

## Chapter Comm 108

### COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

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### Subchapter I — General Provisions

#### Comm 108.01 Purpose and authority. (1) PURPOSE.

The purpose of this chapter is to set forth the criteria the department will use to administer the Community Development Block Grant (CDBG) program with funds that the department receives from the federal government under 42 USC 5301 to 5319 and 24 CFR Part 570.

**Note:** Copies of 42 USC 5301 to 5319 and 24 CFR Part 570 are available on request from U. S. Government Printing Office (GPO); phone (202) 512-1530 or (888) 293-6498; fax (202) 512-1262. Copies also may be accessed from the website: <http://www.access.gpo.gov/nara/cfr>.

(2) **AUTHORITY.** This chapter constitutes the process for accepting, evaluating and scoring applications, and awarding of grants for the CDBG program as promulgated under the authority given in ss. 560.04, 560.045 and 560.9809, Stats.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. renum. to be (1) and cr. (2), eff. 12-1-01; CR 01-113: renum to be (1), cr. (2), Register March 2002 No. 555, eff. 4-1-02; **correction in (2) made under s. 13.93 (2m) (b) 7., Stats., Register October 2003 No. 574.**

**Comm 108.02 Eligibility. (1)** Except as provided in sub. (2), any local government may apply for CDBG funds under this chapter.

(2) A local government that fails to comply with any of the administrative, underwriting, recordkeeping, reporting, auditing, closeout, payment, reimbursement or other requirements of this chapter may not apply for or receive CDBG funds from the department under this chapter until such time the noncompliance has been determined to be resolved to the satisfaction of the department.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. am. (2), eff. 12-1-01; CR 01-113: am. (2), Register March 2002 No. 555, eff. 4-1-02.

#### Comm 108.03 Definitions. In this chapter:

(1) "Application" means an application for CDBG funds under this chapter.

(2) "Blight" has the meaning set forth in s. 66.1331 (3) (a), Stats.

**Note:** Section 66.1331 (3) (a), Stats., reads: "Blighted area" means any area, including a slum area, in which a majority of the structures are residential or in which there is a predominance of buildings or improvements, whether residential or nonresidential, and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals or welfare."

(3) "Blight elimination and brownfield redevelopment program" means the blight elimination and brownfield redevelopment program administered under subch. V.

(4) "Blighted property" has the meaning set forth in s. 66.1333 (2m) (bm), Stats. For the purposes of this chapter, the definition of blighted property shall apply to cities, villages, towns and counties.

**Note:** Section 66.1333 (2m) (bm), Stats., reads: "Blighted property" means any property within a city, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provisions for ventilation, light, air or sanitation, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime, and is detrimental to the public health, safety, morals or welfare, or any property which by reason of faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair market value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a city, retards the provisions of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use, or any property which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community."

(5) "Blighted site or brownfield site redevelopment project" means any work or undertaking by a local government to acquire a blighted or brownfield site, to conduct an environmental audit, to engage in environmental remediation, and to raze, demolish, remove, reconstruct, renovate or rehabilitate existing buildings, structures or other improvements to promote use of a blighted or brownfield site by a business or person for purposes that will result in end uses with a taxable value in accordance with an approved blighted or brownfield site redevelopment plan.

(6) "Blighted site or brownfield site" means an abandoned, idle or underused industrial or commercial facility or site in a blighted area, or that qualifies as a blighted property, the expansion or redevelopment of which is adversely affected by actual or perceived environmental pollution.

(7) "CDBG funds" means community development block grant funds awarded to the department by the federal government under 42 USC 5301 to 5319.

(8) "Department" means the department of commerce.

(9) "Economic development program" means the economic development program administered under subch. III.

(10) "Eligible local government" means a local government that is eligible to apply for and receive CDBG funds under s. Comm 108.02.

(11) "Emergency grant program" means the program administered under subch. VI.

(12) "Environmental audit" means an investigation, analysis and monitoring of a brownfield site to determine the existence and extent of actual or potential environmental pollution.

(13) "Environmental pollution" has the meaning set forth in s. 291.01 (4), Stats.

**Note:** Section 291.01 (4), Stats., defines "environmental pollution" to mean "the contamination or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life."

(14) "Environmental remediation activities" has the meaning set forth in s. 560.13 (1) (d), Stats.

**Note:** Section 560.13 (1) (d), Stats., reads: "Environmental remediation activities" means investigation, analysis and monitoring of a brownfields facility or site to determine the existence and extent of actual or potential environmental pollution; abating, removing or containing environmental pollution at a brownfields facility or site; or restoring soil or groundwater at a brownfields facility or site."

(15) "Full-time job" has the meaning set forth in s. 71.07 (2dx) (a) 4., Stats.

**Note:** Section 71.07 (2dx) (a) 4. reads: "Full-time job" means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150% of the federal minimum wage and receives benefits that are not required by federal or state law. "Full-time job" does not include initial training before an employment position begins."

(16) "Full value per capita" means the estimated market value of all taxable property in a municipality divided by the number of persons residing in the municipality.

(17) "Local government" means a city, village or town with a population of less than 50,000 that is not eligible to directly apply for or participate in the federal block grant entitlement program, and any county, other than an urban county as defined in 24 CFR 570.3, that is eligible to apply for and receive CDBG funds from the department under 24 CFR Part 570.

(18) "Median household income" means the median household income in the county where the local government is located, as reported by the latest U.S. census and updated periodically by the U.S. department of commerce.

(19) "Metropolitan area" means a metropolitan statistical area, as established by the federal office of management and budget.

(20) "Municipality" means a local government that is eligible for CDBG funds under s. Comm 108.02.

(21) "Net mill rate" means the total of all property taxes levied by the local government for all purposes less general property tax relief payments divided by the estimated market value of taxable property in the municipality.

(22) "Non-metropolitan area" means any county not within a metropolitan area.

(23) "Person" means an individual, partnership, corporation, nonprofit organization, city, village, town, county, or trustee, including a trustee in bankruptcy.

(24) "Public facilities economic development program" means the public facilities economic development program administered under subch. IV.

(25) "Public facilities plan" means a written plan for proposed project for which an eligible local government may seek funding under subch. VII.

(26) "Public facilities program" means the annual public facilities program administered under subch. II.

(27) "Rapid response" means awards to preserve or enhance the economic conditions and the well being of the citizens of an

area that would be negatively impacted by actual or potential plant closings, business relocation, layoffs, unemployment, and similar activities.

(28) "Residential utility rate" means for areas served by public water and sanitary sewer service, the average annual household utility rate paid for water and sanitary sewer services determined by dividing the total gross annual residential water and sewer revenue collected for the preceding calendar year by the number of households, as reported by the latest U. S. census and updated periodically by the U. S. department of commerce.

(29) "Site redevelopment plan" means a plan adopted by a local government for the acquisition, clearance, reconstruction, rehabilitation and future use of a blighted or brownfield site.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. am. (2) and (4), renum. (5) to be (27) and (6) to (24) to be (5) to (23), (26) (intro.), (a) and (b) to be (26) and am. (5), (6), (11) and (17), r. and recr. (13), (14) and (15), cr. (24) eff. 12-1-01; CR 01-113: am. (2) and (4), renum. (5) to be (27) and (6) to (24) to be (5) to (23), (26) (intro.), (a) and (b) to be (26) and am. (5), (6), (11) and (17), r. and recr. (13), (14) and (15), cr. (24), Register March 2002 No. 555, eff. 4-1-02; **CR 03-046: renum. (23) to (25) to be (24) to (26), (26) to (27) to be (28) to (29), cr. (23) and (27) Register October 2003 No. 574, eff. 11-1-03.**

**Comm 108.04 National objectives.** A project funded with CDBG funds under this chapter shall meet one of the following national objectives:

(1) **BENEFIT TO LOW AND MODERATE INCOME PERSONS.** A project shall be considered to address the national objective of benefiting low and moderate income persons if it meets the criteria in 24 CFR 570.483 (b) (1), (2) or (4).

(2) **URGENT LOCAL NEED.** A project shall be considered to address the national objective of alleviating an urgent local need if a local government certifies and the department determines that all of the following requirements apply:

(a) The project is designed to alleviate existing conditions which pose a serious and immediate threat to the health, safety or welfare of the municipality or is required by an order of a state agency, federal agency or court of law.

(b) The existing conditions are of recent origin or became urgent within 18 months prior to the local government's application.

(c) The local government is unable to finance the activity, as measured by available general obligation debt capacity.

(d) Other sources of funding are not available on a timely basis.

(3) **PREVENTION OR ELIMINATION OF SLUMS OR BLIGHT.** A project shall be considered to address the national objective of preventing or eliminating slums or blight if the project meets the criteria in 24 CFR 570.483 (c).

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. am. (1) and (3), eff. 12-1-01; CR 01-113: am. (1) and (3), Register March 2002 No. 555, eff. 4-1-02.

**Comm 108.05 Application materials.** The department shall prepare application materials which may be updated as needed. The application materials shall set forth the application instructions and requirements for funding under the programs described in this chapter.

**Note:** Application materials are available on request without charge from the department of commerce, division of community development, P.O. Box 7970, Madison, WI 53707; phone (608) 266-8934; fax (608) 266-8969; TTY (608) 264-8777. Application materials may also be accessed from the Commerce webpage: <http://www.commerce.state.wi.us/COM/Com-Community.html>.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. am. eff. 12-1-01; CR 01-113: am. Register March 2002 No. 555, eff. 4-1-02.

**Comm 108.06 Distribution of funds.** (1) For each annual grant of CDBG funds the department receives from the federal government, the department shall establish distribution amounts as specified in Table 108.06-1.

**TABLE 108.06-1  
ANNUAL DISTRIBUTION OF CDBG FUNDS  
BY GRANT PROGRAM**

| Grant Program  | Percent of CDBG Funds Set Aside |
|--|---------------------------------|
| Public facilities program (CDBG-PF)                            | Up to 75%                       |
| Planning grant program (CDBG-PLNG)                             | Up to 10%                       |
| Economic development program (CDGB-ED)                         | Up to 75%                       |
| Public facilities economic development program (CDBG-PFED)     | Up to 20%                       |
| Blight elimination and brownfield redevelopment program (BEBR) | Up to 10%                       |
| Emergency grant program (CDBG-EMER)                            | Up to 5%                        |

(2) The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the programs.

(3) Program income received by the department under ss. Comm 108.16 and 108.20 shall be allocated for awards under the public facilities program, the public facilities economic development program, the economic development program, the blight elimination and brownfield redevelopment program, and the emergency grant program.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. am. (1), cr. Table 108.06-1, eff. 12-1-01; CR 01-113: am. (1), cr. Table 108.06-1, Register March 2002 No. 555, eff. 4-1-02; CR 03-046: am. Table Register October 2003 No. 574, eff. 11-1-03.

**Comm 108.07 Limits upon awards. (1)** The maximum amount of CDBG funds that may be awarded to any local government under the public facilities program as specified under subch. II shall be \$750,000 in a 12-month period.

(2) (a) The maximum amount of CDBG funds that may be awarded to any local government under the economic development program as specified under subch. III shall be \$1 million per annual federal allocation.

(b) The maximum amount of CDBG funds that may be borrowed by a person from any one or more local governments under the economic development program shall be \$1 million during any 5-year rolling period.

(c) Awards made that meet the department's rapid response criteria as defined in s. Comm 108.03 (27) do not count against the maximum amounts specified in pars. (a) and (b).

(3) The maximum amount of CDBG funds that may be awarded to any local government under the public facilities economic development program as specified under subch. IV shall be \$750,000 per calendar year.

(4) The maximum amount of CDBG funds that may be awarded to any local government for a blighted or brownfield site redevelopment project as specified under subch. V shall be \$100,000 in a 12-month period for environmental audits and \$500,000 per 12-month period for environmental remediation or blight removal activities. The maximum amount of CDBG funds that may be awarded to any local government for a blight elimination or brownfield site redevelopment plan is \$12,500 in a 12-month period.

(5) The maximum amount of CDBG funds that may be awarded to any local government for a natural disaster or cata-

strophic event as specified under subch. VI shall be \$500,000 per event.

(6) (a) The maximum amount of CDBG funds that may be awarded to any local government for a planning grant as specified under subch. VI shall be \$25,000 per annual federal allocation.

(b) Awards made that meet the department's rapid response criteria as defined in s. Comm 108.03 (27) do not count against the maximum amounts specified in par. (a).

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. am. (1) to (5), cr. (6), eff. 12-1-01; CR 01-113: am. (1) to (5), cr. (6), Register March 2002 No. 555, eff. 4-1-02; CR 03-046: am. (2) and (6) Register October 2003 No. 574, eff. 11-1-03.

**Comm 108.08 Construction.** This chapter shall be liberally construed to effect the national objectives set forth in s. Comm 108.04 and 24 CFR 570.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. am., eff. 12-1-01; CR 01-113: am. Register March 2002 No. 555, eff. 4-1-02.

**Subchapter II — Public Facilities Program**

**Comm 108.09 Public facilities program. (1) GENERAL.** (a) 1. The department may award a grant to an eligible local government for a public facilities project based upon the department's evaluation of all applications received from eligible local governments. The department's evaluation shall be established based upon the scoring system set forth in ss. Comm 108.10 to 108.13 and this section.

2. Other considerations that the department may use in this evaluation include, but are not limited to, the ability of the community to borrow funds, project readiness, overall CDBG funds the local government has received in the past, and the previous and current efforts by the local government to address the identified need.

3. A public facilities project may include one specific project or a number of projects that are demonstrated to be related.

(b) 1. Except as specified in s. Comm 108.12 (3), the minimum amount of points an applicant shall score to be eligible for funding under ss. Comm 108.10 to 108.13 shall be no less than 225 of the 300 available points.

2. The attainment of the minimum amount of points shall not be construed as an assurance of receiving funding under this section.

(2) **ELIGIBILITY.** A local government may not receive funding for more than one application for a public facilities project in any 12-month period.

(3) **MINIMUM FINANCIAL PARTICIPATION OR LOCAL MATCH.** (a) Except as specified in par. (c), the funding for every project proposed by a local government shall include financial participation by that local government or participating local governments of at least 10% of the total project cost.

(b) Local financial participation shall originate from local revenues but not from other grants provided by the federal or state government.

(c) The minimum local financial participation as specified in par. (a) may be waived when the specific project has a particular urgency because existing conditions pose a serious and immediate threat to the safety, health or welfare of the community, where other financial resources are not available to meet such needs or when the specific project is located in a distressed area.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. renum. Comm 108.09 to be (1) and (2) and am., cr. (3), eff. 12-1-01; CR 01-113: renum. Comm 108.09 to be (1) and (2) and am., cr. (3), Register March 2002 No. 555, eff. 4-1-02.

**Comm 108.10 Distress indicators.** The department shall award up to 75 points to a local government based upon the department's evaluation of the documented level of distress, as measured by the net mill rate, the full value per capita, and the median household income in the area positively affected by the

public facility project. The department shall award points as follows:

(1) **NET MILL RATE.** Scores shall range from 25 points for a local government with the highest net mill rate to 0 points for a local government with the lowest mill rate.

(2) **FULL VALUE PER CAPITA.** Scores shall range from 25 points for a local government with the lowest full value per capita to 0 points for a local government with the highest full value per capita.

(3) **MEDIAN HOUSEHOLD INCOME.** Scores shall range from 25 points for a local government with the lowest median household income to 0 points for a local government with the highest median household income.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**Comm 108.11 Needs assessment.** The department shall award up to 100 points to a local government based upon the department's evaluation of the local government's documented need for the public facilities project. The department shall award points as follows:

(1) **SIGNIFICANT IMPACT PROJECT.** A local government shall be eligible for at least 67 points but not more than 100 points if the local government demonstrates that the public facilities project is needed to alleviate a significant existing problem. A significant existing problem may include urgent health and safety problems or other activities essential to the local government, residents or businesses in the community.

(2) **MODERATE IMPACT PROJECT.** A local government that does not qualify under sub. (1) or (3) shall be eligible for at least 34 points but not more than 66 points if the local government demonstrates that the public facilities project is needed to alleviate a moderately serious problem with a high probability of occurrence.

(3) **LOW IMPACT PROJECT.** A local government that does not qualify under sub. (1) or (2) shall be eligible for at least one point but not more than 33 points if the local government demonstrates that the public facilities project is needed to alleviate a less serious problem or a problem with a low probability of occurrence.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. am., eff. 12-1-01; CR 01-113: am. Register March 2002 No. 555, eff. 4-1-02.

**Comm 108.12 Utility rates.** (1) The department shall award up to 25 points to an eligible local government based upon the department's evaluation of the local government's ability to pay for the public facilities project, as measured by the local residential utility rates.

(2) Scores under sub. (1) shall range from a maximum of 25 points for an eligible local government with high residential utility rates to 0 points for a local government with low residential utility rates. The department may base this determination on the statewide average utility rate of the applications received in the previous 12-month period.

(3) For an eligible local government without a utility rate, the maximum available points shall be as specified under s. Comm 108.09 (1) (b) less 25 points.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. r. and recr., eff. 12-1-01; CR 01-113: r. and recr. Register March 2002 No. 555, eff. 4-1-02.

**Comm 108.13 Leveraging.** The department shall award up to 100 points to a local government based upon the department's evaluation of the local government's leveraging of CDBG funds with funds from other public or private sources. To qualify for points under this section, a local government shall document the availability of firm commitments for the balance of project funding from creditworthy sources to ensure timely completion of the project.

(1) **GENERAL.** Except as specified in sub. (2), scores shall range from 100 points for a local government that proposes to leverage 1.5 or more dollars of non-CDBG funds for each dollar of CDBG funds to 0 points for a local government that proposes to fund a project solely with CDBG funds.

(2) **DISTRESS COMMUNITIES.** A local government that receives at least 67 points under sub. (1) shall be eligible for up to 33 additional points if the local government's median household income is below the statewide median household income. Scores shall range from one point for a local government with a median household income that is 1 % below the statewide median household income to 33 points for a local government with a median household income that is 50% or more below the statewide median household income.

(3) **MAXIMUM SCORE.** The maximum score available under subs. (1) and (2) shall be 100 points.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. am. (intro.), (1) and (2), cr. (3), eff. 12-1-01; CR 01-113: am. (intro.), (1) and (2), cr. (3), Register March 2002 No. 555, eff. 4-1-02.

### Subchapter III — Economic Development Program

#### Comm 108.14 Economic development program.

(1) The department may award a grant to an eligible local government under the economic development program upon receipt and consideration of an application if the department determines all of the following:

- (a) The project serves a public purpose.
- (b) The local government has a citizen participation plan as required by 24 CFR 570.486 (a).
- (c) The project costs are reasonable.
- (d) All sources of project financing will be committed prior to the disbursement of the grant.
- (e) The project is financially feasible.
- (f) The person that will benefit from the economic development award has the economic ability to repay any funds that are loaned to the person.
- (g) The project will likely retain or create jobs in this state.
- (h) Funding for the project is unavailable from any other source on reasonably equivalent terms.
- (i) Persons that will benefit from the economic development award will contribute at least 50% of the total cost of the project from funding sources other than the federal government.
- (j) The local government will use the CDBG funds for one of the following purposes:

1. For a grant or loan to a person that agrees to engage in job creation or retention activities under 24 CFR 570.483 (b) (4) designed to benefit low and moderate income persons.
2. For job training, job placement, child care, transportation or other similar services eligible under 24 CFR 570.483 (b) (2) (v) designed to benefit low and moderate income persons.
3. For other activities eligible under 24 CFR Part 570.

(2) When making a determination under sub. (1) (a), the department shall consider all of the following:

- (a) The extent of poverty and unemployment and other economic factors in the area of the project.
- (b) The prospects for new investment and economic development in the area.
- (c) The amount of investment that is likely to result from the project.
- (d) The number of full-time jobs that are likely to be created or retained.
- (e) The total cost per full-time job created or retained.
- (f) The amount of wages and benefits to be provided by the business.
- (g) The willingness of the person to work cooperatively with the department of workforce development, local job service offices and private industry councils to identify and offer full-time job opportunities to low to moderate income persons.
- (h) The availability of satisfactory collateral and personal guarantees to assure repayment of the economic development loan.

(i) Whether the award will provide the person with an unreasonable competitive advantage over other similar Wisconsin persons in the vicinity of the project.

(j) Whether the project will involve the relocation of a person and displacement of jobs from one local government in Wisconsin to another local government in Wisconsin.

(k) Whether the project will involve redevelopment of a brownfield site.

(L) Whether the project will result in the elimination of slum and blight.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; CR 03-046: am. (1) (f), (i), (j), (2) (g), (i), (j) and (L) Register October 2003 No. 574, eff. 11-1-03.

**Comm 108.15 Job creation and retention requirements.** (1) If a local government awards the CDBG funds to a person under s. Comm 108.14 (1) (j) 1., the person shall execute an agreement and other documents prescribed by the department, committing to create full-time equivalent jobs or retain full-time equivalent jobs, or both.

(2) In accordance with 24 CFR Part 570.482 (f) (2), the aggregate amount of CDBG funds awarded by the department to local governments for economic development projects may not exceed \$35,000 for each full-time equivalent job created or retained. In accordance with 24 CFR Part 570.482 (f) (4), the amount awarded to any person shall not exceed \$50,000 for each full-time equivalent job created or retained and depend upon the department's consideration of the factors in s. Comm 108.14 (2).

(3) The department may require a person that receives an award under this subchapter to document full-time equivalent job creation and retention with a list of full-time jobs or positions created and retained, the job title for each full-time equivalent job created and retained, job skills, wages and benefits, and any other information the department considers relevant.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; CR 03-046: am. Register October 2003 No. 574, eff. 11-1-03.

**Comm 108.16 Local revolving loan funds.** (1) An eligible local government that is awarded CDBG funds under this subchapter may retain program income from all grants awarded, subject to subs. (2), (3) and (4), to establish and capitalize a local revolving loan fund to promote further economic development. A local government that establishes a local revolving loan fund under this section shall administer and use the fund in accordance with all of the requirements established by the federal government and the department.

(2) (a) Subject to pars. (b) to (f) and subs. (3) and (4), the cumulative program income retained by a local government may not exceed:

1. \$100,000 for a local government with a population of 1,000 or less.
2. \$150,000 for a local government with a population of more than 1,000 but less than 2,000.
3. \$250,000 for a local government with a population of 2,000 or more but less than 4,000.
4. \$500,000 for a local government with a population of 4,000 or more but less than 10,000.
5. \$750,000 for a local government with a population of 10,000 or more.

(b) As an alternative to the cumulative program income limits in par. (a), a local government may elect to retain program income from grants received prior to January 1, 1987, in excess of the limits in par. (a). A local government shall make the election on a form prescribed by the department. Any local government that makes the election under this paragraph may not retain program income generated after May 1, 1996, from grants received on or after January 1, 1987 except as provided in sub. (3).

**Note:** The form required under this paragraph may be obtained at no charge from the Department's Bureau of Business Finance, P. O. Box 7970, Madison, WI 53707.

(c) All program income received by a local government in excess of the limits in par. (a) or (b), if the local government makes the election under par. (b), shall be paid to the department within 30 days of receipt. The department shall allocate such program income as provided in s. Comm 108.06 (3).

(d) A local government that will generate program income in excess of the amounts allowed in par. (a) or (b), if the local government makes the election under par. (b), shall not be eligible to retain the excess program income except as provided in sub. (3).

(e) All program income shall be used by a local government in accordance with 24 CFR Part 570 and the local government's contract with the department.

(f) Notwithstanding pars. (a) and (b), the department may require a local government to return all program income to the department if the department determines, after notice and an opportunity for the local government to be heard, that any of the following has occurred:

1. The local government has failed to use the funds in accordance with the requirements established by the federal government or the department.
2. The local government has failed to comply with the administrative, underwriting, recordkeeping, reporting, auditing, closeout, payment, reimbursement or other requirements established by the federal government or the department.
3. The local government has failed to make any economic development loans with the revolving loan fund for a period of 2 consecutive years and, after receiving a notice from the department, fails to make any economic development loans for a period of 6 months.
4. The local government has discontinued its economic development program following the close out of its most recent contract with the department.

(3) (a) Any local government that desires to retain program income in excess of the limits established under sub. (2) (a) or (b) shall submit an application to the department setting forth the information as may be required by the department to justify the retention of 50% of the program income in excess of the limits.

**Note:** The form required under this paragraph may be obtained at no charge from the Department's Bureau of Business Finance, P. O. Box 7970, Madison, WI 53707.

(b) When evaluating applications under par. (a), the department shall consider the following factors:

1. Whether the local government has complied with the administrative, underwriting, recordkeeping, reporting, auditing, closeout, payment, reimbursement or other requirements established by the federal government or the department.
2. The total number and amount of loans made by the local government using program income in the revolving loan fund.
3. The default rate on loans made by the local government using program income in the revolving loan fund.
4. The demonstrated need for an increase above the local government's program income limit.

(c) Any increase above a local government's original program income limit shall be made in increments equal to 25% of the limit established under sub. (2) (a) or (b).

(d) Local governments authorized by the department to retain excess program income may keep 50% of the excess program income received, subject to the program income limits in par. (c). The balance of such program income shall be paid to the department within 30 days of receipt.

(4) Any local government that establishes a revolving loan fund under this subchapter shall report semiannually to the department on the use of such a fund on forms and at such times as prescribed by the department.

**Note:** The form required under this subsection may be obtained at no charge from the department's Bureau of Business Finance, P. O. Box 7970, Madison, WI 53707.  
**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**Subchapter IV — Public Facilities Economic Development Program**

**Comm 108.17 Public facilities economic development program.** (1) The department may award a grant to an eligible local government under the public facilities economic development program upon receipt and consideration of an application if the department determines all of the following:

- (a) The project serves a public purpose.
- (b) The local government has a citizen participation plan as required under 24 CFR 570.486(a).
- (c) The project costs are reasonable.
- (d) All sources of project financing will be committed prior to the disbursement of the grant.
- (e) The project is financially feasible.
- (f) The project will likely retain or create jobs in this state.
- (g) The local government will use the CDBG funds for one of the following purposes:

- 1. For a public facilities project or other public infrastructure improvements to facilitate a business's efforts to engage in job creation or retention activities under 24 CFR 570.483 (b) (4) designed to benefit low and moderate income persons.
- 2. For other activities under 24 CFR Part 570 that meet the national objective of benefit to low and moderate income persons through job creation.
- 3. For activities under 24 CFR 570.483 (c) that meet the national objective of preventing or eliminating slums or blight.
- (h) The local government will contribute at least 25% of the total cost of the project from funding sources other than grants from the federal and state government.

(2) When making a determination under sub. (1), the department shall consider all of the following:

- (a) The extent of poverty and unemployment and other economic factors in the area of the project.
- (b) The prospects for new investment and economic development in the area.
- (c) The amount of investment that is likely to result from the project.
- (d) The number of full-time jobs that are likely to be created or retained.
- (e) The total cost per full-time job created or retained.
- (f) The amount of wages and benefits to be provided by the business that will create or retain the full-time jobs.
- (g) The willingness of the business to work cooperatively with the department of workforce development, local job service offices and private industry councils to identify and offer full-time job opportunities to low to moderate income persons.
- (h) Whether the award will provide the business with an unreasonable competitive advantage over other similar Wisconsin businesses in the vicinity of the project.
- (i) Whether the project will involve the relocation of a business and displacement of jobs from one municipality in Wisconsin to another municipality in Wisconsin.
- (j) Whether the project will result in redevelopment of a brownfield site.
- (k) Whether the project will result in the elimination of slum or blight.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**Comm 108.18 Job creation and retention requirements.** (1) A business that will benefit from a public facilities economic development project shall execute a development

agreement and other documents prescribed by the department, committing to the creation and retention of full-time jobs.

(2) The amount of CDBG funds awarded by the department for a public facilities economic development project under this subchapter may not exceed \$10,000 for each full-time job created and retained by the business. The amount awarded by the department shall depend upon the department's consideration of the factors set forth in s. Comm 108.17 (2).

(3) The department may require businesses that benefit from grants under this subchapter to document full-time job creation and retention with a list of full-time jobs or positions created and retained, the job title for each full-time job created and retained, job skills, wages and benefits, and any other information the department considers relevant.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**Subchapter V — Blight Elimination and Brownfield Site Redevelopment Program**

**Comm 108.19 Blight elimination and brownfield site redevelopment program.** (1) The department may make a grant to an eligible local government for a blighted or brownfield site redevelopment project if the department determines all of the following conditions are met:

- (a) The project serves a public purpose.
- (b) The local government has a citizen participation plan as required under 24 CFR 570.486(a).
- (c) The local government has adopted a blighted or brownfield [site] redevelopment plan relating to the specific site.
- (d) The project costs are reasonable.
- (e) All sources of project financing will be committed prior to the disbursement of the grant.
- (f) The project will likely result in redevelopment of a blighted or brownfield site for commercial or industrial use or other use or uses which will result in the site having a taxable value.
- (g) The project will likely retain or create jobs in this state.
- (h) The local government will contribute at least 25% of the total cost of the project from funding sources other than grants from the federal or state government.

(2) When making a determination under sub. (1), the department shall consider all of the following:

- (a) Whether the project is intended to address the national objective of preventing or eliminating slums or blight set forth in 24 CFR 570.483 (c) and s. Comm 108.04 (3).
- (b) The extent of poverty and unemployment and other economic factors in the area of the project.
- (c) The prospects for new investment and economic development in the area.
- (d) The amount of investment that is likely to result from the project.
- (e) The likelihood that the project will result in the creation or retention of full-time jobs in the area.
- (f) The amount of estimated tax base to be created at project completion.
- (g) The likelihood that the proposed activity will commence shortly after receipt of the grant.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. am. (1) (intro.), (c) and (f), r. and recr. (2) (f) and (g), eff. 12-1-01; CR 01-113: am. (1) (intro.), (c) and (f), r. and recr. (2) (f) and (g), Register March 2002 No. 555, eff. 4-1-02.

**Comm 108.20 Blight elimination and brownfield site redevelopment project requirements and limits.** (1) A local government receiving CDBG funds from the department under this subchapter may use such funds for an environmental audit or environmental remediation, or may loan or grant the CDBG funds to a business or nonprofit corporation to conduct an environmental audit or environmental remediation.

(2) The department may require a local government and any business or nonprofit entity that receives CDBG funds under this subchapter to execute a blight elimination and brownfield redevelopment agreement and other documents prescribed by the department, committing to the redevelopment of a blighted or brownfield site.

(3) The department may require a local government to pursue recovery of environmental remediation costs from responsible parties and to reimburse the department for a proportionate share of the CDBG funds granted by the department under this subchapter.

(4) The amount of CDBG funds awarded to a local government for an environmental audit of a blighted or brownfield site may not exceed \$100,000 in a 12-month period. The amount of CDBG funds awarded to a local government for environmental remediation of a blighted or brownfield site may not exceed \$500,000 in a 12-month period.

(5) All program income received by a local government in connection with loans to businesses or nonprofit corporations under this subchapter shall be paid to the department within thirty days of receipt.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. am. (2) and (4), eff. 12-1-01; CR 01-113: am. (2) and (4), Register March 2002 No. 555, eff. 4-1-02.

**Subchapter VI — Emergency Grants**

**Comm 108.21 Eligibility.** (1) The department may award a grant to an eligible local government under this subchapter upon receipt and consideration of an application if the department determines all of the following:

- (a) The municipality has suffered a natural disaster or other catastrophic event.
- (b) The project is designed to alleviate existing conditions which pose a serious and immediate threat to the health, safety or welfare of the municipality.
- (c) The local government will use the grant to pay for public infrastructure repairs or replacements that are otherwise eligible for CDBG funds under subch. II, or emergency services necessitated by the natural disaster or other catastrophic event.
- (d) The local government lacks the financial capability to pay for the infrastructure repairs or replacements.
- (e) The local government is unable to await funding through a grant awarded under subch. II.
- (f) The local government will contribute at least 25% of the total cost of the project from other funding sources.

(2) In making a determination under sub. (1) (d), the department shall consider all of the following:

- (a) The local government's general obligation debt borrowing capacity.
- (b) The availability of funding from other federal and state government sources.
- (c) The availability of insurance.
- (d) Any other factors the department considers relevant.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; emerg. am. (1) (f), eff. 11-1-97; am. (1) (f), Register, April, 1998, No. 508, eff. 5-1-98.

**Comm 108.22 Funding.** (1) The maximum amount of CDBG funds that may be awarded to any local government under this subchapter shall be \$500,000 for each natural disaster or catastrophic event.

(2) Where a catastrophic event is caused by human activity and the local government recovers funds to repair the damage from a responsible person or another party, then the local government shall pay the department a proportionate share of the total amount recovered.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**Comm 108.23 Applications.** (1) A local government interested in applying for an emergency grant under this subchapter shall provide the department with written notice of intent to apply within 90 days of the natural disaster or catastrophic event.

(2) An application for emergency assistance under this subchapter shall include the following:

- (a) Documentation of a state or federal disaster declaration or a description of the natural disaster or catastrophic event.
- (b) A description of the resulting damage or destruction.
- (c) A description of the activities that will be funded with the emergency grant.
- (d) A budget.
- (e) Evidence that the local government has matching funds to cover at least 25% of the total cost of the project.
- (f) A discussion of alternative remedies available to the local government.
- (g) Any other information that the department considers relevant.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**Subchapter VII – Planning Grants.**

**Comm 108.24 Planning grant program.** (1) **GENERAL.** (a) The department may make a grant to an eligible local government for preparing a plan for a specific project.

(b) An eligible local government may submit an application for a planning grant to the department at any time.

(c) Grant award limits are as specified in s. Comm 108.07 (6).

(2) **APPLICATION.** An application for a planning grant under this section shall contain sufficient information to identify how all of the following requirements are satisfied:

- (a) The local government has identified a specific project that needs further planning.
- (b) The specific project will serve a public purpose.
- (c) The specific project is an eligible CDBG activity.
- (d) The local government has a citizen participation plan as required under 24 CFR 570.486 (a).
- (e) The specific planning cost estimates are reasonable.
- (f) At least 25% of the total cost of the planning shall originate from sources other than grants provided by the federal or state government. Awards made that meet the department's rapid response criteria as defined in s. Comm 108.03 (27) do not count against the maximum percentage amount.

(g) The planning for the specific project has the support of local community and economic development organizations or business groups.

(h) The local government has the capacity and capability to conduct the planning or commits to the retention of professional planning services.

(i) The planning will likely result in the implementation of the specific project being planned.

(j) The local government certifies that the planning grant is not a commitment of CDBG funding at a later date for plan implementation.

(k) The application shall include, where applicable, at least the following:

- 1. An analysis of the current status and any deficiencies in public facilities, services, buildings or a defined geographic area.
- 2. An analysis of alternative means of correcting such deficiencies described in subd. 1.
- 3. A written plan for the selection of a proposed course of action, a narrative description, cost estimates and map of the project location or defined geographic area.

**(3) OTHER CONSIDERATIONS.** When reviewing the applications received under sub. (2), the department shall consider all of the following:

- (a) Whether the specific project plan is intended to address one of the 3 national objectives as specified in s. Comm 108.04.
- (b) The extent of poverty, unemployment, labor shortages or other economic factors in the specific project area.
- (c) The prospects for other new investment and community and economic development in the specific project area.
- (d) The amount of additional investment and public health and

safety that is likely to result from the plan implementation.

(e) The likelihood that the specific project will result in the preservation or expansion of the existing tax base.

(f) The planning for the specific project is consistent with other planned or recently completed community or economic development projects such as, but not limited to, smart growth planning as specified in s. 16.965 (1) (b), Stats.

**History:** Emerg. cr., eff. 12-1-01; CR 01-113; cr. Register March 2002 No. 555, eff. 4-1-02; **CR 03-046: am. (1), (2) (d) and (f) Register October 2003 No. 574, eff. 11-1-03.**