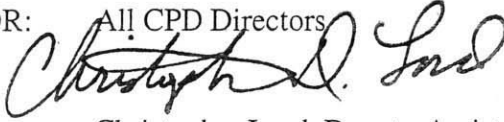


MAY 13 2004

MEMORANDUM FOR:

All CPD Directors



FROM:

Christopher Lord, Deputy Assistant Secretary for Grant Programs, DG

SUBJECT:

Use of Community Development Block Grant (CDBG) Funds for Tornado-Safe Shelters

Public Law 108-146, enacted December 3, 2003, and otherwise known as the Tornado Shelters Act, amended Title I of the Housing and Community Development Act of 1974 (HCDA) to permit the construction of tornado shelters in certain neighborhoods and manufactured housing parks as an eligible activity under the CDBG program. Although this use of funds has not yet been codified in the CDBG regulations, as of December 3, 2003, grantees may use CDBG funds for the construction of tornado-safe shelters under the authority provided by statute. The purpose of this memorandum is to provide guidance, in response to questions received, on the criteria that must be met if CDBG funds are to be used for the construction of tornado shelters under the new statutory provision.

Although the construction of tornado shelters has been added to Section 105(a)(24) of the HCDA as a separate eligible activity, the construction of tornado shelters has been an eligible activity under the CDBG regulations in some circumstances. For example, CDBG funds can be used to construct tornado shelters on publicly-owned land as a public facility under 570.201(c), under the national objective of benefit to low- and moderate-income persons on an area basis. While the construction of a tornado-safe shelter previously could not be assisted with CDBG funds in a privately-owned mobile home park, a tornado-safe shelter could be constructed on publicly-owned land near (or on an easement obtained within) the mobile home park so that the residents of the park can benefit from the shelter. In addition, CDBG funds can be used to construct a safe room or storm-proof room in a private home as a rehabilitation activity under 570.202. Rehabilitation to develop a safe room would have to meet the housing national objective, which means that each household assisted would have to be low- and moderate income. The use of CDBG funds to construct tornado shelters under 570.201(c) or 570.202 are not affected by the Tornado Shelters Act; therefore, grantees may use one of these eligibility categories for the construction of a tornado shelter if they desired to do so.

While the new statutory provision for the construction of tornado shelters permits CDBG funds to be provided (as loans or grants) by CDBG grantees to non-profit and for-profit entities, including owners of manufactured housing parks, for the construction or improvement of tornado-safe shelters for manufactured housing residents, there are specific criteria that must be met under this new eligibility category. The construction of tornado-safe shelters may be carried out in neighborhoods, which may or may not contain a manufactured housing park, provided that the neighborhood contains not less than 20 manufactured housing units and the shelter is available to the manufactured housing residents. A manufactured housing park or neighborhood that receives assistance under this provision must meet the following criteria:

- consist predominantly of low- and moderate-income persons;
- be located in a state in which a tornado has occurred within the past three years;
- there must be a warning siren in the neighborhood where the shelter will be located or, if the shelter is located in a manufactured housing park, within 1,500 feet of the park;
- the shelter must be of a sufficient size to accommodate all of the occupants of the manufactured housing units at the same time and be located in the neighborhood in which the shelter will be used; and
- it must comply with the standards for construction identified by the Federal Emergency Management Agency (FEMA) in Publication FEMA 361, Design and Construction Guidance for Community Shelters. This publication is available on FEMA's website at <http://FEMA.gov/library/prepandprev.shtm#tornados>.

As mentioned above, the statute requires the neighborhoods in which tornado shelters may be constructed with CDBG funds must be predominantly low- and moderate income. Therefore, grantees that use their upper quartile percentage for area benefit activities will not be able to do so under this provision. A grantee must be able to document that at least 51 percent of the residents of the service area of the tornado shelter are low- and moderate-income.

Finally, I would like to note that the law authorized special funding to be used for construction of tornado-safe shelters under this amendment to the HCDA, but no funds were appropriated. However, grantees may use CDBG funds to assist such activities, as described in this memorandum.