

§ 570.207

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loan commitments under programs including those administered by HUD, Farmers Home Administration (FmHA), Federal National Mortgage Association (FNMA), and the Government National Mortgage Association (GNMA);

(5) The cost of issuance and administration of mortgage revenue bonds used to finance the acquisition, rehabilitation or construction of housing, but excluding costs associated with the payment or guarantee of the principal or interest on such bonds; and

(6) Special outreach activities which result in greater landlord participation in Section 8 Housing Assistance Payments Program-Existing Housing or similar programs for low and moderate income persons.

(h) *Section 17 of the United States Housing Act of 1937.* Reasonable costs equivalent to those described in paragraphs (a), (b), (e) and (f) of this section for overall program management of the Rental Rehabilitation and Housing Development programs authorized under section 17 of the United States Housing Act of 1937, whether or not such activities are otherwise assisted with funds provided under this part.

(i) Whether or not such activities are otherwise assisted by funds provided under this part, reasonable costs equivalent to those described in paragraphs (a), (b), (e), and (f) of this section for overall program management of:

(1) A Federally designated Empowerment Zone or Enterprise Community; and

(2) The HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 note).

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 54 FR 37411, Sept. 8, 1989; 60 FR 56912, Nov. 9, 1995]

§ 570.207 Ineligible activities.

The general rule is that any activity that is not authorized under the provisions of §§ 570.201-570.206 is ineligible to be assisted with CDBG funds. This section identifies specific activities that are ineligible and provides guidance in determining the eligibility of other activities frequently associated with housing and community development.

(a) The following activities may not be assisted with CDBG funds:

(1) *Buildings or portions thereof, used for the general conduct of government* as defined at § 570.3(d) cannot be assisted with CDBG funds. This does not include, however, the removal of architectural barriers under § 570.201(c) involving any such building. Also, where acquisition of real property includes an existing improvement which is to be used in the provision of a building for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible, provided such acquisition meets a national objective described in § 570.208.

(2) *General government expenses.* Except as otherwise specifically authorized in this subpart or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

(3) *Political activities.* CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.

(b) The following activities may not be assisted with CDBG funds unless authorized under provisions of § 570.203 or as otherwise specifically noted herein or when carried out by a entity under the provisions of § 570.204.

(1) *Purchase of equipment.* The purchase of equipment with CDBG funds is generally ineligible.

(i) *Construction equipment.* The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to OMB Circulars A-21, A-87 or A-122 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid

waste disposal facility is eligible under § 570.201(c).

(ii) *Fire protection equipment.* Fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible under § 570.201(c).

(iii) *Furnishings and personal property.* The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with OMB Circular A-21, A-87 or A-122, as applicable) for such items when necessary for use by a recipient or its sub-recipients in the administration of activities assisted with CDBG funds, or when eligible as fire fighting equipment, or when such items constitute all or part of a public service pursuant to § 570.201(e).

(2) *Operating and maintenance expenses.* The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of operating and maintaining a facility used in providing a public service would be eligible under § 570.201(e), even if no other costs of providing such a service are assisted with such funds. Examples of ineligible operating and maintenance expenses are:

(i) Maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with a disabilities, parking and other public facilities and improvements. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs; and

(ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.

(3) *New housing construction.* For the purpose of this paragraph, activities in support of the development of low or moderate income housing including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing pre-construction costs set forth in § 570.206(g), are not considered as activities to subsidize or assist new residential construction. CDBG funds may not be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction, except:

(i) As provided under the last resort housing provisions set forth in 24 CFR part 42;

(ii) As authorized under § 570.201(m) or (n);

(iii) When carried out by an entity pursuant to § 570.204(a);

(4) *Income payments.* The general rule is that CDBG funds may not be used for income payments. For purposes of the CDBG program, "income payments" means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1945, Jan. 5, 1995; 60 FR 56912, Nov. 9, 1995; 65 FR 70215, Nov. 21, 2000]

§ 570.208 Criteria for national objectives.

The following criteria shall be used to determine whether a CDBG-assisted activity complies with one or more of the national objectives as required under § 570.200(a)(2):

(a) *Activities benefiting low- and moderate-income persons.* Activities meeting the criteria in paragraph (a) (1), (2), (3), or (4) of this section as applicable, will be considered to benefit low and moderate income persons unless there is substantial evidence to the contrary. In assessing any such evidence, the full