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# CITY OF LORAIN REVOLVING LOAN PROGRAMS

*2016 Internal Audit and Monitoring Review of Lorain Development  
Corporation and the*

*Department of Building, Housing & Planning*

## **BACKGROUND**

The Lorain Development Corporation ("LDC") made its beginnings as the "Lorain 503 Development Corporation" in or around August 28, 1984 with the intentions "to promote and assist in the growth and development of small business concerns, including small businesses in the City of Lorain, Ohio area." Currently, Lorain Development Corporation is registered as a 501 (c) (4) under the Internal Revenue Service, which provides exemption of two different types of organizations— social welfare organizations and local associations of employees, both of which possess their own distinctive qualification requirements. At the time of LDC's creation, the following persons served as the Incorporators of the 503 Corporation: Daniel A. Cook, Jerry O. Ledbetter, Manuel Gonzalez, Joseph P. Smith, Andrew J. Warhola, Willard H. DoBrunz, and Rev. James L Williams either residing in or having business in the City of Lorain with the filing fees being provided by an S.A. Prudhoff.

In that same year , the City of Lorain received funds totaling \$50,000.00 from the U.S. Department of Commerce's Economic Development Administration (EDA), which was matched with \$16,667.00 utilizing U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant Funds, which is an eligible use of CDBG under 24 CFR Part 570.201 (3) (g). This is important to note, due to the fact that matching funds must still meet one of the HUD established National Objectives and be eligible for use under the CDBG. Throughout the years of the receipt of EDA funds and the subsequent development of the EDA Title IX Revolving Loan Fund, the City has utilized CDBG funds as a match which currently equals roughly 42% (41.8%) percent of the total funds relative to the EDA Title IX Revolving Loan Program.

Pursuant to Codified Ordinance 142-86, the Lorain Development Corporation was provided resources utilizing the City's 1986 Program Year (PY) CDBG entitlement "perform under the auspices of the Service Director" various functions listed in the aforementioned ordinance. This would be the beginnings of what is now a 30 year relationship between the City of Lorain and Lorain Development Corporation, through what is commonly referred to as a subrecipient agreement. Throughout the history of the various subrecipient agreements, the City of Lorain has been the major, and most often the sole provider of funds which allow for the daily operations associated with LDC. LDC has functioned as the economic development arm of the City, and the processor of business and other loans offered by the city. As a subrecipient, the City is required to provide oversight for adherence to federal, state, and local laws associated with the resources that have been provided for its programs.

The various types of funds utilized by City of Lorain to provide loans through LDC for business and other purposes includes, but are not limited to: U.S. Dept. of HUD Community Development Block Grant Funds (Section 108, Business Development Revolving Loan etc.); Urban Development Action Grant (UDAG); and U.S. Department of Commerce Economic Development Administration (EDA Title IX). Exclusive of UDAG funds, which are now deemed to be "miscellaneous revenues," LDC nor the previous Community and Economic Development Department does not receive general fund resources to administer the City's or its own programs. In addition, LDC receives no other sources of money except those provided by the City. It is estimated that the City's loan portfolio currently sits at roughly \$12

million with an additional \$3 million in both HUD and EDA resources available to lend via the established revolving loan fund programs.

**MONITORING AND REVIEW**

Relative to the monitoring/audit of Lorain Development Corporation, the following loan files and information were reviewed for compliance to the federal guidelines pertaining to the funds provided, as well as City of Lorain codified ordinances, the subrecipient agreement, and related program structures. Some files were unfortunately not made available to the Department, and this will be addressed later within the document:

Lorain Development Corporation subrecipient agreement A-15-27;

Lorain Development Corporation's Conflict of Interest Policy; and

EDA IX Revolving Loan Fund Plan

**Loan Write-offs:**

South Shore CDC;

Herman-Kirchner;

TSP 5th Street, Inc.;

R & J Southern Style Cooking;

Lakeland Fastners; and

City of Lorain

**Non-performing loans files:**

Faroh's Candies (2);

Compassion Baptist Church;

Prime Industries; and

Worship Cathedral

**Active loans :**

Veard - 205 W 14th Street Llc

Veard - 205 W 14th Street Llc

Veard - 205 W 14th Street Llc

Veard-Antlers

Veard-Antlers

Veard-City Center - Lorain Ltd.

Veard-City Center - Lorain Ltd.

**Active loans (continued):**

Veard-City Center - Lorain Ltd.

Veard-City Center - Lorain Ltd.

Veard-Duane, Ltd.

Veard-Duane, Ltd

Veard-Duane, Ltd.

Veard-Duane, Ltd.

Veard-Duane, Ltd.

Veard-Duane, Ltd.

Veard-Fourth Street Offices

Veard-Fourth Street Offices

Veard-Duane, Ltd.;

Veard-Duane, Ltd.;

Veard-Duane, Ltd.;

Veard-Duane, Ltd.;

Veard-Duane, Ltd.;

Veard-Fourth Street Offices;

Veard-Fourth Street Offices;

Vision Learning Center (multiple);

First Choice Real Estate;

Lorain Board of Health;

North Shore Landscape Contractors;

V & A Process, Inc;

Little Devil Cupcakery;

Marxan Solutions, Inc

Rosewood Banquet Facility, LLC;

4500 Grove Ave, LLC; and

Julia B. Ecker, Inc., CPA

As a result of the review of the aforementioned loan documents, the Department of Building, Housing and Planning made both findings and concerns, and a great majority of the files reviewed contained both. For clarification, a finding is defined as a program element that does not comply with federal statutes or regulations, whereas a concern is either a potential finding or a program weakness that should be improved to avoid future problems.

#### **Subrecipient Agreement A-15-27**

Subrecipient agreements serve as the contract between the City of Lorain (Department of Building, Housing and Planning) and the organization/agency carrying out the activities in the agreement referred to as the "subrecipient." Upon review of the subrecipient agreement, it is evident that the role of LDC has evolved over the thirty years in which the City has been under contract. Unfortunately, this evolution has served as a detriment to the loan programs due to the fact that focus has shifted from loan preparation and economic development through loans, to projects outside of the activities (scope) listed in the subrecipient agreement.

Most recently, the City provided additional funds to cover sixty percent (60%) of the salary for an additional employee of LDC, with the remaining forty percent (40%) provided by the Lorain Port Authority. Although this was recommended due to the Building, Housing and Planning department spending an inordinate amount of money on economic development activities without jobs creation numbers to support it (\$1.9 million in 2013), it is unclear as to the role of newly hired staff is relative to the agreement or programs, and funds provided. There exist findings as there no documentation of the subrecipient meeting the statutory requirements, which include but are not limited to: B) National Objectives; 1) Records to be Maintained; 3) Client Data; 4) Loan Documents; and X. Environmental Conditions. Files were devoid of the documentation which would support these requirements and other and this was prevalent throughout.

In addition, #16 listed under activities states that a" *written review should be provided for all proposed loans.....*" to assure compliance with all pertinent federal rules and regulations. This has occurred infrequently during the current tenure of the Director of Building, Housing and Planning, and

very little to no documentation has been found in the files show that this has ever occurred. Throughout the files that were reviewed by BHP staff, roughly 90% of the loans were in noncompliance.

### Lorain Development Corporation Conflict of Interest Policy

The conflict of interest policy was sufficient for administration of the economic development programs, but should be updated to comply with the most stringent of standards found in 24 CFR 85.36, 84.42 (HUD) or 13 CFR 302.17 (EDA).

### EDA IX Revolving Loan Fund Plan

The EDA IX Revolving Loan Fund Plan ("The Plan") is the document utilized to provide the operations of the loan program. This document is to be updated every five (5) years and approved by both the legislative body and EDA. As you can see (Attachment "") the City of Lorain's EDA IX Revolving Loan Fund Plan has not be updated since 1997. Please note, that this is the responsibility of the grantee (City of Lorain), and not the Lorain Development Corporation. A concerted effort needs to be made to update the plan to assure that the needs of the City and borrowers are reflective of today's business climate.

There exist findings relative to the adherence to the plan by both the City and LDC. In particular, beginning on page 22 of the Plan ("**BORROWER RESTRICTIONS**"), it was found that this section of the policy had not been followed on numerous occasions, and this will be discussed later in this document.

For EDA loans, BHP staff was unable to locate documentation that private financing was not available in the form of bank rejection letter(s) or a commitment letter(s) from a private lender indicating the loan terms, the loan amount approved, and the need for the RLF's participation. Currently, these conflicts with EDA guidelines provided in this document, and will be corrected. Relative to **Financing Restrictions** (beginning on Page 23), some loans were found to be utilized exclusively to acquire equity position in a private business; enable an RLF borrower to acquire an interest in a business, and other restrictions listed in both the Plan and EDA regulations. As a result, these were deemed findings.

On page 24 "**INTEREST RATES**" there was one loan found to have a zero percent (0%) interest rate, which conflicts with both the plan and established federal regulations. Page 26 ("**LOAN SIZE**") states that no EDA RLF shall exceed forty percent (40%) of the total project costs, but BHP staff found instances in which loans were 66% of the total project costs, and one borrower received \$1 million through four (4) separate loans, which included refinancing and "cash out;" both of which are not allowable per the Plan and established regulations.

Page 31 provides the application process of the LDC Loan Board and goes on to state that "Final loan approval rests with the City of Lorain's Board of Control." Furthermore, on page 32 it states "The loan documents are executed by the Service Director, who is empowered by Lorain City Council to execute contracts on behalf of the City." This not only conflicts with ORC 735.05, it appears to conflict

with existing codified ordinances relative to processes pertaining to providing funds via the loan programs.

**“LOAN SERVICING,”** found on page 32, exposed major concerns relative to processing of delinquent loans and mortgages. BHP’s review shows that there exists \$1,694,625.67 in loans delinquent more than 90 days. It should be noted that this total includes some non-business related loans and those that may be going through the processes of bankruptcy etc. There was no formal process found that delinquent loan borrowers were forwarded to the City of Lorain Law Director for default judgment or foreclosures.

The Exceptional Assistant Portfolio Quality Report provides an overview of all loans completed by the City of Lorain, as well as those provided through LDC on behalf of the City. As of March 1, 2016, 14% (58) of the 269 total loans are 180+ days delinquent, for a total of \$1.6 million. It should be noted that these totals may include loans that were previously written off and/or placed in “non-performing” status. In this same report, 78 % (191) are current on his/her/their loan payments to the City of Lorain.

In a report generated by the Department of Building, Housing & Planning, it was discovered that \$877,273.50 in business loans were written off. In addition \$630,515.26 in loan payments was moved to “non-performing.” Non-performing are loans are those in which little to no payments have been made on the debt borrowed. For example, Worship Cathedral, Inc. borrowed \$17,000.00 in CDBG Rental Rehabilitation funds in May 2009, for their location at 321 Colorado Avenue. The borrower made one, \$100.00 payment of a required \$315 monthly payment on September 8, 2010. With accrued interest, the current balance stands at upwards of \$18,800.00+. Since the first payment, no further payments have been made on the loan and as of the completion of this report, no loan file can be found. In many instances, loans were moved to non-performing without documentation for the reasoning for the determination or an attempt to collect by the City of Lorain or LDC. It should be noted that this blame should not be placed solely upon the subrecipient as the department and its staff, both current and prior, have a requirement to address these issues upon onset.

Loan proceeds utilized to purchase equipment and properties utilizing federal funds become the property of the federal government in perpetuity. There was no record of asset tagging of equipment purchased, inventory of the equipment, or attempts to retrieve items upon loan default. This inaction again exposes the City to findings including, but not limited to repayment of funds utilized.

**“WRITE-OFF PROCEDURES”** located on page 39 of the Plan, provide the procedures relative to loan write-offs. It was determined that not only did this process not take place, there was no documentation showing the reasoning for the loans that were written off. It should be noted, that there exists major consequences which put the City at-risk when writing-off CDBG funded loans, which generally is not allowable and strongly discouraged. This is a finding which has potentially significant financial consequences.

## **ADDITIONAL FINDINGS/CONCERNS**

It should be noted that during the onset of the review and monitoring of LDC and during the term of their most recent subrecipient agreement (A-15-27), LDC's articles were cancelled by the Ohio Secretary of State on May 4, 2015 until there were reinstated on February 8, 2016.

There are legitimate findings/ concerns relative to potential fraud and abuse or the perception of this occurring in the City's RLF programs. This is evidenced by an attempted purchase of a watch in June of 2013 utilizing RLF funds; the propensity shown to write-off debts without attempts to collect; and an inconsistent process relative to borrowers applying for and receiving loan funds. In order for CDBG funds to be written-off the following must be true prior to this step occurring: A) A national objective was met in 24 CFR 570.208; and b) The public benefit standards at 24 CFR 570.209 (b) are met. If neither of these occur on an individual loan to a business, the activity would not be an eligible CDBG activity and the grantee (City of Lorain) would need to repay the CDBG program costs. Not only did the write-offs not adhere to the federal statutes imposed, but they also neglected to policy found within the EDA Plan. This is important, as previously stated, due to the fact that CDBG funds were utilized to match EDA funds; thus those rules still apply with the most stringent being the rules that are to be followed. In another instance, one borrower was afforded three loans, all utilizing the same account number with no payments being made on the third loan, and very limited action to collect until recent changes being implemented.

Another borrower's loan documentation showed that funds were used to buyout a previous borrower of City of Lorain EDA IX Funds (prior loan) and in total \$1 million in loan funds were provided to the subsequent borrower (three loans), and the loan is currently stands in default. When seeking clarification from LDC relative to a refinance with cash out being provided to the borrower, staff was informed that this was not the case. Unfortunately, meeting minutes of the Board of Control found in the file clearly displayed the borrower received excess cash from the refinancing of an existing loan.

In more than one of the reviewed loan files, EDA IX funds were utilized to purchase equity positions and/or shares of/in a business. This occurred as recently as 2012 and for a loan, which upon review, should have never been awarded as it met no National Objective or the job requirements for funds borrowed.

In the most serious of the findings, a borrower received seventeen (17) loans utilizing both CDBG and EDA funds. Many of the files were devoid of formal applications, and some simply included correspondence stating how much the borrower was requesting, and subsequently receiving. For a borrower to obtain numerous loans on numerous occasions, this would require that the borrower was unable to secure private financing and the loan files should reflect this with a rejection letter or other documentation. This also would mean that a national objective was met, jobs were created/retained, and other requirements were met. It was difficult to ascertain that any of these requirements were met. Furthermore, the same borrower was provided a loan at 0% interest rate which is not allowable under EDA regulations found at 307.15 (c) (1), thus these are findings.



A loan in the amount of \$140,000.00 was provided in 2014 which was to create 12 jobs (10FT) and up to 15 total jobs in three years. The loan file contained no LDC Board approval prior to submission to Lorain City Council and City Administration; no Environmental Review performed; and no asset tagging of equipment occurred in the event of default. Furthermore, there exist multiple guarantors (2) of the loan, but underwriting only occurred relative to one guarantor. A check for the total loan amount was provided to the borrower upon a written request, which conflicts with both the EDA Plan and federal guidelines as funds should be placed in escrow. For all intents and purposes, this loan should have never been provided.

Although not tied to federal regulations and the subrecipient agreement, it should be noted that some borrowers were either A) not registered with the Ohio Secretary of State or B) not registered with the City of Lorain Treasurer's office or both.

Loan servicing is a shared responsibility between the City of Lorain Department of Building, Housing and Planning and Lorain Development Corporation and the Plan provides documentation of the processes to be followed to collect on loans, including those in default. In rare instances did the Department or LDC pursue bad debts, attempt to secure equipment purchased, or begin the default judgment and/or foreclosure on delinquent notes.

#### **Recommendations and Corrective Actions**

The Department of Building, Housing and Planning are recommending that the City of Lorain take a different direction relative to economic development and its administration of the associated programs via the subrecipient agreement with Lorain Development Corporation. As previously stated, the additional requirements outside of the subrecipient agreement have limited the amount of time spent on managing the economic development loan programs. With that being said, the amount of errors and noncompliance to the subrecipient agreement; EDA IX Plan; and the associated rules and regulations has left the department faced with correcting errors that have potential financial consequences to the City of Lorain as the grant

For three decades, the City's economic development programs have been administered by a self-appointing board; with a certainty that in nineteen of these years, the loan approvals should have been granted by a Board appointed by the Mayor of the City of Lorain conveyed in the EDA Title IX Plan. It is strongly recommended that the process begin to appoint a Board(s) as determined by the City's Chief Elected Official, and that the loans and approvals be granted by this appointed Board(s).

The City's RLF programs shall no longer serve as a bank to the select few. Furthermore, a step-by-step process will be provided to the borrower so that the process and requirements are clear. Similar to other programs being administered by the Department of BHP, borrowers owing a debt to a governmental entity (City income taxes, delinquent real estate taxes, loans, etc.) shall be excluded from borrowing City of Lorain funds.

Items purchased utilizing federal funds will be required to be both asset tagged and inventoried and security agreements will be strictly enforced upon default.

Relative to loan collections, the Department of Building, Housing and Planning has made the determination that its loan servicing relative to delinquent business loan, and loan collection should be outsourced due to limited staffing; existing City conflicts of interests between City of Lorain staff and its borrowers; and minimal efforts shown in the past to collect on delinquent loans. As a municipality, the City has the ability to exercise some leniency on its collection of delinquent loans outside of those options found in the private sector, but how this is done currently is unclear and informal. This can be accomplished without the City treating its Revolving Loan programs as a "charity" or allowing borrowers to not repay borrowed funds all-the-while turning a profit.

Currently, the Department of Building, Housing and Planning have entered into discussions with the Ohio Attorney General's Office to address delinquent business loan collections and are implementing the necessary steps to proceed in this direction. It is the opinion of the Department that once implemented; this should ease the concerns expressed by the public that some are treated differently than others relative to collections, and allows for a uniform collection process.

Relative to loan servicing, throughout the review of loans and departmental procedures, various errors were discovered that affected loan collections. On more than one occasion, it was found that interests rates were entered at a lower amount than agreed on in the signed promissory note; late payment fees were removed without documentation as to the reasoning behind the change; interest rates that were to inflate were never changed; and no loan processing fee was charged to name a few. These matters will be addressed internally with staff to determine their fluency in the use of the accounting software, and to address inconsistencies with the loans in question, and others that may come about.

In closing, the Department of Building, Housing and Planning realize that there is work that needs to be done to improve its economic development program's process and procedures. The work has begun to move in the direction of making the program operate in the most effective and efficient way and to assure that there is compliance with the rules which govern the funds granted to the City of Lorain and the department.

**FEDERAL REGULATIONS FOR  
EDA REVOLVING LOAN FUND  
PROGRAMS (13 CFR §307)**

## **Subpart B—Revolving Loan Fund Program**

### **§ 307.15 Prudent management of Revolving Loan Funds**

#### *(a) Accounting principles.*

(1) RLFs shall operate in accordance with generally accepted accounting principles (“GAAP”) as in effect from time to time in the United States and the provisions outlined in OMB Circular A-133 and the Compliance Supplement, as applicable.

(2) In accordance with GAAP, a loan loss reserve may be recorded in the RLF Recipient's financial statements to show the fair market value of an RLF's loan portfolio, provided this loan loss reserve is non-funded and represents non-cash entries.

#### *(b) Loan and accounting system documents.*

(1) Within sixty (60) days prior to the initial disbursement of EDA funds, an independent accountant familiar with the RLF Recipient's accounting system shall certify to EDA and the RLF Recipient that such system is adequate to identify, safeguard and account for all RLF Capital, outstanding RLF loans and other RLF operations.

(2) Prior to the disbursement of any EDA funds, the RLF Recipient shall certify that standard RLF loan documents reasonably necessary or advisable for lending are in place and that these documents have been reviewed by its legal counsel for adequacy and compliance with the terms and conditions of the Grant and applicable State and local law. The standard loan documents must include, at a minimum, the following:

(i) Loan application;

(ii) Loan agreement;

(iii) Board of directors' meeting minutes approving the RLF loan;

(iv) Promissory note;

(v) Security agreement(s);

(vi) Deed of trust or mortgage (as applicable);

(vii) Agreement of prior lien holder (as applicable); and

(viii) Signed bank turn-down letter demonstrating that credit is not otherwise available on terms and conditions that permit the completion or successful operation of the activity to be financed. EDA will permit the RLF Recipient to accept alternate documentation only if such documentation is allowed in the Recipient's EDA-approved RLF Plan.

#### *(c) Interest rates*

(1) General rule. An RLF Recipient may make loans to eligible borrowers at interest rates and under conditions determined by the RLF Recipient to be appropriate in achieving the goals of the RLF. The minimum interest rate an RLF Recipient may charge is four (4) percentage points below the lesser of the current money center prime interest rate quoted in the Wall Street Journal, or the maximum interest rate allowed under State law. In no event shall the interest rate be less than the lower of four (4) percent or 75 percent of the prime interest rate listed in the Wall Street Journal.

(2) Exception. Should the prime interest rate listed in the Wall Street Journal exceed fourteen (14) percent, the minimum RLF interest rate is not required to be raised above ten (10) percent if doing so compromises the ability of the RLF Recipient to implement its financing strategy.

*(d) Private leveraging.*

(1) RLF loans must leverage private investment of at least two dollars for every one dollar of such RLF loans. This leveraging requirement applies to the RLF portfolio as a whole rather than to individual loans and is effective for the duration of the RLF's operation. To be classified as leveraged, private investment must be made within twelve (12) months of approval of an RLF loan, as part of the same business development project, and may include:

(i) Capital invested by the borrower or others;

(ii) Financing from private entities; or

(iii) The non-guaranteed portions and ninety (90) percent of the guaranteed portions of the U.S. Small Business Administration's 7(A) loans and 504 debenture loans.

(2) Private investments shall not include accrued equity in a borrower's assets.

(e) RLF certification course. EDA may establish a mandatory RLF certification program to enhance RLF Recipients' ability to administer RLF Grants in a prudent manner. If so required by EDA, the RLF Recipient must satisfactorily complete this program, and may consider the cost of attending the certification courses as an administrative cost, provided the requirements set forth in § 307.12 are satisfied.

**CDBG ECONOMIC  
DEVELOPMENT  
570.208 (C)(4)**

24 CFR 570.208 (c) (4)

(4) Job creation or retention activities. An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low- and moderate-income persons. To qualify under this paragraph, the activity must meet the following criteria:

(i) For an activity that creates jobs, the recipient must document that at least 51 percent of the jobs will be held by, or will be available to, low- and moderate-income persons.

(ii) For an activity that retains jobs, the recipient must document that the jobs would actually be lost without the CDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDBG assistance is provided:

(A) The job is known to be held by a low- or moderate-income person; or

(B) The job can reasonably be expected to turn over within the following two years and that steps will be taken to ensure that it will be filled by, or made available to, a low- or moderate-income person upon turnover.

(iii) Jobs that are not held or filled by a low- or moderate-income person may be considered to be available to low- and moderate-income persons for these purposes only if:

(A) Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and

(B) The recipient and the assisted business take actions to ensure that low- and moderate-income persons receive first consideration for filling such jobs.

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

(A) He/she resides within a census tract (or block numbering area) that either:

(1) Meets the requirements of paragraph (a)(4)(v) of this section; or

(2) Has at least 70 percent of its residents who are low- and moderate-income persons; or

(B) The assisted business is located within a census tract (or block numbering area) that meets the requirements of paragraph (a)(4)(v) of this section and the job under consideration is to be located within that census tract.

(v) A census tract (or block numbering area) qualifies for the presumptions permitted under paragraphs (a)(4)(iv)(A)(1) and (B) of this section if it is either part of a Federally-designated Empowerment Zone or Enterprise Community or meets the following criteria:

(A) It has a poverty rate of at least 20 percent as determined by the most recently available decennial census information;

(B) It does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30 percent as determined by the most recently available decennial census information; and

(C) It evidences pervasive poverty and general distress by meeting at least one of the following standards:

(1) All block groups in the census tract have poverty rates of at least 20 percent;

(2) The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or

(3) Upon the written request of the recipient, HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

(vi) As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except:

(A) In certain cases such as where CDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park) the requirement may be met by measuring jobs in the aggregate for all the businesses which locate on the property, provided such businesses are not otherwise assisted by CDBG funds.

(B) Where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses exclusively from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during each program year.

(C) Where CDBG funds are used by a recipient or subrecipient to provide technical assistance to businesses, this requirement may be met by aggregating the jobs created or retained by all of the businesses receiving technical assistance during each program year.

(D) Where CDBG funds are used for activities meeting the criteria listed at § 570.209(b)(2)(v), this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

(E) Where CDBG funds are used by a Community Development Financial Institution to carry out activities for the purpose of creating or retaining jobs, this requirement may be met by aggregating the



**FEDERAL REGULATIONS FOR  
CDBG ECONOMIC  
DEVELOPMENT ASSISTANCE  
(24 CFR §570.209)**

jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

(F) Where CDBG funds are used for public facilities or improvements which will result in the creation or retention of jobs by more than one business, this requirement may be met by aggregating the jobs created or retained by all such businesses as a result of the public facility or improvement.

(1) Where the public facility or improvement is undertaken principally for the benefit of one or more particular businesses, but where other businesses might also benefit from the assisted activity, the requirement may be met by aggregating only the jobs created or retained by those businesses for which the facility/improvement is principally undertaken, provided that the cost (in CDBG funds) for the facility/improvement is less than \$10,000 per permanent full-time equivalent job to be created or retained by those businesses.

(2) In any case where the cost per job to be created or retained (as determined under paragraph (a)(4)(vi)(F)(1) of this section) is \$10,000 or more, the requirement must be met by aggregating the jobs created or retained as a result of the public facility or improvement by all businesses in the service area of the facility/improvement. This aggregation must include businesses which, as a result of the public facility/improvement, locate or expand in the service area of the facility/improvement between the date the recipient identifies the activity in its action plan under part 91 of this title and the date one year after the physical completion of the facility/improvement. In addition, the assisted activity must comply with the public benefit standards at § 570.209(b).

**§ 570.209 Guidelines for evaluating and selecting economic development projects.**

The following guidelines are provided to assist the recipient to evaluate and select activities to be carried out for economic development purposes. Specifically, these guidelines are applicable to activities that are eligible for CDBG assistance under § 570.203. These guidelines also apply to activities carried out under the authority of § 570.204 that would otherwise be eligible under § 570.203, were it not for the involvement of a Community-Based Development Organization (CBDO). (This would include activities where a CBDO makes loans to for-profit businesses.) These guidelines are composed of two components: guidelines for evaluating project costs and financial requirements; and standards for evaluating public benefit. The standards for evaluating public benefit are mandatory, but the guidelines for evaluating projects costs and financial requirements are not.

(a) Guidelines and objectives for evaluating project costs and financial requirements. HUD has developed guidelines that are designed to provide the recipient with a framework for financially underwriting and selecting CDBG-assisted economic development projects which are financially viable and will make the most effective use of the CDBG funds. These guidelines, also referred to as the underwriting guidelines, are published as appendix A to this part. The use of the underwriting guidelines published by HUD is not mandatory. However, grantees electing not to use these guidelines would be expected to conduct basic financial underwriting prior to the provision of CDBG financial assistance to a for-profit business. Where appropriate, HUD's underwriting guidelines recognize that different levels of review are appropriate to take into account differences in the size and scope of a proposed project, and

in the case of a microenterprise or other small business to take into account the differences in the capacity and level of sophistication among businesses of differing sizes. Recipients are encouraged, when they develop their own programs and underwriting criteria, to also take these factors into account. The objectives of the underwriting guidelines are to ensure:

*(1) That project costs are reasonable;*

*(2) That all sources of project financing are committed;*

*(3) That to the extent practicable, CDBG funds are not substituted for non-Federal financial support;*

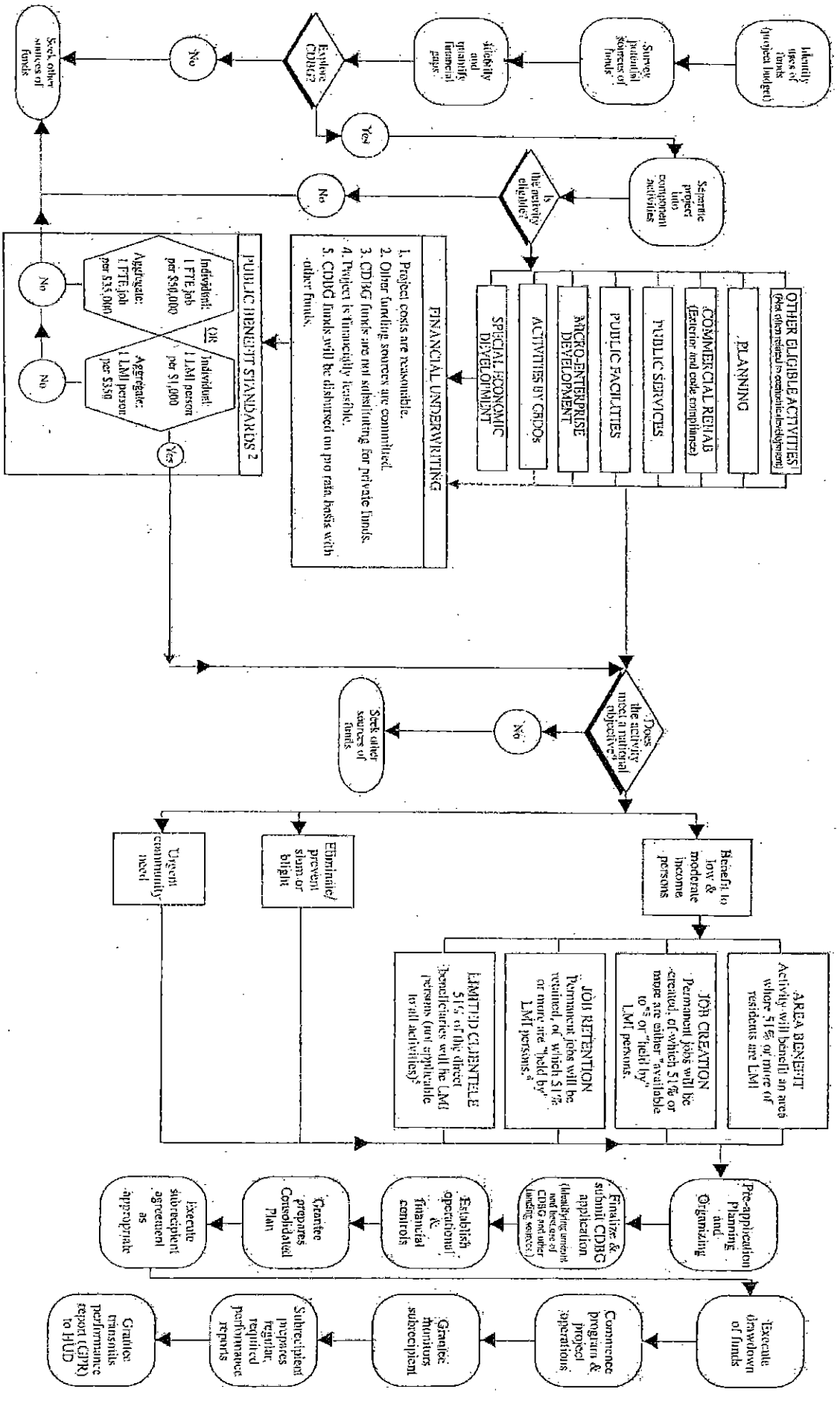
*(4) That the project is financially feasible;*

*(5) That to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and*

*(6) That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.*

# USING CDBG FUNDS FOR ECONOMIC DEVELOPMENT ACTIVITIES: THE PROCESS

- STEP 1: IDENTIFY SOURCES & USES OF FUNDS
- STEP 2: DETERMINE ELIGIBILITY OF ACTIVITY
- STEP 3: DETERMINE IF ACTIVITY WILL MEET A NATIONAL OBJECTIVE
- STEP 4: SECURE FUNDS
- STEP 5: IMPLEMENT & MONITOR PROJECT



1. Other eligible activities include: acquisition, disposition, clearance, non-federal share, relocation, lease of rental income, architectural barriers, utilities, housing rehab, code enforcement, historic rehab, administration, technical assistance, housing services, land bank, higher education, tax foreclosed housing, home ownership, and special activities.

2. Activities qualifying under certain categories must meet public benefit standard (e.g., Special Economic Development (SED), Activities by CRDOS that would otherwise qualify under SED, public improvements where < 1 job is created per \$10,000 of CDBG).

3. To be considered "available to" LMI persons, jobs should not require more than 12 months training beyond high school, and LMI persons must be given first consideration for filling jobs.

4. Jobs retained must be held by LMI persons at the time of the assistance, or be expected to turnover to LMI persons within two years.

5. The following are excluded: housing development, activities which benefit all the residents of an area, and activities in which the benefit is job creation or retention.

NOTE: Projects using CDBG must meet Davis-Bacon wage standards, environmental regulations and historic preservation requirements.

OKM Associates, Inc. and FirstPoint Associates, LLC Modified 2010