

KENTUCKY SECTION 108 LOAN GUARANTEE PROGRAM

2022 PROGRAM GUIDELINES



Department for Local Government
Office of Federal Grants
Dennis Keene, Commissioner
www.dlg.ky.gov

TEAM
KENTUCKY™

The Department for Local Government (DLG) does not discriminate on the basis of race, color, national origin, sex, age, religion, sexual orientation, gender identity or disability and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford an individual with a disability an equal opportunity to participate in all services, programs and activities.

**Department for Local Government
Office of Federal Grants
Commonwealth of Kentucky**

Kentucky Section 108 Loan Guarantee Program
Table of Contents

I.	PROGRAM PURPOSE	1
II.	NATIONAL OBJECTIVES	2
III.	GENERAL INFORMATION FOR APPLICANTS		
	A.	Eligible Applicants	3
	B.	Eligible Activities	3
	C.	Maximum Section 108 Loan Guarantee Amount.....	4
	D.	Submittal of Applications	4
	E.	Citizen Participation	5
	F.	eClearinghouse Review	5
	G.	Site Visits/Consultations	5
	H.	Procurement – Open Competition.....	5
IV.	APPLICATION PROCESS		
	A.	Request to Submit an Application	7
	B.	Initial Screening	7
	C.	Application Contents	8
V.	PROJECT PRIORITIES AND SELECTION CRITERIA		
	A.	Priorities	10
	B.	Review Criteria	11
VI.	LOAN COMMITMENTS		
	A.	Loan Agreement	12
	B.	Repayment	12
	C.	Reserve Clause	13
	D.	Repayment Review	13
VII.	SANCTIONS		
	A.	Repayment/Default	14
	B.	Performance Deficiencies	14
APPENDICES			
A.	MEETING A NATIONAL OBJECTIVE		
		Activities Which Benefit Low and Moderate Income Persons	16
		Activities Which Aid in the Prevention or Elimination of Slums or Blight.....	19
		Activities Designed to Meet Community Development Needs Having a Particular Urgency	19

Kentucky Section 108 Loan Guarantee Program
Section 108
Table of Contents

B.	ELIGIBLE ACTIVITIES		
	Subpart M Loan Guarantees	21
C.	CITIZEN PARTICIPATION	24

SECTION I

PROGRAM PURPOSE

The Kentucky Department for Local Government (DLG) is the state agency designated to administer Section 108 loan guarantees, a program of the U.S. Department of Housing and Urban Development (HUD).

The Commonwealth of Kentucky receives an annual federal allocation of funds under the Community Development Block Grant (CDBG) Program. In accordance with the federal regulations found in 24 CFR 570.710, Subpart M, a state may develop procedures and requirements to assist federal non-entitlement cities and counties to apply for assistance from the HUD Section 108 Loan Guarantee Program. The Section 108 loan program provides an additional source of funds to address significant economic development and community projects which have a regional or statewide impact.

Projects funded with Section 108 guaranteed loan funds must comply with all federal requirements that apply to the CDBG Program (i.e. National Environmental Policies Act, Federal Labor Standards Act including Davis Bacon, Uniform Relocation Assistance and Real Property Acquisition Act, 2 CFR Part 200 Single Audit and the Civil Rights Act).

NOTE: These guidelines are not applicable to federal entitlement communities that receive CDBG funds directly from HUD. These communities will apply directly to HUD for Section 108 loan funds.

SECTION II

NATIONAL OBJECTIVES

Each activity funded under the HUD Section 108 Loan Guarantee Program must meet at least one of the three National Objectives identified in Title I of the Housing and Community Development Act of 1974 as amended in 1983, 1987 and 1992, hereafter referred to as the Act, Section 104(b) (3), and regulations contained in the 24 Code of Federal Regulations (CFR) Section 570.483. The three objectives are:

1. Benefit to low and moderate income persons;
2. Prevention or elimination of slums or blight; and
3. Meeting community development needs having a particular urgency.

The applicant is responsible for selecting and documenting how each activity addresses a National Objective. The Act identifies as a primary objective the "... development of viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities, principally for persons of low and moderate income..." The Commonwealth is required to assure that not less than 70% of the aggregate of the federal assistance received by the State as CDBG grant funds and Section 108 guaranteed loan funds shall be used for the support of activities that benefit persons of low and moderate income.

Explanations of the objectives and required documentation are set forth in Appendix A.

SECTION III

GENERAL INFORMATION FOR APPLICANTS

A. **Eligible Applicants**

All cities and counties in Kentucky are eligible for participation in the Kentucky Section 108 loan program with the exception of the following federal entitlement jurisdictions: Ashland, Bowling Green, Covington, Elizabethtown, Henderson, Hopkinsville, Owensboro, Lexington/Fayette Urban County government and Louisville/Jefferson County metro government. These communities must apply directly to HUD for Section 108 loan funds. The Commonwealth does reserve the right to fund a project in an entitlement area of the state only if it can be proven that it accrues direct benefit to a federal non-entitlement area.

DLG will exercise the authority provided in 24 CFR § 570.702 to apply to HUD for Section 108 loan guarantee funds on behalf of non-entitlement jurisdictions.

Local governments may submit individual or multi-jurisdictional applications to DLG. A city or county should submit an individual application when the proposed activity(ies) benefit(s) or alleviate(s) a problem within its community. Cities and/or counties which share a regional project requiring participation from multiple jurisdictions and deriving a mutual benefit may submit a multi-jurisdictional application. A lead applicant must be named for the multi-jurisdictional application. Applicants wishing to submit a multi-jurisdictional application must receive prior permission from DLG.

B. **Eligible Activities**

A detailed explanation of eligible activities is set forth in 24 CFR § 570.703 and is attached in Appendix B. In addition to being an eligible activity for Section 108 funds, the project must also meet one of the three National Objectives (Section II).

C. **Maximum Section 108 Loan Guarantee Amount**

HUD's Section 108 Loan Guarantee Program allows a state to leverage up to five times its annual CDBG allocation to finance large-scale development projects. Kentucky's *estimated* CDBG allocation is \$27,441,044 for 2022.

D. **Submittal of Applications**

Interested non-entitlement communities must submit a written initial request detailing the information listed in Section IV.A. of the Guidelines. Upon review and approval of the initial request to apply for Section 108 loan funds, DLG will accept an application from the eligible applicant and determine if the application meets program eligibility, all program requirements and state priorities. DLG will submit each priority application on behalf of the eligible applicant to HUD for final approval.

1. **Invitation to Apply**

An interested local government must receive a written invitation from DLG to submit an application.

2. **Application Dates**

Applications may be submitted at any time during the program year.

3. **Application Format**

Applications must be in a well organized format addressing all the requirements established in 24 CFR § 570.704 and summarized in Section IV. C. of these Guidelines. No standard application form is required. Applications must be submitted to Executive Director, Office of Federal Grants, Department for Local Government at 100 Airport Road 3rd Floor, Frankfort, KY 40601.

4. **Resolution**

The governing body of the applicant that proposes to apply for a Section 108 loan guarantee must approve the application and authorize its

submission to DLG by resolution. The governing body must authorize the chief elected official to sign the application, enter into contracts and agreements, and provide the assurances required for the use of a Section 108 loan.

5. **Contact DLG for Additional Information**

For additional information, applicants may contact Executive Director, Office of Federal Grants, Department for Local Government at 100 Airport Road 3rd Floor, Frankfort, KY 40601. Phone number: (502)892-3449.

E. **Citizen Participation**

Each applicant must meet citizen participation requirements at the time that an application is submitted. The Community Development Act requires units of local government to provide reasonable opportunities for citizen participation, hearings and access to information with respect to local community development programs. See Appendix C for further direction.

F. **eClearinghouse Review**

An eClearinghouse review of potential Section 108 projects must be completed as a part of the application process through the State Clearinghouse. Instructions can be found on the DLG web page (www.dlg.ky.gov). The submittal must be done electronically.

G. **Site Visits/Consultations**

DLG reserves the right to make site visits to the proposed project site and/or request the applicant to meet with staff to discuss the project and the application.

H. **Procurement – Open Competition**

KCDBG procurement must be conducted in a manner that ensures full and open completion consistent with the standards set forth in 2 CFR Part 200 and the KCDBG Procurement Code. Companies or individuals providing detailed cost estimates or assisting with the development of procurement documents must be excluded from bidding on proposals as they may have gained an unfair

competitive advantage. Please be aware, other actions that might restrict competition would include:

- Placing unreasonable requirements on firms in order for them to qualify to do business.
- Requiring unnecessary experience.

SECTION IV
APPLICATION PROCESS

A. Request to Submit An Application

Eligible applicants must submit a letter to DLG's Executive Director of the Office of Federal Grants from the chief executive official requesting an invitation to submit an application. The letter must include a description of the proposed project activities to be undertaken, the National Objective to be met, activities to be financed with specific eligibility citation provided, the public benefit to be derived from the proposed activities, projected time table, total project cost, sources of all funds, and any other pertinent information or documentation to support the request.

Applicants are encouraged to arrange a meeting with DLG staff to discuss their potential project and the need for Section 108 loan funds. Applicants should carefully review the Section 108 program guidelines before submitting a request.

B. Initial Screening

DLG staff will review each letter of request submitted for probable compliance with the federal requirements and state priorities for a Section 108 loan guarantee. In particular, the following criteria will be used to evaluate each request:

1. Eligibility of proposed activities in need of Section 108 loan funds. Each proposed activity must be specifically listed as an eligible activity in 24 CFR § 570.703.
2. Compliance with the use of CDBG funds for eligible activities under 24 CFR § 570.201 through § 570.204.
3. Meeting the criteria for a National Objective under 24 CFR § 570.208.
4. Compliance with the public benefit requirements found in 24 CFR § 570.209.

5. Review of the need for a Section 108 loan, previous efforts made to obtain financing, and inability to secure sufficient financing for the activities without the use of the loan guarantee.

DLG staff will advise the applicant in writing that it will either accept an application for a Section 108 loan or reject the request. DLG may recommend that the amount of the loan request be decreased or that other changes be made.

C. **Application Contents**

The application will contain the following elements and documentation:

1. A complete original of the application must be submitted.
2. A project narrative providing the proposed project location, a project description, time schedule, and other pertinent information to fully describe the use of Section 108 loan funds.
3. A narrative describing how the proposed uses of Section 108 loan funds are in compliance with the local community's development objectives.
4. A statement on the eligibility of the proposed activities to be financed with Section 108 loan funds in accordance with the federal CDBG regulations. Applicants must include the specific provision of 24 CFR § 570.703 (Appendix B) under which each activity is eligible.
5. Statements on: the public benefit standard to be applied; potential benefit to low and moderate income persons; conformance with the community's or region's comprehensive plan(s); the financial feasibility of the proposed project; the "but-for" rationale; and leveraging of Section 108 loan funds with other public and private funds.
6. A signed original of the resolution of the governing body approving the application and authorizing the submittal.
7. Evidence of compliance with citizen participation requirements per 24 CFR § 570.704(a)(iii) and § 704(a)(iv). (See Appendix C)

8. Amount of Section 108 guaranteed loan funds expected to be used for the project.
9. A proposed repayment schedule with the term of the loan, loan amount, anticipated interest rate and annual payment amount. The repayment schedule should also include a narrative on the sources of repayment. If the source of repayment is from net income from the project or the proposed development entity, a pro-forma should be prepared for the length of the term of the Section 108 loan.
10. A narrative indicating which activities are expected to generate program income and the amount.
11. A budget/financing plan that identifies all sources of funds to undertake the project. The plan must specify the amount of Section 108 loan funds expected to be used for the project. All other funds in the project shall be identified as to sources, amounts, whether it is a loan or grant, terms of the loans (if applicable), repayment provisions (if applicable), security position, and whether each loan or grant is committed or pending. In addition to the sources of funding, the public entity must also provide a proposed use of funds. All project costs should be identified and justified in a narrative attached to the budget.
12. Certifications and assurances of compliance with all applicable state and federal laws must be submitted.
13. A pledge, per 24 CFA § 570.705(b)(2), that all grants received or for which the local government may become eligible will be devoted to the repayment of the loan in the event of default.
14. Description of where citizens may obtain additional information about proposed activities.

SECTION V

PROJECT PRIORITIES AND SELECTION CRITERIA

A. **Priorities**

DLG will give preference to applications which propose to use Section 108 loan guarantee funds for economic development activities. DLG will review and make decisions on approval and disapproval of applications as they are submitted. Should DLG's Section 108 loan commitment authority be reduced to the point that the available loan authority is not sufficient to allow approval of all eligible applicants, DLG will assign priorities to applications. The following are activities that will be considered priorities when allocating limited Section 108 resources:

1. **Job Creation**

It is a goal of the Kentucky Section 108 loan guarantee program to create quality permanent jobs as a result of the financial assistance provided. Priority will be given to projects which create a minimum of one permanent full-time equivalent (FTE) job to be created or retained for every \$20,000 of Section 108 loan funds. The federal Section 108 regulations allow up to a maximum participation of \$35,000 per job.

2. **Infrastructure**

A project that finances the installation or reconstruction of critical infrastructure is also a priority activity. This could be related to the redevelopment or reuse of property or in support of an economic development purpose.

3. **Special Economic Development**

Financial assistance may be provided for a private for-profit firm under CDBG guidelines. Once again, the eligibility of the activity must meet one of the National Objectives. Please see 24 § CFR 570.209 for guidelines for evaluating and selecting economic development projects.

4. **Housing**

Priority will also be given to proposed projects that involve the rehabilitation of existing housing and/or the construction of housing by non-profit organizations for homeownership and/or rental. Any development of affordable housing must be primarily for the benefit of low and moderate income persons.

B. **Review Criteria**

DLG will consider the following criteria in reviewing the application:

1. The requested loan amount is within maximum limitations;
2. Funds are available in the amount requested;
3. The previous performance of the applicant, and/or its designated public agency;
4. Activities to be undertaken with the Section 108 guaranteed loan funds are eligible;
5. The project meets the public benefit test; and
6. Sufficiency of loan repayment commitments which are fully discussed in Section VI of these Guidelines.

DLG reserves the right to consider any other combination of factors and will notify the applicant in writing that the loan guarantee request has been approved for submittal to HUD, reduced, or disapproved.

- C. DLG will apply to HUD on behalf of eligible applicants who have received DLG's approval. HUD will review the application and advise DLG of their determination of approval or disapproval of the proposed project for Section 108 loan funds.

SECTION VI
LOAN COMMITMENTS

A. **Loan Agreement**

Once HUD has approved DLG's application on behalf of an eligible applicant, DLG will notify the applicant of the approval. The applicant will be advised of any conditions of the approval. No costs may be reimbursed with Section 108 funds or other project funds, except for certain costs relating to planning and design services, until environmental clearance and signing of a loan agreement.

B. **Repayment**

It is anticipated that the primary source of repayment of the Section 108 loan amount will be from projected cash flow as a result of the project, or from other sources of revenue that are pledged specifically for repayment of the Section 108 loan.

1. **Forms of Repayment**

It is expected that the primary source of loan repayment will be cash flow; however DLG may require additional security to be pledged as a secondary source of repayment. The applicant shall furnish, at the discretion of the DLG and HUD, such other security as DLG and HUD deem appropriate. Examples of additional security that may be required:

- a. Program income
- b. Liens on real and personal property
- c. Debt service reserves
- d. Increments in local tax receipts generated by activities carried out with Section 108 loan funds
- e. Personal financial guarantees by developers

2. **Repayment Period**

The maximum term of the Section 108 loan shall not exceed twenty (20) years.

C. **Reserve Clause**

DLG reserves the right to negotiate or deviate from the maximum amounts of Section 108 loan financial assistance, the repayment period, repayment sources, percentage of loan guarantee, and any other terms and conditions, based on the merits of the application and the financial underwriting of the project.

D. **Repayment Review**

1. DLG will review the application for repayment acceptability. DLG may disapprove or reduce the amount of the loan guarantee assistance for any of the following reasons when it determines that the guarantee constitutes an unacceptable financial risk. Factors that will be considered when assessing financial risk include, but are not limited to, the following:
 - a. The length of the proposed repayment period;
 - b. The applicant's ability to furnish adequate security; and
 - c. The amount of income the proposed activities are reasonably estimated to contribute towards repayment of the guaranteed loan.
2. HUD will review the application based on program requirements set forth in 24 CFR § 570.704(c).

SECTION VII
SANCTIONS

A. **Repayment/Default**

HUD will enter into a memorandum of agreement with DLG on behalf of the recipient of the Section 108 loan funds. Thereafter, DLG shall enter into a loan agreement with the recipient of the Section 108 loan funds. Should the recipient default on its payments, HUD will hold DLG responsible for repayment of the debt obligation out of its annual CDBG allocation. The amount of the withholding from the annual CDBG allocation will be equal to the annual debt service payments committed by the recipient.

B. **Performance Deficiencies**

Should the actual use of Section 108 loan funds not comply with the federal CDBG regulations of 24 CFR 570, HUD may take one or more actions against the Commonwealth including reducing DLG's annual CDBG allocation.

With or without HUD's direction, DLG may take appropriate action against the recipient. Remedial actions will be imposed if the Section 108 loan funds do not meet the public benefit requirement, a National Objective or other requirements. DLG will be responsible for monitoring the performance of the Section 108 loan guarantee recipient. If deficiencies are found, the following actions will be undertaken:

1. A warning letter will be issued advising the recipient of the deficiency and putting the recipient on notice that additional action will be taken if the deficiency is not corrected.
2. Request the recipient to submit a proposal for corrective action which includes a timetable, responsible parties, and other actions that will be undertaken to prevent a continuance of the deficiency, mitigation of the adverse effects, and ways to prevent a recurrence of the deficiency.

3. Stop disbursement of Section 108 loan funds.
4. Advise the recipient to reimburse the program for any amounts improperly expended.
5. Institute collection procedures including commencement of legal action against any additional collateral pledged.

APPENDIX A

MEETING A NATIONAL OBJECTIVE

Each activity funded under the HUD Section 108 Guaranteed Loan Program must meet at least one of the three National Objectives identified in Title I of the Housing and Community Development Act of 1974 as amended in 1983, 1987 and 1992, hereafter referred to as the Act Section 104(b) (3), and regulations contained in the 24 Code of Federal Regulations (CFR) section 570.483. The three objectives are:

1. Benefit to low and moderate income persons;
2. Prevention or elimination of slums or blight; and
3. Meeting community development needs having a particular urgency.

The recipient is responsible for selecting and documenting how each activity addresses a National Objective.

Please note: The Act identifies as a primary objective the "... development of viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities, principally for persons of low and moderate income..." The Commonwealth is required to assure that not less than 70% of the aggregate of the federal assistance received by the state as CDBG grant funds and Section 108 loan guarantee funds shall be used for the support of activities that benefit persons of low and moderate income.

A. **Activities which Benefit Low and Moderate Income Persons**

An activity will meet this objective if 51% of the persons benefiting from the activity are of low and moderate income. This is the primary National Objective to be used by the Section 108 Loan Guarantee Program. Low and moderate income levels are defined in the Act as HUD determined calculations based on median family income.

1. **There are four (4) ways to benefit low and moderate income persons:**
 - a. Area Benefit Activity – where the benefits of the activity are available to all residents in a particular area, where at least 51% of the area’s residents are low and moderate income persons.
 - b. Limited Clientele Activity – where the activity benefits a limited clientele, at least 51% of whom are low or moderate income persons. The activity could benefit a clientele who are generally assumed to be principally low and moderate income. (The following categories of persons are presumed to be low and moderate income: abused children; battered spouses; elderly persons; adults meeting the Bureau of Census’ Citizens Current Population Reports definition of “severely disabled”; homeless persons; illiterate adults; persons living with AIDS; and migrant farm workers.) The activity could have an income eligibility requirement which limits the activity exclusively to low and moderate income persons, or the activity could be of such nature that it may be concluded that the activity’s clientele will primarily be low and moderate income persons.
 - c. Housing Activity – where the activity is to provide or improve permanent housing which will be occupied by low and moderate income households.
 - d. Job Creation or Retention Activities – which are designed to create or retain permanent jobs where at least 51% of the jobs (computed on a full-time equivalent basis), involve the employment of low and moderate income persons. For an activity that creates jobs, at least 51% of the jobs will be held by, or will be available to, low and moderate income persons.

2. **Tracking Job Creation**

The recipient must monitor the jobs created from the employment records and the method of hiring that the company used to fill the positions. For

purposes of determining whether a job is held by or made available to a low and moderate income person, the person may be presumed to be a low and moderate income person if:

- a. he/she resides in a census tract that has a poverty rate of at least 20% or
- b. he/she resides in a census tract that has at least 70% of its residents who are low and moderate income.

In addition, if the business to be assisted with the Section 108 loan is located in either a 20% poverty census tract or 70% of its residents are low and moderate income, all of the jobs to be created will be assumed to benefit low and moderate income persons.

3. **Public Benefit**

The proposed use of the Section 108 loan funds must provide a minimum level of public benefit. The activity must:

- a. Create or retain at a minimum, at least one full-time equivalent permanent job per \$35,000 of Section 108 loan funds, or
- b. Provide goods or services to residents of the area, such that at a minimum, at least one low and moderate income resident of the area benefits from each \$350 of Section 108 loan funds expended.

Income figures for each county or area and further information on how an activity may meet this test can be obtained from the DLG.

Required Documentation

The recipient must maintain records that at least 51% of the persons benefiting from the activity are of low and moderate income. Low and moderate income beneficiaries must be accounted for. Documentation must be maintained verifying the low and moderate income beneficiaries. This information must be explained and the sources and the applicable regulation cited.

B. **Activities which Aid in the Prevention or Elimination of Slums or Blight**

An activity will meet this objective if:

1. It meets a definition of slum area, blighted area, deteriorated or deteriorating under KRS 99.705; and
2. It contains a substantial number of deteriorating or dilapidated buildings throughout the area; and
3. The activity is designed to address one or more of the conditions that contributed to the deterioration of the area; or
4. The activity addresses an individual structure, which would otherwise meet the definition of slum or blight.

Required Documentation

The recipient must maintain records that the activity meets the definition of prevention or elimination of slums or blight. Records must also be maintained describing the boundaries of the area and the conditions of the area which qualify it under this objective. Documentation may include photographs, structural surveys or development plans. This information must be explained, the sources and the applicable regulation cited.

C. **Activities Designed to Meet Community Development Needs Having a Particular Urgency**

An activity will meet this objective if it:

1. Addresses needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community;
2. Is of recent origin (within 18 months) or which recently became urgent; and
3. Has no other available source to complete the funding package and the community cannot finance the activity on its own.

Required Documentation

The recipient must maintain records as to the nature and degree of seriousness of the problem, that the activity was designed to address the urgent need, that the problem is of recent origin, that other funding is not available, and the community cannot finance the activity alone. This information must be explained in detail and the applicable regulation cited in the application.

APPENDIX B
ELIGIBLE ACTIVITIES

TITLE 24--HOUSING AND URBAN DEVELOPMENT
CHAPTER V--OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING
AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
PART 570_ COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart M Loan Guarantees

Sec. 570.703 Eligible activities.

Guaranteed loan funds may be used for the following activities provided such activities meet the requirements of Sec. 570.200. However, guaranteed loan funds may not be used to reimburse the CDBG program account or line of credit for costs incurred by the public entity or designated public agency and paid with CDBG grant funds or program income.

- (a) Acquisition of improved or unimproved real property in fee or by long-term lease, including acquisition for economic development purposes.
- (b) Rehabilitation of real property owned or acquired by the public entity or its designated public agency.
- (c) Payment of interest on obligations guaranteed under this subpart.
- (d) Relocation payments and other relocation assistance for individuals, families, businesses, nonprofit organizations, and farm operations who must relocate permanently or temporarily as a result of an activity financed with guaranteed loan funds, where the assistance is:
 - (1) Required under the provisions of Sec. 570.606(b) or (c); or
 - (2) Determined by the public entity to be appropriate under the provisions of Sec. 570.606(d).
- (e) Clearance, demolition and removal, including movement of structures to other sites, of buildings and improvements on real property acquired or rehabilitated pursuant to paragraphs (a) and (b) of this section.

- (f) Site preparation, including construction, reconstruction, or installation of public and other site improvements, utilities, or facilities (other than buildings), which is:
 - (1) Related to the redevelopment or use of the real property acquired or rehabilitated pursuant to paragraphs (a) and (b) of this section, or
 - (2) For an economic development purpose.
- (g) Payment of issuance, underwriting, servicing, trust administration and other costs associated with private sector financing of debt obligations under this subpart.
- (h) Housing rehabilitation eligible under Sec. 570.202.
- (i) The following economic development activities:
 - (1) Activities eligible under Sec. 570.203; and
 - (2) Community economic development projects eligible under Sec. 570.204.
- (j) Construction of housing by nonprofit organizations for homeownership under section 17(d) of the United States Housing Act of 1937 (Housing Development Grants Program, 24 CFR part 850) or title VI of the Housing and Community Development Act of 1987 (Nehemiah Housing Opportunity Grants Program, 24 CFR part 280).
- (k) A debt service reserve to be used in accordance with requirements specified in the contract entered into pursuant to Sec. 570.705(b)(1).
- (l) Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements and public utilities.
- (m) In the case of applications by public entities which are, or which contain, ``colonias" as defined in section 916 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note), as amended by section 810 of the Housing and Community Development Act of 1992, acquisition,

construction, reconstruction, rehabilitation or installation of public works and site or other improvements which serve the colonia.

[59 FR 66604, Dec. 27, 1994, as amended at 61 FR 11481, Mar. 20, 1996]

APPENDIX C

CITIZEN PARTICIPATION

Citizen Participation

Citizen participation requirements must be met as part of application requirements. CFR 24 CFR § 570.704(a)(2) requires applicants to provide reasonable opportunities for citizen participation, hearings and access to information with respect to local community development programs. At a minimum, a community must perform the following activities:

1. Furnish citizens with information that explains the Section 108 program. Prior to the public hearing, a notice must be published informing citizens that the following information is available for review:
 - a. An application including a detailed description of the project being proposed.
 - b. Amount of Section 108 funds expected to be made available, range of activities that may be undertaken and if applicable, available and/or anticipated program income.
 - c. Estimated amount of CDBG funds proposed for activities benefiting persons of low and moderate income.
 - d. Plans for minimizing displacement of persons as a result of activities assisted with Section 108 funds and plans for providing assistance to those persons to be actually displaced as a result of Section 108 funded activities.
 - e. Records on past use of CDBG funds.
 - f. Summary of other important program requirements.
2. Hold the first public hearing.
 - a. The main purpose of this hearing is to obtain views on housing and community development needs and review proposed activities. In addition, the hearing will review the proposed application and

discuss social impacts, economic impacts, environmental impacts, project alternatives and solicit public improvements.

- b. Advertise the hearing in accordance with state and federal laws. KRS 424.130 requires that the public hearing must be advertised at least once, not less than seven (7) nor more than twenty-one (21) days prior to the date of the hearing, in the newspaper of the largest circulation in the jurisdiction. Pursuant to KRS 446.030, the date of the hearing is not to be included in the computation of time. Example: For a public hearing scheduled on Tuesday June 8th, the newspaper advertisement must be published no earlier than May 18th and no later than June 1st. This may be included as part of the notice providing the public with Section 108 information. (The notice must include the local TTD number which is (800) 648-6057 or federal relay TTY number which is 711.
- c. Undertake and document additional advertisement to reach low and moderate income persons. Such efforts could include:
 - 1. Distribute leaflets at neighborhood groceries, churches and community centers.
 - 2. Undertake door-to-door distribution announcements.
 - 3. Provide radio (and television if available) public service announcements for broadcast.
- d. Inform citizens that technical assistance is available to help groups representing low and moderate income persons in developing proposals. Designate where this technical assistance may be obtained.
- e. Hold the public hearing in a location accessible to the disabled and at a time and place convenient to potential or actual beneficiaries. The hearing must provide maximum opportunity for community input.
- f. Arrange for interpreters for non-English speaking persons if applicable.

- g. The application must be available for review seven (7) days prior to the public hearing and the advertisement must identify where a copy of the application can be obtained.
- 3. Pursuant to 24 CFR § 570.486(a)(6), public hearings are also necessary during the course of a project when a change is proposed that substantially changes the original activities, whether activities are added or deleted.
- 4. A second public hearing must be held prior to closeout.
 - a. The main purpose of this hearing is to review past use of funds and program performance.
 - b. Advertise the hearing in accordance with state and federal laws that the project is nearing closeout and comments from the public are invited. KRS 424.130 requires that the public hearing must be advertised at least once, not less than seven (7) nor more than twenty-one (21) days prior to the date of the hearing, in the newspaper of the largest circulation in the jurisdiction. Pursuant to KRS 446.030, the date of the hearing is not to be included in the computation of time. Example: For a public hearing scheduled on Tuesday June 8th, the newspaper advertisement must be published no earlier than May 18th and no later than June 1st.”
 - c. Ensure that steps are again taken concerning LMI participation, providing a time and place convenient to beneficiaries, a location accessible to the disabled and assistance to non-English speaking persons.
- 5. Consider public comments.
 - a. Consider all comments and views received and comments received and, if the applicant deems appropriate, modify the proposed application.

- b. If the original application is modified, the final application must also be made available to the public.
- 6. Respond to public comments.
 - a. Respond in writing to all written comments received during the public hearing process.
 - 1. Indicate comments were considered.
 - 2. Cite reasons for rejection if applicable.
 - 3. File comments and responses in the citizen participation file.
 - b. Develop a complaint and grievance procedure where written complaints and grievances are answered in writing within fifteen (15) working days. Provide citizens the address, phone number and times for submitting complaints and grievances.