires all ICDBG grantees to comply with most of the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” in 2 CFR part 200. Section 200.310 of that regulation says “The non-Federal entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the non-Federal entity.” That means if the owner of the property provides all types of insurance on the other properties that it owns it must provide all types of insurance on the units assisted with ICDBG funds.

Neither the ICDBG regulation or the NOFA specify what types of insurance is required. However, if any Indian Housing Block Grant (IHBG) funds are used in the units, the rules of the IHBG program apply and those rules go beyond just fire insurance (see 24 CFR 1000.136 and 138).

Q10 In the 2016 ICDBG webcast the presenters said that the Community Based Development Organization (CBDO) cannot be an instrumentality of the tribe. If a tribe created the housing authority, would this housing authority be considered an agency of the tribe and thereby not an eligible CBDO for the purposes of carrying out ICDBG funded new housing construction?

A10 To be considered a CBDO, the housing authority must meet one of the three definitions of a CBDO in the ICDBG regulation at 24 CFR 1003.204(c). Please note that tribal housing authorities or tribally designated housing entities are not automatically considered CBDOs. If these entities plan to develop new housing under the ICDBG program, they must meet the criteria identified for CBDOs above.

Q11 Are draft or interim tribal resolutions acceptable in situations where a quorum cannot be convened in time? The ICDBG regulations at 1003.4 defines a tribal resolution as “the formal manner in which the tribal government expresses its legislative will in accordance with its

organic documents. In the absence of such organic documents, a written expression adopted pursuant to tribal practices will be acceptable.”

A11 No, draft or interim tribal resolutions are not acceptable.

Q12 Can a tribe apply for both an imminent threat and a regular ICDBG grant in the same year?

A12. Yes.

Q13 Can ICDBG be used as match for other federal programs?

A13 Yes, ICDBG can be used as a match for other federal programs. However, the funds must be used for ICDBG eligible activities. See the ICDBG regulation at 24 CFR 1003.201(g). The link to that regulation can be found on page 2 the NOFA and also here- <http://www.ecfr.gov/cgi-bin/textidx?SID=4257505e81e934a4ad1bd12562a05db4&mc=true&node=pt24.4.1003&rgn=div5>

Q14 Can an applicant use its ICDBG funds to build housing in an urban area where in many cases jobs are more plentiful?

*A14 Yes, if the urban area is in the tribe’s “identified service area”. The ICDBG regulation at 24 CFR 1003.4 defines this term to mean:
 (i) a geographic location within the jurisdiction of a tribe (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other tribal documents as a service area;
 (ii) The Bureau of Indian Affairs (BIA) service area, including residents of areas outside the geographic jurisdiction of the tribe; or
 (iii) The entire area under the jurisdiction of a tribe which has a population of members of under 10,000.”*

Q15 Can an applicant apply for funds for a project that has already received an ICDBG grant? Does the applicant have to wait for several years before another grant could be provided to the project?

A15 Yes, applicants can apply for subsequent ICDBG grants. However, in accordance with Section VI. D.3. of the FY 2016 General Section, HUD will not fund any portion of an application that “(3) Is duplicative of other funded programs or activities from prior year awards or other selected applicants. Only the eligible portions of an application (excluding duplicative portions) may be funded”. The application must clearly demonstrate that the project is not duplicative in order for ICDBG funds to be used.

Q16 Our tribe would like to rehabilitate an existing community center that was built with tribal funds back in the early 1980s. Can we use the land that the community center is on as leveraging in Rating Factor 4?

A16 No. The NOFA says that leveraged resources include but are not limited to many things including “...land needed for the project (which can include land purchased prior to the application deadline date)”. Land purchased some 30 years ago is not needed for this project. The tribe already owns the land and has already built a structure on it.