

RESOLUTION NO. R-2010-_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING (A) THE SUBMITTAL OF A \$1 MILLION BROWNFIELD ECONOMIC DEVELOPMENT INITIATIVE (BEDI) GRANT AND AN \$8 MILLION SECTION 108 FEDERAL LOAN APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR TIRE GROUP INTERNATIONAL; AND (B) THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO SIGN ALL APPLICATIONS AND DOCUMENTS RELATED TO THE GRANT AND LOAN.

WHEREAS, there is a current unemployment rate exceeding 14% and a poverty level exceeding 33% in the Tri-City Area of Palm Beach County, Florida; and

WHEREAS, the Tri-City Area suffers from disinvestment and substantial loss of its retail tax base; and

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida seeks to revitalize the Tri-City Area economy and employment base, and to empower its citizens and businesses; and

WHEREAS, the application for the BEDI grant and Section 108 Loan enters Palm Beach County into a national economic grant competition. The purpose of the grant and loan is to fund an \$18 million public private partnership to build a Tire Recycling Center in the Tri-City Area.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

SECTION 1. SUPPORT OF THE PUBLIC PRIVATE PARTNERSHIP

Upon approval of this resolution by the Board of County Commissioners, County government will submit the Federal application for the BEDI Grant and the Section 108 Loan funding into the national competition due July 6, 2010. The Resolution supports the private sector commitment by Tire Group International, Inc. (TGI), a worldwide wholesale distributor of tires, tubes, and various lines of automotive wheels and repair products. TGI conducts business in over 70 countries. The approval of this resolution is hereby declared to be a County public purpose.

SECTION 2. EFFECTIVE DATE

This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution was offered by Commissioner _____ who moved its adoption. The motion was seconded by Commissioner _____ and, being put to a vote, the vote was as follows:

COMMISSIONER BURT AARONSON, CHAIR _____

COMMISSIONER KAREN T. MARCUS, VICE CHAIR _____

COMMISSIONER JOHN F. KOONS _____

COMMISSIONER SHELLEY VANA _____

COMMISSIONER STEVEN L. ABRAMS _____

COMMISSIONER JESS R. SANTAMARIA _____

COMMISSIONER PRISCILLA A. TAYLOR _____

The Chair thereupon declared the Resolution duly passed and adopted this ____ day of _____, 2010.

ATTEST:

Sharon R. Bock, Clerk & Comptroller

By: _____

Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____

Assistant County Attorney

APPROVED AS TO TERMS AND CONDITIONS

By: _____

Economic Development Director

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5419-N-01]

**Notice of Funding Availability (NOFA) for the Fiscal Year (FY) 2009
Brownfields Economic Development Initiative (BEDI)
Second Competition**

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA).

SUMMARY: This NOFA establishes funding criteria for the 2009 Brownfields Economic Development Initiative (BEDI) program. The purpose of the Brownfields Economic Development Initiative program is to enhance the security of loans guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974, as amended, for the same brownfields economic development project, or to improve the viability of a brownfields economic development project financed with the Section 108-guaranteed loan, in order to stimulate economic development by local governments and private sector parties at brownfields sites and to return those sites to productive, economic use. All BEDI grants must be used in conjunction with a new Section 108-guaranteed loan commitment. In addition to the application requirements set forth in this document, applicants must also comply with applicable requirements established in HUD's FY2009 Notice of Funding Availability (NOFA) Policy Requirements and General Section to HUD's 2009 NOFAs for Discretionary Programs (General Section) published on December 29, 2008 (73 FR 79548), as amended on April 16, 2009 (74 FR 17685).

The funding for this NOFA is from FY2009 carry-over funding. The FY 2009 funds are available from the Housing and Urban Development Appropriations Act, 2009 (Pub. L. 111-8, approved March 11, 2009). **APPLICATION DEADLINE DATE:** The application deadline date is **11:59:59 p.m. Eastern time on July 6, 2010.**

FOR FURTHER INFORMATION CONTACT: For information concerning this NOFA, contact David Kaminsky, Office of Economic Development; U.S. Department of Housing and Urban Development; 451 Seventh Street, SW, Room 7140; Washington, DC 20410; telephone (202) 402-4612 (this is not a toll-free number), e-mail: David.Kaminsky@hud.gov or contact Nikki Bowser, at the same address; telephone (202) 402-4395 (this is not a toll free number), e-mail: Nikki.A.Bowser@hud.gov. Hearing or speech challenged persons may call the Federal Information Relay Service at 800-877-8339 (this is a toll-free number).

OVERVIEW INFORMATION

A. Federal Agency Name: Department of Housing and Urban Development, Office of Community Planning and Development.

B. Funding Opportunity Title: Brownfields Economic Development Initiative.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: The Federal Register number is FR-FR-5419-N-01. OMB approval number is 2506-0153.

E. Catalog of Federal Domestic Assistance (CFDA) Number(s): Brownfields Economic Development Initiative (BEDI), 14.246.

F. Dates: The application deadline date is **July 6, 2010**.

Applications must be received by http://www.grants.gov/gov/applicants/apply_for_grants.jsp no later than 11:59:59 p.m. Eastern time on the application deadline date. Applicants need to be aware that following receipt, applications go through a validation process in which the application may be accepted or rejected. The process may take 24 to 48 hours to complete. Please see the 2009 **General Section** for instructions for timely receipt, including actions to take if the application is rejected. Applicants should carefully read the section titled "APPLICATION and SUBMISSION INFORMATION" in the FY2009 **General Section**. This section contains information on using the correct version of Adobe Reader as the version available for download at Grants.gov, HUD's timely receipt policies, and other application information.

G. Additional Overview Content Information.

BEDI funds are used to enhance the security of a loan guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974, as amended, for the same brownfields economic development project, or to improve the viability of a brownfields economic development project financed with the Section 108-guaranteed loan, in order to stimulate economic development by local governments and private sector parties at brownfields sites and to return those sites to productive economic use. All BEDI grants must be used in conjunction with a new Section 108-guaranteed loan commitment.

HUD encourages brownfields economic development projects that propose the redevelopment of a brownfield site through new investments by identified private sector parties in addition to BEDI/Section 108 financing and projects that will directly result in new business or job creation, increases in the local tax base or other near-term, measurable economic benefits.

Those interested in applying for funding under this program should review carefully the **General Section** published on December 29, 2008 (73 FR 79548), as amended on April 16, 2009 (74 FR 17685) and the following additional information.

FULL TEXT OF ANNOUNCEMENT

I. Funding Opportunity Description.

A. Authority.

BEDI is authorized pursuant to Section 108(q), Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308(q)).

B. Program Description.

BEDI is designed to help local governments redevelop brownfields, defined in this NOFA as abandoned, idled, or underutilized real property, including industrial and commercial facilities, where expansion or redevelopment is complicated by the presence or potential presence of environmental contamination. A BEDI grant award will be conditioned upon, and must be used in conjunction with, a new (i.e., not previously approved) Section 108-guaranteed loan commitment. Both Section 108 loan guarantee proceeds and BEDI grant funds are initially made available by HUD to units of general local government eligible for assistance under HUD's Community Development Block Grant (CDBG) program (specifically, the Entitlement and State programs, certain jurisdictions in the state of Hawaii under the Small Cities program, and the insular areas of Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands). Note that Section 222 of Division I of the Omnibus Appropriations Act, 2009, which authorizes HUD to guarantee notes issued by states through the Section 108 Guaranteed Loan program, does not make states eligible to apply for BEDI grants. A local government may re-loan the Section 108 loan proceeds and provide BEDI funds to a business or other public entity eligible to carry out a specific approved brownfields economic development project, or the public entity may carry out the eligible project itself. In either case, BEDI grant funds and the Section 108 proceeds must be used to support the same eligible BEDI project.

Under this program, CDBG entitlement and non-entitlement grantees (and states for state-assisted non-entitlement jurisdictions) pledge their continuing CDBG allocations as security for the Section 108 loans guaranteed by HUD. BEDI grant funds are intended to reduce grantees' potential loss of future CDBG allocations by:

1. Strengthening the economic feasibility of a project financed with Section 108 funds (and thereby increasing the probability that the project will generate enough cash to repay the guaranteed loan);
2. Directly enhancing the security of the Section 108-guaranteed loan; or
3. Employing a combination of these or other risk mitigation techniques.

BEDI funds must be used as the stimulus for local governments and/or private sector parties to commence redevelopment or continue phased redevelopment efforts of brownfields sites where contamination is present or potentially present and a redevelopment plan exists. HUD desires to see BEDI and Section 108 funds used to finance projects and activities that involve investment in the brownfields site by an identified private sector party that will provide near-term results and measurable economic benefits, such as job creation and increases in the local tax base.

C. Program Definitions.

Unless otherwise defined herein, terms defined in this NOFA shall have the same respective meanings as provided for in 24 CFR part 570.

Act means Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

Application means a single set of documents, including a request for Section 108 loan guarantee assistance, submitted by an eligible applicant for BEDI grant funds, in accordance with the provisions of this NOFA, to finance a brownfields economic development project. Section IV.B.1.c. of this NOFA provides additional information on the nature and forms of Section 108 loan guarantee requests that must be submitted to HUD along with each BEDI application.

Brownfields means abandoned, idled, or under-used real property (including industrial and commercial facilities) where expansion or redevelopment is complicated by the presence or potential presence of contamination.

Brownfields Economic Development Initiative (BEDI) funds means the appropriated funds made available for the competition under this NOFA from any available appropriation.

Brownfields Economic Development Initiative (BEDI) project or brownfields economic development project means a single activity or a group of activities constituting a planned, continuous, single undertaking that is eligible under Section 108(q) of the Act and under 24 CFR 570.703 and projected to create or retain businesses or jobs, provide area or housing benefit to low- and moderate-income persons, redevelop blighted areas or sites, or otherwise lead to measurable economic benefits from redevelopment of one or more brownfields sites within five years. Applicants must identify the project in Block 15 of the SF-424 (Descriptive Title of Applicant's Project). The BEDI project also includes all other activities, regardless of funding source, integrally related to and necessary for the success of BEDI and Section 108 funded activities.

CDBG funds mean those funds collectively so defined at 24 CFR 570.3, including grant funds received pursuant to Section 108(q) and this NOFA.

Economic Development Initiative (EDI) grant means the provision of economic development grant assistance under Section 108(q) of the Housing and Community Development of 1974. Section 232 of the Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103-233, approved April 11, 1994, amended Section 108 to include authorization language.

EPA means the U.S. Environmental Protection Agency.

Firm Commitment means either a written agreement or letter of understanding by which the applicant or a third party:

- (1) Agrees to perform an activity or provide resources as specified in the application, and demonstrates their relationship to the proposed BEDI/Section 108 project;
- (2) Specifies the dollar amount or value of the commitment, the business terms of the commitment and demonstrates that it has the financial and organizational capacity to deliver the resources necessary to successfully complete the activity; and
- (3) Irrevocably commits the resources specifically to the BEDI Project activities and not merely to the general activities of the applicant or partner, either through cash or in-kind services

or contributions; if any portion is to be financed through a grant or loan from another public or private organization, that institution's grant or loan commitment must be firmly committed as well.

Any such agreement or letter of understanding shall be understood as being contingent upon receipt of the BEDI grant and completion of a satisfactory environmental review required under 24 CFR part 58. Funds expended prior to the submission of the BEDI application will not be considered as firmly committed funds for purposes of this NOFA.

Additional information related to firm commitments of other resources is provided in Section V.A.2.d. of this NOFA, Rating Factor 4 (Leveraging of Other Financial Resources). See Section IV.B. of the **General Section** for instructions on how third party documents are to be submitted electronically as part of the application.

Strategic Plan means a strategy or course of action developed and agreed to by the nominating local government(s) and state(s) and submitted in partial fulfillment of the application requirements for an Empowerment Zone, Enterprise Community, or a Renewal Community, designated pursuant to 24 CFR parts 597, 598 or 599.

D. Program Background.

HUD has multiple programs that are intended to stimulate economic and community development and promote economic revitalization of distressed areas, which can be effectively employed to address and remedy brownfields conditions. Primary among HUD's resources are the Community Development Block Grant (CDBG) program and the Section 108 loan guarantee program.

1. CDBG. The CDBG program provides grant funds by formula to local governments (either directly or through states) to carry out community and economic development activities. The Section 108 loan guarantee program provides CDBG-eligible communities with a source of financing for economic development, public facilities, and other eligible large-scale physical development projects. HUD is authorized pursuant to Section 108 to guarantee notes issued by CDBG entitlement communities and non-entitlement units of general local government eligible to receive funds under the CDBG State program, as well as certain non-entitlement units of general local government in the state of Hawaii funded under 24 CFR part 570, subpart F. The Section 108 program is subject to the regulations applicable to the CDBG program at 24 CFR part 570 as described in 24 CFR part 570, subpart M.

2. Section 108 Loan Guarantees. The loan guarantee authority for the Section 108 program is estimated at \$316 million in loan guarantee authority for FY2010. Under this program, communities (states and insular areas, as applicable) are required to pledge their continuing CDBG allocations as security for loans guaranteed by HUD. The Section 108 program, however, does not require CDBG funds to be escrowed for loan repayment (unless such an arrangement is specifically negotiated as loan security and included in the applicable "Contract for Loan Guarantee Assistance"). This means that a community can ordinarily continue to spend its existing allocation for other CDBG purposes, unless needed for loan repayment.

3. Additional Security for Section 108 Loan Guarantees. Applicants should be aware of the need to provide additional security for the Section 108 loan guarantee pursuant to 24 CFR 570.705(b)(3). Although a public entity (and the corresponding state for a state-assisted non-entitlement entity) is required by the Act to pledge its current and future CDBG allocations as security for the Section 108 loan guarantee, it will usually be required to furnish additional collateral. In most cases, the additional collateral consists (in whole or in part) of the asset financed with the Section 108 loan funds (e.g., a loan made to a business as part of an economic development project and the related mortgage from the business). Applications proposing uses for BEDI funding that directly enhance the value of the asset(s) securing the Section 108 loan will help ensure that the project-based asset(s) will satisfy the additional collateral requirements.

4. Integration of Other Government Economic Development and Brownfields Programs. HUD encourages local governments which are assisted by (a) other federal or state economic development programs, (b) other federal brownfields programs (e.g., EPA's Assessment, Revolving Loan Fund Cleanup or Grant programs), or (c) state-supported brownfields programs to integrate efforts arising from those programs in developing projects for assistance under HUD's BEDI and Section 108 programs. Applicants should elaborate upon these ties in their response to the appropriate rating factors in Section V.A.2. of this NOFA (e.g., "Capacity of the Applicant," "Soundness of Approach," or "Leveraging Resources" - Rating Factors 1, 3, and 4, respectively.)

II. Award Information.

A. Available Funds.

HUD has approximately \$8.1 million available for grant awards under this BEDI NOFA, which is as provided in the Department of Housing and Urban Development Appropriations Act, 2009, (Pub. L. 111-8, approved March 11, 2009). HUD will award up to the full \$8.1 million to the extent that the funds remain available.

The Consolidated Appropriations Act of 2010, Pub. Law 111-117 approved December 16, 2009, appropriated \$17.5 million for BEDI, an amount reduced by one percent to \$17.325 million as permitted by the Appropriations Act, which HUD expects to make available in a future NOFA.

B. Maximum Award.

The maximum amount of a BEDI award under this competition is \$2 million per project. An application that requests in excess of \$2 million in BEDI funds will be reduced to the extent HUD determines that such a reduction is appropriate and the project remains feasible.

C. Factors Affecting Grants.

1. Ratio of Section 108-Guaranteed Loan to BEDI Grant. HUD will not consider for funding any BEDI application that does not also provide for a minimum ratio of \$1.00 of Section 108-guaranteed loan commitments for every \$1.00 of BEDI grant funds. Section V.A.2.d., Rating Factor 4 (Leveraging of Resources), provides additional information on the required ratio of BEDI to Section 108 funds.

2. Reduction or Deobligation of BEDI Grant Award.

a. After selection, but prior to grant award, if HUD determines that an application can be funded at a lesser BEDI grant amount than requested and still be feasible and consistent with the proposed plan and the purposes of the Act, HUD reserves the right to reduce the amount of the BEDI award and/or increase the required Section 108 loan guarantee commitment.

b. In the event a BEDI grant is awarded and has been reduced below the original request (e.g., the application contained some activities that were ineligible, exceeded the \$2 million cap, or there were insufficient funds to fund the last competitive application at the full amount requested), the applicant will be required to modify the project plans and application to conform to the terms of HUD approval before HUD will execute a grant agreement.

c. HUD also may proportionately reduce, including to zero, and subsequently deobligate such amount of the BEDI award if a grantee does not submit an approvable Section 108 loan guarantee application, issue Section 108 guaranteed obligations, and receive loan guarantee proceeds on a timely basis (60 days, plus any extension authorized by HUD) in the amount required by the BEDI/108 leveraging ratio, which will be approved by HUD as a special condition of the BEDI grant award (see Section IV.B.1.c.(2) of this NOFA).

3. Increased Request for Section 108 Loan Guarantee Assistance. In the case of a BEDI application that requests to increase the amount of 108 loan guarantee assistance for a project with a previously approved Section 108 loan guarantee commitment (as further discussed in Section IV.B.1.c.(4)), the BEDI assistance HUD approves will be based only on the additional amount of Section 108 loan guarantee assistance requested.

III. Eligibility Information.

A. Eligible Applicants.

Any public entity eligible to apply for Section 108 loan guarantee assistance in accordance with 24 CFR 570.702, including Guam, the Northern Marianas, American Samoa, and the Virgin Islands, may apply for BEDI grant assistance under Section 108(q). Eligible applicants are CDBG entitlement units of general local government and non-entitlement units of general local government eligible to receive loan guarantees under 24 CFR part 570, subpart M. Urban Counties, as defined at 24 CFR 570.3 and 570.307, are eligible applicants for BEDI funds; units of general local government that participate in an Urban County program are not independently eligible applicants. The Authorized Representative (SF424, Block 21) must be an official of the eligible applicant. Entities like redevelopment authorities and renewal agencies that are independent of the local government are not eligible applicants. For non-entitlement applicants other than those subject to 24 CFR part 570, subpart F (which applies only to the state of Hawaii), applicants are required to include evidence in the BEDI application from an authorized official of the state agency responsible for administering the State CDBG program stating that it supports the related Section 108 loan with a pledge of its CDBG allocations pursuant to the requirements of 24 CFR §570.705(b)(2). Such evidence must be provided by form HUD40122, titled "SECTION 108 LOAN GUARANTEE: State Certifications Related to Non-entitlement Public Entities." This form may be downloaded as part of the application

instructions download from the Grants.gov/APPLY website at http://www.grants.gov/applicants/apply_for_grants.jsp and follow the instructions at that site.

Non-entitlement public entities in 49 states and Puerto Rico are eligible to participate in the Section 108 and BEDI programs, with assistance of the state's or commonwealth's pledge of CDBG allocations. The non-entitlement entities in Hawaii are able to make their own repayment pledge since they receive a fixed amount of annual CDBG funding.

Prior to enactment of Section 222 in Division I of the Omnibus Appropriations Act, 2009 a state could not apply to HUD for Section 108 loan guarantees for bonds issued by the state on behalf of their non-entitlement communities. The removal of this prohibition did not, however, establish state governments as "eligible public entities" as defined in Section 108(o) of the Housing and Community Development Act of 1974. Under Section 108(q) BEDI grants may be made only in conjunction with Section 108 loan guarantees that are issued to eligible public entities. States, therefore, are not eligible applicants for BEDI grants nor may notes issued by a state with a Section 108 loan guarantee serve as the required 108 borrowing in connection with a BEDI grant.

B. Cost Sharing or Matching.

As described further in Section V.A.2.d. of this NOFA, under Rating Factor 4 (Leveraging of Resources), applications which evidence a greater level of other funds firmly committed (and meeting the definition of "firm commitment" under I.C. above) to the BEDI project will receive more points under Rating Factor 4. Note that for Section 108 loan guarantee proceeds, additional points under this factor are only awarded to the extent that the ratio of Section 108 resources to the BEDI grant exceeds the minimum \$1.00 of 108 to \$1.00 of BEDI.

C. Other.

1. Eligible Activities and National Objectives.

a. Applicants for BEDI grant funds and Section 108 loan guarantee funds must demonstrate that funds will be used for eligible activities listed at 24 CFR 570.703 and carried out as part of a BEDI project as defined in this NOFA and meet the CDBG requirements at 24 CFR Sections 570.200, 570.208 and 570.209, as applicable. All applicants must clearly identify in their narrative response to Rating Factor 3 (Soundness of Approach) in Section V.A.2.c. of this NOFA each of the eligible activities that will be carried out under 24 CFR 570.703.

With respect to BEDI projects that include a housing component, applicants are cautioned that the eligible activities at 24 CFR 570.703 do not allow BEDI and Section 108 funds to be used to finance the costs of the construction of housing, unless such construction is undertaken by a Community Based Development Organization (CBDO) or a not-for-profit organization serving the development needs of a community in a non-entitlement area as part of a community economic development project, in accordance with 24 CFR 570.703(i)(2) and 24 CFR 570.204(a)(2). Provisions of 24 CFR 570.703(j) that authorized the use of BEDI or Section 108 funds for housing construction have expired and are no longer applicable, as the statute referenced therein is no longer in effect. For projects that include the construction of housing, BEDI and Section 108 funds may be used to finance activities necessary to construct such housing, such as acquisition and related demolition and clearance on the acquired site, site

improvements, public facilities and other eligible activities subject to each of the eligible activity provisions at 24 CFR 570.703; and

b. Applicants must demonstrate that each activity assisted with Section 108 loan guarantee or BEDI funds will meet a national objective of the CDBG program as described in 24 CFR 570.208. All applicants must clearly identify in their narrative response to Rating Factor 3 (Soundness of Approach) in Section V.A.2.c. of this NOFA, the CDBG national objective to be achieved by the proposed project and provide the appropriate CDBG national objective regulatory citation found at 24 CFR 570.208. Applicants must also address, when applicable, how the proposed activities will comply with the public benefit standards of the CDBG program as reflected in the regulation at 24 CFR 570.209. A mixed-use, new construction project that includes housing is eligible only if it is developed by a CBDO as further described in Paragraph III.C.1.a. above. In the case of a "mixed-use" project, that contains an economic development component to create jobs and a housing component, the applicant must identify for each component receiving HUD funding, how each component will separately meet its respective national objective criterion. Failure to do so may result in the application not being considered for funding.

c. A grantee's aggregate use of its CDBG funds, including any Section 108 loan guarantee proceeds and Section 108(q) (BEDI) funds provided pursuant to this NOFA, must comply with the CDBG primary objective requirements as described in Section 101(c) of the Act and 24 CFR 570.200(a) (3) for entitlement grantees, or 24 CFR 570.484 in the case of a recipient under a state's program, requiring that, over the period of time specified in the applicant's (or State's) CDBG certification, not less than 70 percent of the aggregate expenditures of CDBG funds will be expended for activities benefiting low- and moderate-income persons under the criteria of 24 CFR 570.208(a) or 570.208(d)(5) or (6).

2. Brownfields Redevelopment. As described further in Section V.A.2.c. of this NOFA, in the narrative response to Rating Factor 3 (Soundness of Approach) applicants must: (a) describe the nature and extent of the brownfields problem(s) actually or potentially affecting the site and/or structure(s) already on the site; and (b) how the proposed activities will contribute to redevelopment of the site and/or structures.

3. General Section Threshold Requirements.

a. Applicants should carefully review the threshold requirements found in Section III.C. of the **General Section** that could result in the failure to receive funding under this program. Applicants for BEDI grant funds must comply with the statutory, regulatory, threshold, and public policy requirements listed in the **General Section**, except as otherwise specifically provided in this NOFA. In particular, applicants should carefully review those provisions that could result in the failure to receive funding, including the DUNS Number Requirement, Compliance with Fair Housing and Civil Rights Laws, provisions relating to Delinquent Federal Debts, and the Name Check Review.

b. The Dun and Bradstreet Universal Numbering System (DUNS) Number Requirement. Refer to the **General Section** for information regarding the DUNS requirement.

All applicants seeking funding directly from HUD must have a DUNS number and include the number in their Application for Federal Assistance. The DUNS number must reflect the applicant organization that is to receive funding from HUD and correspond to the legal name that is entered into Box 8a of Standard Form 424 (SF424). The legal name entered into Box 8a of the SF424 must correspond to the information provided to DUN and Bradstreet and CCR. Failure to follow these instructions and provide a DUNS number and Taxpayer Identification Number (TIN) that is validated by CCR will prevent an applicant from obtaining an award, regardless of whether it is a new award or renewal of an existing one. This policy is pursuant to the OMB policy issued in the Federal Register on June 27, 2003 (68 FR 38402). HUD published its regulation implementing the DUNS number requirement on November 9, 2004 (69 FR 65024). A copy of the OMB Federal Register notice and HUD's regulation implementing the DUNS number can be found on HUD's website at <http://www.hud.gov/offices/adm/grants/duns.cfm>.

Applicants are reminded that when registering with Dun and Bradstreet, please be sure to use the organization's legal name that is used when filing a return with or making payments to the Internal Revenue Service. Organizations should also provide the zip code using the zip code plus the four additional digits. The DUNS number used in the application must be for the applicant organization, not the entity submitting the application on behalf of the applicant.

c. Active Registration in the Central Contractor Registration. HUD will not make an award of funds to the applicant organization listed in Box 8a of the SF424, that does not have an active registration in the Central Contractor Registration; and where the DUNS number, Tax Identification Number, and Name and Address of the Applicant Organization does not match CCR data files. Registrations in CCR are active for 1 year. The CCR registrant is notified by email 1 month prior to the registration expiration date that the CCR registration will be expiring. The email provides instructions for how to update/renew the CCR registration. Applicants are advised to update any email addresses as email addresses or persons leave the organization and also to name a primary and alternate contact person in the CCR registration. That will ensure that if a person leaves the organization, you have an alternate person available to update/renew the registration.

d. The maximum number of points to be awarded under this NOFA is 100 plus 2 bonus points if the proposed activities/projects are consistent with the strategic plan for an empowerment zone (EZ) that was designated by HUD or the Department of Agriculture (USDA), the tax incentive utilization plan for an urban or rural renewal community designated by HUD (RC), or the strategic plan for an enterprise community designated in round II by USDA (EC-II); and that the proposed activities/projects will be located within the RC/EZ/EC-II identified above and are intended to serve the residents. For ease of reference in this notice, all of the federally designated areas are collectively referred to as "RC/EZ/EC-IIs" and residents of any of these federally designated areas as "RC/EZ/EC-II residents." Applicants must submit a certification (Form HUD2990) completed by the EZ/EC II or EZ to be considered for the bonus points. Applicants can obtain a list of RC/EZ/EC-IIs that received designation from HUD's grants Web page at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>. Applicants can determine if their program or project activities are located in one of these designated areas by using the locator on HUD's Web site at <http://egis.hud.gov/egis/>.

To be eligible for funding, a BEDI application must obtain a minimum total score of 75 points. All applications meeting program requirements and **General Section** thresholds will be rated under the selection criteria provided in Section V.A.2. below:

e. **Federal Debt.** In addition to the requirements in the General Section, applicants at the time of award that have Federal debt or are in default of an agreement with the IRS will not be funded. Applicants selected for funding have an obligation to report to HUD changes in status of a current IRS agreement covering federal debt.

4. Other Program Requirements.

a. **BEDI Funding Request.** A single BEDI application must contain a request for funds for a single BEDI/108 project. The application must propose activities expected to result in redevelopment of one or more brownfields sites. An applicant may submit an additional application for each additional **unrelated** BEDI/108 project, but in no event will HUD rate and rank more than one BEDI project per application.

b. **Related Section 108 Loan Guarantee Request.** The request for Section 108 Loan Guarantee assistance must provide for a minimum ratio of \$1.00 of requested Section 108 loan guarantee commitments for every \$1.00 of BEDI grant funds requested, or a higher ratio, as needed for the project. As of the BEDI application submission deadline, the applicant must have uncommitted Section 108 borrowing authority sufficient to enable the applicant to borrow the proposed amount of Section 108 loan funds that are pledged to be used with the BEDI grant requested in its application. Uncommitted Section 108 borrowing authority is equal to five times the applicant's current CDBG entitlement grant less any outstanding approved 108 loan guarantee commitments.

c. **Nonentitlement Applications.** Applications submitted by nonentitlement public entities (except for those in Hawaii and the insular areas which now receive fixed amounts of CDBG funds annually) must provide for the state's or commonwealth's certification agreeing to pledge its CDBG allocations to receive funding consideration, as evidenced by form HUD 40122.

d. **Narrative Response to Rating Factors.** Each BEDI application must provide narrative statements in response to each of the rating factors below in Section V.A.2. of this NOFA.

e. **Time Frame for Submission of Section 108 Applications.** All applications for Section 108 Loan Guarantee Assistance required for approved BEDI projects must be submitted within 60 days of written notice of BEDI selection, as provided for in Section IV.B.1.c.(2) of this NOFA.

f. **HUD Environmental Requirements.** Beginning with the submission of a BEDI application through and after HUD's award of BEDI grant funds, pursuant to 24 CFR 570.604, each project or activity assisted under this program is subject to the provisions of 24 CFR part 58. Specific provisions found at 24 CFR part 58 limit the commitment of HUD and other non-HUD funds of the BEDI applicant or grantee and Section 108 public entity, as well as other participants in the development process, prior to the completion of environmental review, notification, and release of funds. Neither grant nor loan funds can be disbursed by HUD until a request for release of

funds is submitted and the requirements of 24 CFR part 58 have been met. All public entities, including non-entitlement public entities, shall submit the request for release of funds and related certification, required pursuant to 24 CFR part 58, to the appropriate HUD field office for each project to be assisted. Note that even the obligation of non-HUD funds for activities in the BEDI/108 assisted project could render the whole project ineligible for HUD funding participation unless the environmental review, notification, and release of funds has been obtained prior to any such obligation.

g. Compliance with Environmental and Other Laws. An award of BEDI funding does not, in any way, relieve the applicant or third party users of BEDI funds from compliance with all applicable federal, state, and local laws and regulations, particularly those addressing the environment. Applicants are further advised that HUD may require evidence that any project involving remediation has been or will be carried out in accordance with applicable law, including voluntary cleanup programs.

h. CDBG Program Regulations. In addition to 24 CFR 570.701 (Definitions), 570.702 (Eligible applicants), and 570.703 (Eligible activities), the CDBG regulatory requirements cited in 24 CFR 570.707, including subparts J (Grant Administration), K (Other Program Requirements), and O (Performance Reviews), also govern the use of BEDI funds, as applicable.

i. Obligation to Affirmatively Further Fair Housing. All BEDI grantees are obliged to affirmatively further fair housing, even when the proposed activities do not appear to be directly related to housing. Therefore, applicants that propose to use BEDI funds must include in their applications an explanation of how they propose to further fair housing opportunities for persons on the basis of race, color, national origin, sex, religion, familial status, or disability. Applicants should respond to this requirement in Section V.A.2.c. of this NOFA, under Rating Factor 3, subfactor (1)(b). Affirmative activities include, but are not limited to: initial and periodic assessments of the extent to which affordable and accessible housing opportunities are provided or denied to persons by race, color, national origin, sex, religion, familial status, or disability; outreach to persons in underserved population groups or advocacy organizations representing such persons; affirmative fair marketing of job or housing opportunities; furthering housing choice; addressing environmental justice concerns; ensuring nondiscrimination and accessibility for the physically handicapped; ensuring consistency with the consolidated plan; or ensuring that employment, housing and other benefits of the BEDI grant are made available to those individuals and families living at or near the brownfields site prior to its redevelopment.

Under Section III.C.4.b of the **General Section**, applicants are required to submit a statement of plans to affirmatively further fair housing if they receive funding under a FY2009 announcement, or follow other instructions on affirmatively furthering fair housing in the program funding announcement. *If an applicant does not respond to Section V.A.2.c. of this NOFA under Rating Factor 3, then the applicant must provide a separate statement on affirmatively furthering fair housing in response to the instructions at Section III.C.4.b of the **General Section**.*

j. Policy Priorities. Applicants are reminded of the Department's Policy Priorities for FY2009 found in Section V.B. of the **General Section**, several of which apply to this NOFA, as

described in Section V.A.2.e. below, under Rating Factor 5 (Achieving Results and Program Evaluation).

k. Ineligible Sites. An applicant must propose a project site(s) that currently meets the definition of brownfields in this program NOFA. An applicant may not propose a project on a site(s) which is: (1) listed or proposed to be listed on EPA's National Priority List (NPL); (2) subject to unilateral administrative orders, court orders, administrative consent orders or judicial consent decrees issued or entered into by parties under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; or (3) subject to the jurisdiction, custody, or control of the United States Government. In order to be eligible to receive an award under this program, applicants will be required in Section V.A.2.c., Rating Factor 3, Soundness of Approach, to affirmatively state that the proposed BEDI project will not be undertaken at an ineligible site as provided herein.

l. Prior Approved Section 108-Guaranteed Loans. BEDI grant assistance cannot be used to leverage a Section 108 loan guarantee approved prior to the date of HUD's announcement of a BEDI grant pursuant to this NOFA, unless on or before the application deadline date the applicant requests to deobligate a previously approved commitment. In no event, however, may a previously approved Section 108 commitment to be used with a prior BEDI or EDI award be subject to such deobligation, unless the funds awarded for the prior BEDI or EDI grant have also been deobligated.

m. Use of Section 108 Solely for Security. A BEDI award will not be made if the Section 108 request contained in the application (see Section IV.B.1.c. of this NOFA) calls for the use of the Section 108-guaranteed obligation solely as security for other financing on the project.

IV. Application and Submission Information.

A. Requests for BEDI Application Package.

1. Copies of the published NOFAs and application forms for HUD programs announced through NOFAs may be downloaded from the Grants.gov website. Applicants can find this funding opportunity and link to the application and Instructions Download with additional forms at http://www.grants.gov/applicants/find_grant_opportunities.jsp If you have difficulty accessing the information you may receive customer support from Grants.gov by calling their Support Desk at (800) 518-GRANTS, (TTY:1-800-877-8339) or sending an email to support@grants.gov. **The customer support center is open twenty-four hours a day, seven days per week, except federal holidays.** The customer service representatives will assist applicants in accessing the information and addressing technology issues, including accessibility problems, in accordance with Section 508 of the Rehabilitation Act (See paragraph 4(h), Accessible Technology). Applicants should ask for a Grants.gov call center ticket number if not provided one by the call center customer service representative. In case of issues, HUD relies on the call center ticket logs as part of the review of records.

2. Satellite Broadcasts. HUD expects to hold an informational broadcast via satellite for potential applicants to learn more about the BEDI program and the preparation of BEDI

application(s). For more information about the date and time of the broadcast, consult HUD's website at <http://www.hud.gov/webcasts/index.cfm>.

B. Content and Form of Application Submission.

1. Content of Application.

A complete application for a BEDI grant under this NOFA must contain the items listed below. By signing the Application for Federal Assistance form, SF424, applicants are also agreeing to the Certifications and Assurances found in the General Section and this NOFA. All forms required for application submission can be found in the application and instruction downloads for the BEDI program on http://www.grants.gov/applications/apply_for_grants.jsp.

- a. Checklist and Submission Table of Contents indicating the submission items included in the application can be found in Appendix A of this NOFA. Applicants are not required to submit the Checklist but are encouraged to review it to ensure that they have submitted a complete application.
- b. EDI/BEDI/Section 108 Funding Eligibility Statement. A completed EDI/BEDI/ Section 108 Funding Eligibility Statement (Exhibit D of form HUD40123).
- c. Request for Loan Guarantee Assistance. A request for loan guarantee assistance under Section 108, with the project name clearly identified (and having the same name as the BEDI project being applied for), as further described below. Full application requirements for the Section 108 program are found at 24 CFR 570.704. **Non-entitlement applicants (except those in Hawaii and the insular areas) must accompany this request with the State Certifications Related to Nonentitlement Public Entities (form HUD40122) in order to be considered for BEDI funding.**

The request for loan guarantee assistance may take any of the five forms defined in paragraphs (1), (2), (3), (4), or (5) below. Notwithstanding the form of the request for new Section 108 loan guarantee assistance, the applicant must include citations to the specific regulatory subsection supporting activity eligibility and National Objectives compliance for the Section 108 funds described in the application. (See Section III.C.1. of this NOFA.) Both the BEDI and Section 108 funds must be used in the same BEDI project. Applicants are encouraged to consult with HUD's Financial Management Division in Headquarters CPD, at (202) 708-1871, before submission of 108 and/or BEDI applications if unsure of CDBG national objectives, eligibility of activities, program benefits citations and the tests thereof. The request for new Section 108 guarantee assistance may be presented in any of the following ways:

(1) **Concurrent Application Submitted Under Separate Cover.** A complete application for a new Section 108 loan guarantee(s), including the documents listed at 24 CFR 570.704(b), must be submitted under separate cover in accordance with the procedures in Section IV.F.2. below. Any full application for loan guarantee assistance under Section 108 must also be submitted to the appropriate HUD field office concurrently with its submission to HUD's Washington, D.C. Headquarters office. As described further in Section V.A.2.c., in Rating Factor 3 (Soundness of Approach), two points will be awarded for the submission of a full Section 108 loan guarantee

application with a BEDI application. Please refer to section IV.F.2. of this NOFA for further explanation of how to properly submit a concurrent Section 108 loan guarantee application.

(2) Subsequent Application. A brief description (not to exceed three pages) of the project to be applied for in a subsequent new Section 108 loan guarantee application(s). Such a 108 application(s) shall be submitted within 60 days of written notice of BEDI selection, with HUD reserving the right to extend such period on a case-by-case basis where HUD determines there is evidence of good cause. BEDI awards will be conditioned on approval of actual Section 108 loan commitments and loan guarantee proceeds in a specific ratio of BEDI funds to Section 108 funds as approved by HUD in the BEDI award. The description provided in the BEDI application must be sufficient to support the basic eligibility of the proposed project and activities for Section 108 assistance. (See Section III.C.1. of this NOFA.) Failure to submit the Section 108 loan guarantee application within the specified 60-day time frame may result in the cancellation of the BEDI grant award.

(3) Pending, Unapproved Application. A request to use the BEDI grant award in conjunction with a pending, unapproved Section 108 loan guarantee application. The request must identify the project name associated with the pending application and the date of submission. Any proposed amendment to the pending Section 108 application must be submitted under separate cover, as provided for in Section IV.F.2. below. An applicant's request to use the BEDI award in conjunction with a pending application shall be deemed by HUD to constitute a request to suspend separate processing of the Section 108 application. The Section 108 application will not be approved until on or after the date of the related BEDI award.

(4) Increase to a Project Assisted Under a Previously Approved Application. A request for Section 108 loan guarantee assistance (analogous to Section IV.B.1.c.(1) or (2) above of this section) may propose new Section 108 guarantee assistance in addition to the amount of Section 108 assistance for a project assisted under a previously approved Section 108 application. However, any amount of Section 108 loan guarantee authority approved **before** HUD's announcement of a BEDI grant for the same project is not eligible to be used as the mandatory amount of Section 108 funds to be used in conjunction with a BEDI grant under this NOFA.

(5) In no event may a Section 108 loan guarantee amount that is required to be used in conjunction with a previously approved BEDI or EDI grant award as of the date of the submission of the application, whether or not the Section 108 loan guarantee has been approved as of the date of this NOFA, be used in conjunction with a new BEDI award under this NOFA. For example, if a public entity has a previously approved Section 108 loan guarantee commitment of \$12 million, even if none of the funds have been utilized, or if the public entity had previously been awarded a BEDI grant of \$1 million and had agreed to submit a Section 108 loan application for \$10 million in support of that BEDI grant, the public entity's application under this NOFA must propose to increase the amount of its total Section 108 loan guarantee commitments beyond those amounts to which it has previously agreed (i.e., the \$12 million or \$10 million Section 108 loan guarantee commitments in this example).

(6) As of the deadline date for the BEDI applications, each applicant must have sufficient, uncommitted section 108 loan guarantee authority available to support, at a minimum,

\$1 dollar of uncommitted section 108 authority for every dollar of HUD BEDI funding requested in the application. An applicant that has insufficient section 108 loan guarantee authority to support the BEDI grant amount requested without cancelling committed, but unutilized section 108 loan guarantee amounts, must cancel such committed amounts as necessary for use with the proposed BEDI project in this competition prior to the BEDI application deadline date. Any BEDI application having insufficient, uncommitted section 108 loan guarantee authority as of the BEDI application deadline date will not be considered, rated, or ranked.

d. Narrative Responses to Factors for Award (not to exceed 15 double-spaced, 8 1/2 x 11 inch single-sided pages, with one-inch margins on all sides, for all responses):

(1) Rating Factor 1: Capacity and Relevant Organizational Experience. Provide a narrative indicating the capacity of the applicant's organization and staff and any known third parties to perform the work for which it is requesting funding.

(2) Rating Factor 2: Need Statement Identifying the level of Distress/Extent of the Problem. Provide a narrative statement including any documentation supporting the statement of need, accompanied by a completed Exhibit A of form HUD40123.

(3) Rating Factor 3: Soundness of Approach. Include the CDBG eligible activities, the CDBG National Objective, the source and nature of the present or potential environmental contamination, the budget, and the time frame for conducting activities and providing project benefits to address the needs identified in Rating Factor 2 in the narrative response, accompanied by Exhibits B and C of form HUD40123.

(4) Rating Factor 4: Leveraging Resources. The response to this factor should include any letters of firm commitment as defined in Section I.C. of this NOFA, and any evidence of financial capacity or CDBG resolutions, as appropriate. Such letters, evidence or resolution must be submitted under the procedures provided for in Section IV.B. of the **General Section**.

(5) Rating Factor 5: Achieving Results and Program Evaluation. Provide a narrative response to this factor, accompanied by the logic model provided in the instructions download for the BEDI application on Grants.gov (Form HUD96010).

2. Forms, Certifications, and Assurances

a. In addition to any forms submitted in response to Section IV.B.1. above, the following forms and certifications must also be submitted in accordance with the **General Section**:

(1) Application for Federal Assistance (SF424)

(2) Applicant/Recipient Disclosure/Update Report, HUD2880 ("HUD Applicant Recipient Disclosure Report" on Grants.gov);

(3) Certification of Consistency with RC/EZ/EC-II Strategic Plan, HUD2990, if applicable;

- (4) Certification of Consistency with the Consolidated Plan (HUD2991) if applicable;
- (5) Disclosure of Lobbying Activities (SFLLL), if applicable,
- 6) You Are Our Client! Grant Applicant Survey (HUD2994A) (Optional);
- (7) Program Outcome Logic Model (HUD96010);
- (8) Section 108 Loan Guarantee (State Certifications Related to Non-entitlement Public Entities) (HUD40122), if applicable; and
- (9) Responses to BEDI Application Rating Factors (HUD40123, Exhibits A through D).

C. Application submissions

1. Application Submission Requirements

- a. The BEDI grant application submission deadline is **July 6, 2010**.
- b. Applications submitted through <http://www.grants.gov/applicants/apply> must be received by Grants.gov no later than 11:59:59 p.m. Eastern time on the application deadline date. Applicants need to be aware that following receipt applications go through a validation process in which the application may be accepted or rejected. The process may take 24 to 48 hours to complete. Please see the 2009 **General Section** for instructions for timely receipt including actions to take if the application is rejected. Applicants should carefully read the section titled "APPLICATION and SUBMISSION INFORMATION" in the 2009 **General Section**. This section contains information on using the correct version of Adobe Reader as the version available for download at Grants.gov, HUD's timely receipt policies, and other application information. If an applicant receives a waiver of the electronic application requirement, the paper application must be received by the application deadline date. The approval to submit a paper copy application will provide detailed submission instructions. Paper applications will not be accepted unless the applicant has received a waiver of the electronic submission requirement. Faxed information must be sent to the following number: (800) HUD-1010. Faxes not received at the numbers listed in this NOFA will not be matched to your application or reviewed. If you cannot access the toll-free number or experience problems with it, you may use (215) 825-8798. Applicants are reminded that the first page of each facsimile transmitted to Grants.gov. must be Form HUD 96011, Facsimile Transmittal, that Grants.gov will generate for your application. You must submit this form even if you are not submitting any faxes with your application. If you are not submitting any faxes with your application, in the section of the form titled "Name of Document Transmitting" enter the words "Nothing Faxed with this Application." Complete the remaining highlighted fields and enter the number "0" in the section of the form titled "How many pages (including cover) are being faxed?" Please see the **General Section** for further information on application submission and timely receipt requirements.

Be sure to provide a Project Name in Line 11 of the SF424 (Application for Federal Assistance), and use the same Project Name in all references to the related Section 108 application. Be sure to complete the SF424 cover page first, as the information from the cover

page will be pre-populated. In addition, a brief (one or two paragraph) description of all the activities (not just those to be funded with BEDI and 108 funds but all that are integrally related to the BEDI/108 project) that comprise the proposed project is to be provided, preceding the narrative statements in response to the Rating Factors. This project description does not count toward the 15-page overall limitation.

Applicants should be sure to use the applicant's legal name as used when registered with DUN and Bradstreet for the DUNS number, CCR and IRS, on the BEDI and Section 108 Loan applications. If there is a discrepancy in the legal name registered, the applicant must resolve the discrepancy with D&B prior to submitting an application.

2. Proof of Timely Submission. Please see Section IV.C.4. of the **General Section** for information regarding proof of timely submission.

D. Intergovernmental Review

BEDI is not subject to the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs."

E. Funding Restrictions

1. Repayment of Section 108 Principal. The planned use of BEDI funds for the specific purpose of repayment of the principal amount of a Section 108-guaranteed loan is not an eligible activity under 24 CFR. 570.703 and therefore should not be proposed in a BEDI application. Under the "debt service reserve" eligible activity at 24 CFR 570.703(k), however, the planned use of a limited amount of BEDI funds for the repayment of the principal of a Section 108-guaranteed loan is permissible if justified and approved by HUD under a particular application. A debt service reserve may be proposed and established in an amount reasonable to pay principal and/or interest on a Section 108-guaranteed loan for a limited time period, such as the start up period for an assisted business, or a construction period, when the cash flow resulting from the primary Section 108 or BEDI-funded activity would not be sufficient to support repayment. HUD requires the applicant to provide information sufficient to support the reasonableness of the amount of a debt service reserve in relation to its purpose. For any Section 108- and BEDI-assisted project, HUD will have rights under the Section 108 Contract for Loan Guarantee Assistance to use undisbursed BEDI funds, together with other pledged CDBG funds, to make payment on, or to defease, the Section 108 loan if HUD deems that action necessary in order to avoid the need for HUD to make a payment under its Section 108 loan guarantee.

2. Loan Loss Reserve. BEDI funds may not be used to establish a loan loss reserve.

3. Subordination of Section 108 Obligations. Section 108 loan obligations may not be subordinated, directly or indirectly, to federally tax-exempt obligations. Pursuant to Office of Management and Budget (OMB) Circular A-129 (Rev.) Appendix A, Sections II.2.c. and d., (Policies for Federal Credit Programs and Non-Tax Receivables), Section 108-guaranteed loan funds may not, directly or indirectly, support federally tax-exempt obligations.

4. Remediation by Responsible Parties. BEDI grant funds shall not be used in any manner by grantees to provide public or private sector entities with funding to remediate conditions caused by their own actions, where the public entity (or other known prospective beneficiary of the proposed BEDI grant) has been determined responsible for causation and remediation by order of a court or a federal, state, or local regulatory agency, or is responsible for the remediation as part of a settlement approved by such a court or agency. Applicants are required under Rating Factor 3, Soundness of Approach, to affirmatively state that the proposed BEDI project will not be used to provide such assistance.

5. Denial of Funding for Lack of Prior Performance. HUD may deny funding consideration to all applicants that fail to submit a full and complete Section 108 loan application pursuant to 24 CFR 570.704(b) in connection with a prior award of BEDI or competitive EDI grants on or before the application submission deadline under this NOFA.

F. Other Submission Requirements

1. Application Submission and Receipt Procedure. HUD requires applicants to submit applications electronically through http://www.grants.gov/applicants/apply_for_grants.jsp unless you request and are granted a waiver to the electronic submission requirements. This site has easy to follow step-by-step instructions that will enable you to apply for HUD assistance. Please note that applicants should use the latest version of Adobe Reader available for free from the Grants.gov site. (See the General section for complete details about submitting via Grants.gov). Failure to comply with the Grants.gov procedures may disqualify your application.

2. Grace Period Policy. In FY 2009, HUD established a one-day grace period from the date of notification of a rejection from Grants.gov, to allow applicants that successfully upload an application to Grants.gov prior to the deadline date and time, but receive a rejection notice after the deadline date and time, to cure the reason for rejection and re-upload the application to Grants.gov. The paragraphs below describe HUD's Grace Period Policy for FY2009.

a. Applicants that have successfully uploaded their application to Grants.gov prior to the deadline, and subsequently receive a rejection notice from Grants.gov after the deadline date and time, will have a one-day grace period from the date stamp on the first Grants.gov rejection notice after the deadline, to cure the basis for the rejection and upload an application that corrects the problems cited in the rejection notice. Applicants can upload the application as many times as needed to cure noted deficiencies within the one-day grace period. The Grants.gov rejection notice identifies the reasons why the application was rejected. Applicants that do not understand the error messages received in the rejection notice should immediately contact the Grants.gov Help Desk so they can get assistance in clearing the problem. Generally, Grants.gov will reject an application because it contains an incorrect DUNS number or a DUNS number that does not match the AOR's registration, the application was submitted by an individual without proper authorization as the AOR, and/or the application contains file names that trigger a "VirusDetect" message. The grace period ends one day after the date stamp on the first rejection notice received after the deadline date. **WARNING:** Applications that contain file names which are longer than 50 characters (HUD recommends using file names with 32 characters or less), or contain spaces or special characters, will result in the file being detected as a virus by the

Grants.gov system and the application will be rejected with a "VirusDetect" message. In FY2008, the use of spaces and special characters in file names (note: eliminate hyphens, special characters, and spaces even in the form name) and the use of file names which were longer than fifty characters, resulted in the most instances of an applicant receiving a "VirusDetect" rejection. Applicants should also scan files for viruses because the Grants.gov system will also reject files with viruses.

Applications received by Grants.gov, including those received during the grace period, must be validated by Grants.gov to be rated or ranked or receive funding consideration by HUD. HUD will use the date and time stamp on the Grants.gov system to determine dates when the grace period begins and ends.

b. Applications uploaded to Grants.gov after the deadline date under the following circumstances do not qualify for the grace period and will not be considered for funding:

(1) Applications uploaded and received by Grants.gov after the deadline date and time for which there is no prior rejection notice in the Grants.gov system logs will be considered late and will not be rated and ranked or receive funding consideration. Failure to successfully upload the application to Grants.gov by the deadline date and time does not qualify for the grace period as described above.

(2) Applications receiving a rejection notice due to the funding opportunity being closed will not be provided the one day grace period to correct the "opportunity closed" deficiency or any other basis for rejection because the applicant missed the deadline date and time and therefore does not qualify for the grace period as described above.

(3) If an application is uploaded during the grace period and is subsequently rejected after the grace period ends, the applicant will not be afforded additional time to correct the deficiency (ies) noted in the rejection notice.

c. The grace period ends at 11:59:59 p.m. Eastern time one day from the date stamp on the first rejection notice issued by the Grants.gov system to the email address provided in the Grants.gov registration. Applicants must ensure that their email notification address contained in the Grants.gov registration is up-to-date. Neither HUD nor Grants.gov will be responsible if email messages are not received at the address listed in the registration process. Applicants must also ensure that their email systems will accept messages from Grants.gov. Applicants are responsible for monitoring their email messages. Messages from Grants.gov come from Support@grants.gov.

d. The only exceptions to HUD's grace period policy are:

(1) The Grants.gov system is down and not available to applicants for at least 24 hours prior to the deadline date, or the system is down for 24 hours or longer, impacting the ability of applicants to cure a submission deficiency within the grace period; and/or

(2) There is a presidentially declared disaster in the applicant's area. In the event of either or both of these events, HUD will publish a notice extending the deadline or cure period, for applicants affected, as appropriate.

e. Busy servers or slow processing are not the basis for HUD to extend the deadline dates or the grace period.

Applicants are advised to monitor the Grants.gov system using the Grants.gov blog at <http://grants.gov.blogspot.com/>. The Grants.gov blog provides information on server capacity, traffic on the Grants.gov site, and other federal grant closings each day. Applicants should monitor the site and take into account the amount of traffic on the site when applying.

3. An applicant will not be provided additional opportunities to correct rejection errors if an application is rejected after the one-day grace period has expired.

4. Waiver of Electronic Submission Requirements. Applicants interested in applying for funding under this NOFA must submit their applications electronically or request a waiver from the Office of Community Planning and Development. Applicants should submit their waiver requests in writing by email or facsimile. Waiver requests must be submitted no later than 15 days prior to the application deadline date and should be submitted to David Kaminsky either by e-mail at David.Kaminsky@hud.gov or by facsimile to (202) 401-2231 (this is not a toll free number). Instructions regarding the number of copies to submit and the address where they must be submitted will be contained in any approval of the waiver request. Paper submissions must be received at the appropriate HUD office(s) no later than the deadline date. Please refer to Section IV.F. of the **General Section** for additional instructions on how to seek a waiver of the electronic submission requirement.

5. Submission of Concurrent Section 108 Application Under Separate Cover.

Applicants that apply via Grants.gov should submit the Section 108 Loan Guarantee application using the mailing instructions below.

a. The Section 108 Loan Guarantee application should have the same Project Name in Box 15 of the SF424 as the related BEDI project.

b. Concurrent Section 108 Application deadline date. Applications from applicants choosing to submit a concurrent and complete Section 108 application as provided for in Section IV.B.1.c. of this NOFA above, must be received no later than the BEDI application deadline date, to the addresses shown below, in order to receive points under Section V.A.2.c., Rating Factor 3, of this NOFA.

The required number of copies should be sent to the locations indicated below. If HUD receives at least one completed concurrent Section 108 application at either HUD Headquarters or the appropriate HUD Field Office, HUD will utilize the complete application for its review purposes, provided it meets the deadline and timely submission requirements.

c. Proof of Timely Submission of concurrent Section 108 applications. Proof of timely submission of a concurrent Section 108 application in accordance with these requirements consists of the Certificate of Mailing (USPS Form 3817) or electronic receipt showing the date and time and location of the mailing, provided by the United States Post Office showing mailing of the application with sufficient time for it to be received by HUD by the application deadline date. In the case of packages submitted to HUD via courier services, documentary proof of timely submission will be the delivery service receipt indicating the application was submitted to the delivery service with sufficient time for it to be received by HUD by the application deadline date. Applicants using delivery services other than FedEx or UPS do so at their own risk as HUD cannot guarantee delivery due to its Security procedures. Proof of timely submission to HUD field offices will be the Certificate of Mailing (USPS Form 3817) or electronic receipt showing the date, time and location of the U.S. Postal Facility or receipts from the delivery service consistent with the information provided above.

Please remember that mail to federal facilities is screened and irradiated prior to delivery, a process that can take several days. Please allow ample time for your package to be delivered. Also please be aware that you need to bring the application package directly to a postal facility. Packages dropped in a street collection mailbox are returned to sender by the U.S. Postal Service. If an application does not meet the filing requirements, it will not receive funding consideration. If you mail your application to the wrong location and the office designated for receipt in accordance with these submission requirements does not receive it, your application will be considered late and not be considered for funding. HUD will not be responsible for directing it to the appropriate office.

You, the applicant, must submit a complete Section 108 application and the required number of copies to the locations identified in this Program NOFA. Address and labeling requirements are listed directly below in Section IV.F.5.d.

d. Address for Submitting Concurrent Section 108 Applications to HUD Headquarters. Submit the concurrent Section 108 application to: HUD Headquarters; Robert C. Weaver Federal Building; 451 Seventh Street, SW, Room 7136; Washington, DC 20410.

When submitting the concurrent Section 108 application, please specify **BEDI/Section 108 Application** on any label or mailing container, and include the applicant's name, mailing address (including zip code), street address (if different from mailing address), and zip code, and voice and facsimile telephone numbers (including area code), along with the contact person's name, and voice and facsimile telephone numbers (including area code), and email address, if available.

e. Concurrent Section 108 Applications to HUD Field Offices. At the same time the concurrent Section 108 application is submitted to HUD Headquarters, an additional copy should be submitted to the Community Planning and Development Division of the appropriate HUD field office for the applicant's jurisdiction. A listing of CPD Offices and mailing addresses can be found on HUD's website at <http://www.hud.gov/offices/cpd/about/staff/fodirectors/>.

V. Application Review Information

A. Criteria

1. Factors for Award Used to Evaluate and Rate Applications

a. Response to Factors for Award. The applicant must provide in narrative form responses to each of the rating factors below. HUD will evaluate all applications for funding assistance based on the following factors, the responses to which demonstrate the quality of the proposed project or activities, and the applicant's capacity and commitment to use the BEDI funds in accordance with the purposes of the Act. As part of the application review, HUD reserves the right to contact its local field offices for the purpose of verifying information submitted by the applicant.

b. Responses to Rating Factors 1-5. Responses to Rating Factors 1-5 below shall be formatted to not exceed 15 double-spaced, 8 1/2 x 11 inch single-sided pages, with one inch margins on all sides, for all responses.

2. Rating Factors for Award

a. **Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 Points Maximum)**

This Factor addresses the extent to which the applicant has the organizational resources necessary to successfully implement the proposed activities in a timely manner. The rating of the applicant will include any subcontractors, consultants, and sub-recipients that are firmly committed to participate in the activities described in the application. In responding to subfactors (1) and (2) of this Factor, applications that merely summarize the amount of funds received, spent, or managed will receive fewer points than those providing specific measurable information on program activities undertaken, outcomes of these activities and their accomplishments. In rating this Factor, HUD will consider the following:

(1) **Applicant Capacity (Up to 10 points).** The applicant should demonstrate that it has the organization, the staff, and the financial resources in place to implement the specific steps required to successfully carry out its proposed BEDI/Section 108 project. The applicant should offer evidence of this capacity through a description that includes:

(a) Performance in the administration of its CDBG, HOME, or other HUD programs, including a description of successfully completed projects and other outcomes or accomplishments under these programs. In addition to citing specific projects, outcomes, or accomplishments, CDBG entitlement recipients must also indicate the extent to which the applicant has met the HUD standard that the total amount of its undisbursed entitlement grant funds may not be more than 1.5 times the entitlement grant amount for the current program year (see 24 CFR 570.902(a)(1)(i)). All applicants must also identify any unresolved monitoring or audit findings by HUD with respect to the applicant's administration of HUD programs.

(b) Performance, if any, in carrying out economic development projects similar to that proposed, including brownfields economic development or redevelopment projects, if any, and if applicable, the ability to conduct prudent underwriting;

(c) If an applicant had a federal Renewal Community/Empowerment Zone/Enterprise Community designation (including Enhanced Enterprise Community [EEC] designation) that was valid on December 31, 2009, it must provide information on the status of its capacity to achieve state and local commitments identified in its local implementation plan, including maximizing the federal tax benefits made available. Applicants that had designation as a Renewal Community (RC), Empowerment Zone (EZ), or Enterprise Community (EC/EEC) that was valid on December 31, 2009 must respond to this subfactor even if the proposed brownfields economic development project is not to be located within the boundaries of the designated RC/EZ/EC-II; and

(d) An applicant that has previously received a BEDI grant award or, within the past five years, a Section 108-guaranteed loan commitment, must describe the status of the implementation of the project(s) assisted with any BEDI funds or with any Section 108 guaranteed loan funds so approved within the last five years. An applicant must address any delays that have been encountered and the actions it is taking to overcome any such delays in carrying out the project(s) in a timely manner.

If any of the rating criteria listed under (a) through (d) above does not apply to an application, the rating for this subfactor (1) shall be based solely upon the other applicable criteria. If the applicant has no prior relevant experience, the rating for this Factor shall be based on the capacity of its partner(s), if any, as stated below.

(2) Partner Capacity (Up to 10 points). In response to this subfactor (2), the applicant should describe the experience and performance of subrecipients, private developers and other businesses, nonprofit organizations (including grassroots, faith-based and other community-based organizations), and other entities, if any, that have a role in implementing the proposed BEDI/108 program. Applicants are encouraged to identify specific economic development or other projects undertaken by each entity that reflect the capacity of each entity to fulfill its responsibilities under the proposed brownfields economic development project, including the location, scale, and timeframe for completion of other relevant projects. If there are no third parties participating with the applicant in the proposed project, the 10 points available under this subfactor (2) will be added to the 10 points available under subfactor (1), with a maximum of 20 possible points then available under subfactor (1).

Experience will be judged in terms of recent (i.e., within the past 5 years) and successful performance of activities relevant to those proposed in the BEDI application. The more recent and extensive the positive experience, the greater the number of points that will be awarded for this Factor.

In addition to the application, HUD also may rely on information at hand or available from public sources such as newspapers, from performance and/or monitoring reports, Inspector General or Government Accountability Office reports or findings, hotline complaints that have been proven to have merit, audit reports, and other reliable public information in rating this Factor.

b. Rating Factor 2: Distress/Extent of the Problem (15 Points Maximum)

This Factor addresses the extent to which there is need for funding the proposed activities based on levels of distress in both the jurisdiction of the public entity that is the applicant and the geographic or target area that will benefit from the project. Applications will be evaluated on the extent to which the level of distress for the target area is documented and compared with national data and data for the jurisdiction.

In applying this Factor, HUD will consider current levels of distress in the target area, as defined in standard geographic terms by the applicant. This may be Census Tract(s) or Block Groups immediately surrounding the project site up to a radius of one-half mile, or it may be the target area to be served by the proposed project. HUD will also consider the current levels of distress in the applicant public entity's jurisdiction, if different from the target area. The applicant should describe the nature of the distress that the project is designed to address and the rationale for its definition of the area to be benefited. Examples of project beneficiaries may include: a) those receiving or using products or services produced by the project, and b) those employed by the project.

Notwithstanding the above, an applicant proposing a project to be located outside the applicant's jurisdiction or the target area for which benefits are claimed could still receive points under this Factor if a clear rationale is provided linking the proposed project location and the benefits to be derived by persons living in the target area or the applicant jurisdiction.

To the extent that the applicant's Consolidated Plan, its Analysis of Impediments to Fair Housing choice (AI), and/or its Anti-Poverty Strategy found therein identify the level of distress in the jurisdiction and the target area in which the project is to be carried out, references to such documents should be included in preparing the response to this Factor. Applications that fail to reference these sources will receive fewer points under this Factor.

Applicants should provide data that address the following specific indicators of distress:

(1) Poverty Rate (Up to 6 points). Data should be provided in both absolute and percentage form (i.e., whole numbers and percents) for both the target area and the applicant's jurisdiction as a whole; an application that compares the local poverty rate in the following manner to the national average at the time of submission will receive points under this section as follows:

(a) a poverty rate in the target area that is less than the national average, but that is greater than the rate for the applicant's jurisdiction, (2 points);

(b) a poverty rate in the target area that is at least equal to, but less than twice, the national average, (4 points);

(c) a poverty rate in the target area that is twice or more than the national average, (6 points).

(2) Unemployment Rate (Up to 6 points). An application that compares the local unemployment rate for the applicant's jurisdiction and the target area in the following manner to the national average at the time of submission will receive points under this subfactor as follows:

(a) an unemployment rate in the target area that is less than the national average, but that is greater than the rate for the applicant's jurisdiction, (1 point);

(b) an unemployment rate in the target area that is at least equal to, but less than twice, the national average, (4 points);

(c) an unemployment rate in the target area that is twice or more than the national average, (6 points).

(3) Other Indicators of Social and/or Economic Decline (Up to 3 points). Applicants should provide other indicators of social or economic decline that best capture the applicant's local situation. Examples that could be provided under this section include information demonstrating the target area and the jurisdiction's stagnant or falling tax base, including recent (within the last three years) commercial or industrial closings, downturns or layoffs; housing conditions, such as the number and percentage of substandard and/or overcrowded units; rent burden (defined as average housing cost divided by average income) for both the target area and jurisdiction; local crime statistics. The response to this subfactor (3) should paint a picture of the extent of need and distress in the target area and jurisdiction.

HUD requires use of sound and reliable data (e.g., U.S. Census data, state statistical reports, university studies/reports that are verifiable) to support distress levels cited in each application. A source for all information along with the publication or origination date must also be provided. HUD will not consider data under this subfactor that does not have a source identified. Updated Census data are available as follows for the listed indicators:

Unemployment rate: Unemployment rates are estimated monthly for counties/parishes, with a two month lag by the Bureau of Labor Statistics, while census tract unemployment rates are available through the 2000 U.S. Census;

Poverty rate: Poverty rates are provided through the 2000 U.S. Census and are estimated every two years, with a three year lag. Census and other relevant data can be accessed through <http://www.ffiec.gov/>. (Note, at this web address, to find poverty rates go to "Census Reports," choose a state from the drop-down list, select further by "Retrieve MSA/MD" or "Retrieve by County". After selection choose "Get Census Demographic" and when a table appears, select the "Data Report Link" "Income" located just above the table. Look for the column labeled "% Below Poverty Line.")

In rating applications under this Factor, HUD reserves the right to consider sources of available objective data other than, or in addition to, those provided by applicants, in order to compare such data to those provided by applicants.

c. Rating Factor 3: Soundness of Approach (35 Points Maximum)

This Factor addresses the quality and cost-effectiveness of the proposed plan for the brownfields economic development project. Applications that do not propose the productive reuse of a specific, identified site or sites and that do not result in near-term, measurable economic benefits, such as projects that involve only the preparation of a site for potential future reuse by an unidentified party, or the capitalization of a loan pool for loans to unidentified borrowers, will receive fewer points under this Factor. The relationship between the proposed site or sites, the proposed eligible activities and the community needs and purposes of the program funding must be clearly described, as set forth below, in order to receive points for this Factor. In rating this Factor, HUD will consider the following:

(1) Consistency/Appropriateness of Proposed Activities with Identified Needs (Up to 3 points). In response to this subfactor, the applicant must describe:

(a) the extent to which the proposed plan for the use of BEDI grant/Section 108-guaranteed loan funds will address the needs described in Rating Factor 2 above regarding the distress and extent of the problem in the target area or area to be benefited and the long-term benefit for current residents of the target area. The applicant should provide a clear and quantified explanation of this relationship;

(b) any unmet needs identified in the jurisdiction's Consolidated Plan, and pursuant to Section III.C.4.i. of this NOFA, any impediments to fair housing identified in the jurisdiction's Analysis of Impediments to Fair Housing Choice that will be directly addressed by the proposed project. See Section III.C.4.i. of this NOFA for examples of general affirmative fair housing actions that may be undertaken to address a jurisdiction's Analysis of Impediments to Fair Housing Choice; and

(c) the activities that will be carried out with the BEDI grant funds, and the nature and extent of the brownfields problem(s) actually or potentially affecting the site and/or structure(s) already on the site. This response must also state that the proposed assistance will not be used to provide funding to parties to remediate conditions caused by their own actions for which they have been determined to be legally responsible, and that the proposed brownfields site is not ineligible, as provided in Section IV.E.4. of this NOFA. This information relates to a threshold factor as well as a rating factor, as described in Section III.C.2. of this NOFA. Applications that fail to respond satisfactorily to this subfactor (c) shall not receive funding consideration.

(2) Eligible Activities and CDBG National Objectives (Up to 8 points). The applicant must describe how the proposed uses of BEDI funds will qualify as eligible activities under 24 CFR 570.703 governing the Section 108-guaranteed loan program, and also will meet the National Objectives of the CDBG program under 24 CFR 570.208. The response must also include citations to the specific regulatory subsections supporting eligibility of activities and compliance with National Objectives. (See Section III.C.1. of this NOFA). This information relates to a threshold factor as well as a rating factor, as described in Section III.C.1. of this NOFA. Applications that fail to respond satisfactorily to this subfactor (2) shall not receive funding consideration.

(3) Project Readiness (12 points overall, with (a) – (d) worth up to 10 points collectively, and (e) worth up to 2 points). The applicant's response must demonstrate the extent to which the redevelopment plan for the brownfields site is logical, feasible, and likely to achieve its stated purpose and the extent to which the project will directly result in the productive reuse of the site and the delivery of near-term, measurable economic benefits. The applicant must describe the extent to which the project will be completed within a maximum of five years from the date of the BEDI award and will produce near-term, measurable economic benefits. Points for this subfactor will be awarded based upon the extent to which the following critical benchmarks for the redevelopment plan have been met or are approaching completion.

(a) Environmental Investigation. This subfactor (a) will consider the extent to which the presence or potential presence of environmental contamination of the project site is known or understood and demonstrates that the proposed plan will satisfactorily address environmental conditions in a manner that will not adversely affect the project's cost or timely completion. Proposed projects on sites where the nature and degree of environmental contamination is not well-quantified, where no environmental investigation has commenced, or that are the subject of on-going litigation or environmental enforcement actions will receive fewer points under this subfactor (a). Similarly, fewer points will be awarded to proposed projects at sites with exceptionally expensive contamination problems that may be beyond the scope of the BEDI and Section 108 programs' financial resources or other resources firmly committed to the project as described in the application, and sites subject to pending and current litigation that may not be available for remediation and development or redevelopment in a time frame that will produce near-term and measurable economic benefits through the use of BEDI and Section 108 funds. Conversely, any applicant indicating the completion of environmental assessment or review and the issuance of HUD approval for a Request for Release of Funds for the project under 24 CFR part 58 will receive more points under this subfactor.

(b) Site Control. This subfactor (b) will consider the extent to which control of the proposed project site has been secured or is being sought. Points for this subfactor (b) will be awarded based upon the degree of site control secured by the applicant or its development partner. Projects, for instance, in which negotiation or litigation related to site control are underway or continuing are eligible, but will receive fewer points than projects in which an option to purchase has been secured. Projects in which the applicant or its development partner has secured site control through acquisition, long-term lease, eminent domain or other means at the time of application will receive full points under this subfactor (b). In responding to this subfactor (b), applicants are encouraged to accompany their narrative response with a map indicating the boundaries of the proposed site or sites on which BEDI-assisted improvements are proposed and to identify the entity that currently holds title to each parcel. Any map included as part of the application will not be counted in the fifteen page limitation on the narrative response to the Rating Factors as provided in Section V.A.1.b. of this NOFA.

(c) Legislative, Regulatory, and Other Approvals. The applicant must identify required legislative approvals (local or otherwise), regulatory permits, zoning classifications, environmental regulatory approvals, waivers, general and special use permits, assessment district designations, public easements or rights-of-way, and other similar approvals that are required for

the project to proceed. For each of these, the applicant is required to disclose its status with explanation, as either, approved or -when sought and from what entity. The greater the number of outstanding legislative, regulatory, or other approvals required and not yet secured, the fewer points will be awarded. In the case of a unit of general local government proposing to undertake a BEDI project within the jurisdiction of another unit of general local government, i.e. other than the applicant, the applicant shall also include a letter of support from an authorized official of the jurisdiction in which the BEDI project would be located.

(d) **User Agreements.** The applicant must identify required development agreements, tenant leases, memoranda of understanding, or other agreements integral to returning the site to productive use and producing near-term measurable economic benefits, and for each to disclose whether it has been sought, will be sought or exists in final form. Applicants proposing projects that do not provide for new investment by an identified, committed private entity or other end user and the return of a brownfields site to productive use, with accompanying near-term, measurable economic benefits, will receive fewer points under this subfactor (d).

(e) **Delivery of Economic Benefits.** The response to this subfactor (e) must include the time frame in which the measurable economic benefits are to be delivered. For multi-phase projects, the response to this subfactor (e) must clearly delineate the different phases of the project and indicate whether or not they are to be funded by BEDI/Section 108 funds. Brownfields economic development projects that provide near-term, measurable economic benefits, 3 to 5 years after the BEDI award, directly through the creation or retention of jobs will receive a greater number of points under this subfactor (e).

(i) **Timeframe for Delivery of Economic Benefits.** In response to this subfactor (3), the applicant is required to provide form HUD40123- Exhibit C showing a specific schedule (with both beginning and end dates) for carrying out the project and identify all interim measurable benchmarks (acquisition, demolition, site improvements, relocation, construction, provision of jobs mandated under Section 3, as described in (ii) below, etc.) to be accomplished. The applicant must also provide a proposed schedule for drawing down **all** funds necessary to complete the project, including BEDI and Section 108 funds and non HUD resources.

(ii) **Intent to Meet Section 3 Requirements.** To the greatest extent **feasible** and consistent with Federal, State and local laws and regulations, applicants must ensure that training, employment, and other economic opportunities will be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and business concerns that provide economic opportunities to low- and very low-income persons, as required under Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low- and Very Low-Income Persons) and HUD's regulations at 24 CFR part 135.

(4) **Section 108 Application (Up to 2 points).** BEDI applications accompanied by a request for new Section 108 Loan Guarantee assistance as evidenced by a full and complete Section 108 application as provided for in 24 CFR 570.704, and submitted concurrently under separate cover as provided for in Section IV.F.6. of the NOFA, will receive up to two points for this subfactor (4). BEDI applications accompanied by a request to use the BEDI grant award in

conjunction with a currently pending but unapproved Section 108 loan guarantee application (together with any amendments needed for consistency with the BEDI application) for the same project described in the BEDI application, will also receive up to two points under this subfactor (4).

(5) Financial Feasibility/Need (Up to 10 points). The applicant must demonstrate the economic necessity of the proposed BEDI and Section 108 funds and the extent to which the project is not financially feasible in the absence of such funds. Responses that do not quantify the financial cost differences between a project that receives BEDI/108 funding and one that does not will receive fewer points. An applicant that includes the figures and assumptions such that HUD can confirm the assertions in the narrative response will receive greater consideration. A development and operating “pro formas” or similar analyses of the proposed project financing are accepted methods to support narrative conclusions. Such pro forma or other financial analysis will not be counted in the fifteen page limitation on the narrative response to the Rating Factors as provided in Section V.A.1.b. of this NOFA. In the narrative response, applicants must clearly address the question of why the BEDI funds are critical to the success of this project by providing the following items:

(a) Use of BEDI and Section 108 Funds to Fill Financing Gaps. The applicant must provide an economic rationale that explains the methodology by which the size of the gap was determined and demonstrates how the use of the BEDI and Section 108 funds will directly impact the financial feasibility of the proposed project. The response should discuss the critical gaps that exist in financing the proposed project, why those gaps exist and how the BEDI and Section 108 funds will be used to fill those gaps. The narrative response, including any pro forma or similar analysis, should demonstrate how the proposed BEDI and Section 108 financing will yield economic benefits critical to the success of the project, including, for example, increased rates of return or debt coverage ratios, reduced rents or other similar financial outcomes necessary to attract private investment.

(b) Project Costs and Financial Requirements. A funding sources and uses statement must also be provided that specifies all sources of funds for each identified use or activity (HUD Form 40123-Exhibit C), along with the derivation of project costs.

d. Rating Factor 4: Leveraging Resources (15 Points Maximum)

In evaluating this Factor, HUD will consider the extent to which the response demonstrates the likelihood that the project will leverage both Section 108 loan and other public or private funds as part of the total project resources. Points for this Factor will be awarded in two parts, for the following:

(1) Leverage of Section 108 funds (Up to 8 points).

The minimum ratio of Section 108 funds to BEDI funds in any project may not be less than 1:1. Points will be awarded based upon the extent to which the proposed project leverages an amount of Section 108 funds greater than a 1:1 ratio. If the application has a ratio of 1:1, it will **not** receive any points under this subfactor. The higher the ratio of additional new Section 108 funds to BEDI funds proposed in an application, the more points it will receive under this

subfactor. (See Sections II.C.2.c. and Section VI.B.1.a. of this NOFA regarding the conditioning of BEDI awards on achievement of a specific BEDI/Section 108 leveraging ratio.)

(2) Leverage of Other Financial Resources (Up to 7 points).

HUD will evaluate the extent to which other funds (public or private) will be leveraged by BEDI grant funds, **and** the extent to which such other funds are firmly committed to the project. This could include the use of CDBG funds, other federal or state grants or loans, local government general funds, project equity or commercial financing provided by private sources or funds from nonprofit organizations or other sources. In order to receive points for other public and privately committed funds under this subfactor (2), letters of firm commitment, evidence of financial capacity of the entity making the commitment and, for CDBG funds, the resolution of the local governing body, must be submitted for the proposed BEDI project as part of the submission to HUD for the BEDI grant. In addition:

(a) Applicants must provide evidence that there is a firm commitment for such funds as defined in Section I.C. of this NOFA. Letters of support, evidence of on-going financial relationships, including open lines of credit that are not committed specifically and exclusively to the BEDI Project, or any other commitment that does not include all business terms or is subject to conditions not solely within the control of the applicant and/or partner will not be considered as meeting this criteria.

(b) If a commitment is to be self-financed, such as a commitment by a private developer to provide a specified amount of equity investment in the project, the party making that commitment must evidence its financial capacity through the submission of a corporate or personal financial statement or other appropriate means in order to receive points under this subfactor (2).

(c) *For Applicants Committing CDBG Funds:* In order for an applicant's commitment of CDBG funds to be accepted by HUD as additional financing for a BEDI project, a resolution from the local governing body (e.g., city/borough council) authorizing the amount and permitted uses of the funds must be provided.

All such funds may also be committed subject to receipt of the BEDI award and completion of a satisfactory environmental review required under 24 CFR part 58 for the project for purposes of this section.

e. Rating Factor 5: Achieving Results and Program Evaluation (15 Points Maximum)

This Factor emphasizes HUD's commitment to ensuring that applicants maintain commitments made in their applications and assess their performance to ensure that performance goals are met. This Factor also evaluates the extent to which the results of the proposed BEDI project will address the policy priorities of the Department. In addition to a narrative response, applicants must complete the logic model provided in the instruction download on Grants.gov (form HUD96010) in order to receive points under this Factor.

(1) Performance Measurement Plan (Up to 12 points). HUD requires applicants to develop an effective, quantifiable, outcome oriented performance measurement plan for

assessing performance and determining that BEDI project goals have been met. The applicant's response to this subfactor (1) should identify: (a) each of the specific project outcomes for the proposed BEDI project; (b) all interim benchmarks or outputs of the project and the associated time frames for meeting each interim benchmark or output, i.e., the near-term measurable economic benefits to be achieved, such as the number of jobs created or retained and the time frame for creation or retention; and (c) the performance indicators selected by the applicant to measure its achievement of the identified project outputs and project outcomes. The performance indicators selected by the applicant should be objectively quantifiable and measure actual achievements against anticipated results. The response to this subfactor (1) should identify what outcome will be measured, how it will be measured, and the procedures or plans that are in place to make adjustments to the project redevelopment plan if performance targets are not met within established time frames.

In response to this subfactor (1), applicants should address any of the applicable outcomes or ultimate goals identified for the BEDI project. Examples of such outcomes or goals include increased property values, or home sales prices, as a result of a series of coordinated neighborhood activities; the amount of increased wages resulting from the creation or retention of jobs; increased business sales volume in revitalized neighborhoods; or the amount of any increased land value that results from the BEDI project. Applicants should propose quantifiable outcomes or goals related to the benefits expected for the neighborhood or for persons assisted, as part of the evaluation plan. The completed logic model for each year of project activity must be incorporated into the Evaluation Plan and be consistent with performance goals contained in the plan.

(2) Policy Priorities (Up to 3 points). The applicant's response to this subfactor (2) should address how the project will address any of the following policy priorities of the Department, as further detailed in Section V.B. of the **General Section**. A maximum of three points shall be awarded to applicants that demonstrate how the proposed BEDI project addresses two or more of the following policy priorities, with the number of points afforded to each policy priority indicated below:

(a) the extent to which the proposed project will improve the knowledge of homebuyers and renters to be aware of discriminatory practices and their rights and increase financial literacy to prevent foreclosure and to address the needs of households facing foreclosure, **(1 point)**;

(b) the extent to which the proposed project will encourage accessible design features, **(1 point)**;

(c) the extent to which the proposed project will provide full and equal access to grassroots and faith-based and other community organizations in HUD program implementation **(1 point)**;

(d) the extent to which the project will increase participation of minority serving institutions (MSIs) in HUD programs, **(1 point)**;

(e) the extent to which the project will end chronic homelessness, **(1 point)**; and,

(f) The extent to which the project will promote Energy Star and Green Development by utilizing energy-efficient solutions in the design or operating phases, including the purchase and use of Energy Star-labeled products and/or combined heat and power (CHP, or cogeneration) in buildings, where applicable. HUD is also interested in promoting green building. Therefore, applicants that demonstrate they will undertake green development in the implementation of their program are eligible to receive one additional policy priority point for green development. This additional policy priority point for green development is only available to applicants that fulfill the requirements for use of Energy Star appliances and products above, plus undertake green development.

Green development means that one of several recognized green rating programs, including: the Energy Star Plus Indoor Air Package or Energy Star Advanced New Home Construction; Earthcraft; Enterprise Green Communities Initiative; the National Association of Home Builders (NAHB) Green Building Guidelines/Standards; Leadership in Energy and Environmental Design (LEED) for Homes (for single family); and LEED New Construction (for multifamily) is used in the design and construction of properties.

(See Section V.B of the **General Section**, Promoting Energy Star and Green Development, for more information. **(up to 2 points); and,**

(g) The extent to which the project will promote assistance to veterans, **(1 point).**

3. Bonus Points

An application may receive a maximum of **two** bonus points. HUD will award two bonus points to each application that includes a valid form HUD2990 certifying that the proposed activities/projects in the application are consistent with the strategic plan for an empowerment zone (EZ) designated by HUD or the United States Department of Agriculture (USDA), the tax incentive utilization plan for an urban or rural renewal community designated by HUD (RC), or the strategic plan for an enterprise community designated in Round II by USDA (EC-II), and that the proposed activities/projects will be located within the RC/EZ/EC-II mentioned above and are intended to serve the residents of the Zone. A listing of the RC/EZ/EC-IIs is available on the Internet at www.hud.gov/cr;

B. Reviews and Selection Process

1. Reviews and Selection Process. All applications meeting BEDI program and other threshold requirements will be rated under the selection criteria in Section V.A. of this NOFA. Applications will be selected for funding as follows:

a. Fundable BEDI grant applications must meet the program threshold and submission requirements of this NOFA and the other threshold requirements stipulated in Section III.C. of the **General Section** or they will not be ranked. Note that subparagraph III.C.2.d. of the General Section "*Conducting Business in Accordance with Core Values and Ethical Standards/Code of Conduct.*" requires that all applicants must have a HUD approved Code of Conduct. If the applicant is not listed on HUD's Web site at:

<http://www.hud.gov/offices/adm/grants/codeofconduct/cconduct.cfm>

it must submit its code of conduct to HUD. Any applicant that needs to may submit its code of conduct to HUD via facsimile using the form HUD96011, "Facsimile Transmittal" ("Third Party Documentation Facsimile Transmittal" on Grants.gov) at the time of application submission. This form is available as part of your Instructions Download available from Grants.gov. When using the facsimile transmittal form, please type the requested information. Use the form HUD96011 as the cover page for the submission and include the following header in the top line of the form under *Name of Document Being Requested*: "Code of Conduct for (insert your organization's name, city, and state)." Fax the information to HUD's toll-free number at 800-HUD-1010. If you cannot access the 800 number or have problems, you may use 215-825-8798 (this is not a toll-free number).

DO NOT try to submit a copy through the grants.gov website.

- b. All BEDI grant applications that meet threshold requirements will be ranked separately in order of points assigned with the applications receiving more points ranked above those receiving fewer points.
- c. In the event two or more applications receive the same total score, but there are insufficient funds to fund all of the tied applications, the application(s) with the highest score(s) on Rating Factor 3 shall be selected first. If there is still a tie, the following Factors will be considered sequentially, with the application having the high score on each Factor in the following order taking precedence until the tie is broken: Rating Factor 1, Rating Factor 2, Rating Factor 4, and Rating Factor 5.
- d. Fundable BEDI applications will be funded in rank order until the total aggregate amount of the approvable applications funded is equal to the maximum amount available in the competition (subject to the limitations described in Section II.C. above).

2. Corrections to Deficient Applications. Section V.B. of the **General Section** provides the procedures for corrections to deficient applications.

C. Anticipated Announcement and Award Dates. Historically, BEDI awardees have been notified of the approval of BEDI applications within approximately 90 days of the application deadline.

VI. Award Administration Information

A. Award Notices

1. Notice of Award and Obligation. BEDI award recipients will receive written notice of approval of their applications and the related terms and conditions of the award. An authorized official of the applicant receiving a BEDI award will be required to sign and return an acceptance of the BEDI award. BEDI funds shall be obligated for an approved application upon the return of a signed acceptance of the award to HUD and a countersignature of that acceptance by an authorized HUD official. Note that the timely return of the applicant's authorized, signed acceptance of the BEDI award document is critical. Failure to return the document by the specified deadline date might result in the loss of the BEDI grant funds.

2. Award Disbursements and Amendments.

a. Timing of Section 108 Approval and BEDI Grant Disbursements.

(1) To the extent a full and **complete** Section 108 application is submitted with the BEDI grant application, HUD will evaluate the Section 108 application immediately following the competition for BEDI grant funds. Note that the 108 application must be submitted to the appropriate HUD field office concurrently with submission to Headquarters.

(2) Notwithstanding any earlier obligation or award of BEDI funds to a grantee, or execution of a grant agreement, HUD will not permit the grantee to draw down BEDI funds before the issuance and at least partial funding of the obligations evidencing the related Section 108-guaranteed loan.

(3) Pursuant to the Omnibus Appropriations Act of 2009 (Pub. L. 111-8)(under the "Brownfields Redevelopment" heading) and the Federal government's "Procedures for Appropriation Account Availability" as amended by the National Defense Authorization Act for Fiscal Year 1991 (31 U.S.C. 1552), FY 2009 BEDI funds must be obligated (i.e., awarded) by HUD by September 30, 2010, and must be disbursed by HUD to the grantee for authorized expenditures by September 30, 2015. HUD reserves the right, however, to require earlier disbursement under a BEDI grant agreement. Accordingly, a BEDI awardee must ensure the timely submission of its Section 108 Loan Guarantee application, the execution of the Section 108 Contract for Loan Guarantee Assistance and BEDI Grant Agreement, and the issuance of the Section 108 Loan Guarantee Note.

3. Applicant Debriefing.

Section VI.A.5. of the **General Section** provides information on applicant requests for a debriefing. Applicants requesting to be debriefed must send a written request by hard copy or by e-mail to the contact person for the BEDI program, Mr. David Kaminsky, at the address listed in Section VII of this NOFA.

B. Administrative and National Policy Requirements

1. Terms and Conditions.

a. Ratio of BEDI to Section 108 Loan Guarantee Funds. Because the proposed ratio of BEDI funds to Section 108 funds presented in an approved BEDI application represents an applicant's financial commitment to a BEDI project, HUD will condition the BEDI grant award on the grantee's achievement of that specific ratio. The failure of the grantee to meet that condition by obtaining timely HUD approval of a commitment for, and issuance of, the required Section 108 guaranteed obligations ratio may result in the cancellation and recapture of all or a proportionate share of the BEDI grant award.

b. Approval of Section 108 Loan Guarantee Application and Disbursement of Funds. As a condition of any award under this NOFA, if the related Section 108 application has not been submitted within 60 days and approved within 10 months of written HUD notification of

selection for potential funding under this NOFA, HUD may deobligate the BEDI funds. BEDI grant awards and grant agreements will contain conditions requiring grantees to adhere to time frames mutually agreed on by the applicant/grantee and HUD for implementing proposed projects and drawing Section 108 and BEDI funds. If BEDI grant funds and Section 108 loan proceeds are not disbursed to the applicant within the time frames specified in the BEDI grant agreement, HUD reserves the right to cancel the award and recapture all or a portion of the BEDI funds, as applicable under the grant agreement.

c. **BEDI Application Amendments.** Any modifications or amendments to an application approved pursuant to this NOFA, whether requested by the applicant or by HUD, must be within the scope of the approved original BEDI application in all respects material to rating the application, unless HUD determines that the revised application remains within the competitive range and is otherwise approvable under this NOFA. In addition, if the applicant proposes an amendment after the period during which appropriated funds are available for obligation (for FY 2009 BEDI funds, after September 30, 2010. HUD will be unable to approve any amendment which materially changes the scope, purpose, or need for the original award, as determined by HUD. In such a case, the unused BEDI funds must be deobligated and returned to the U.S. Treasury.

2. Environmental Justice

a. Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) directs federal agencies to develop strategies to address environmental justice. Environmental justice seeks to rectify the disproportionately high burden of environmental pollution that is often borne by low-income, minority, and other disadvantaged communities, and to ensure community involvement in policies and programs addressing this issue.

b. HUD expects that projects presented for BEDI funding will integrate environmental justice concerns and provide measurable economic benefits for affected communities and their current residents for the long term.

3. Economic Opportunities for Low- and Very Low-Income Persons (Section 3). Recipients of assistance under this NOFA must comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects) and the HUD regulations at 24 CFR part 135, including the reporting requirements at subpart E. Section 3 requires recipients to ensure that, to the greatest extent feasible, training, employment, and other economic opportunities will be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and business concerns that provide economic opportunities to low- and very low-income persons.

4. Other National Requirements. BEDI applicants are directed to Section III.C. of the **General Section**, which provides the statutory, regulatory, threshold, and public policy requirements applicable to all HUD grantees.

C. Reporting. CDBG regulations at 24 CFR 570.507 (for metropolitan city and urban counties) and 24 CFR 570.491 (for state grantees) require the submission of a Consolidated Annual Performance Evaluation Report (CAPER) describing the use of CDBG funds during the program year. 24 CFR 570.3 defines CDBG funds to include BEDI grants, and accordingly, grantees must report specifically on the use of BEDI grant funds and Section 108 loan guarantee proceeds in the CAPER. CAPER requirements for the collection and reporting of racial and ethnic data also apply to the use of BEDI and Section 108 guaranteed loan proceeds. These data are to be reported in the CAPER using the Race and Ethnic Data Reporting form (HUD27061). For each reporting period, as part of the required report to HUD, grant recipients must also include a completed Logic Model (form HUD96010), which identifies output and outcome achievements consistent with the approved evaluation plan and responses to the management questions.

VII. Agency Contact.

For assistance with program related questions, please contact David Kaminsky, Office of Economic Development; U.S. Department of Housing and Urban Development; 451 Seventh Street, SW, Room 7140; Washington, DC 20410; telephone (202) 402-4612 (this is not a toll-free number), e-mail: David.Kaminsky@hud.gov or Nikki Bowser at the same address; telephone (202) 402-4395 (this is not a toll free number), e-mail: Nikki.A.Bowser@hud.gov. Hearing or speech challenged persons may call the Federal Information Relay Service at 800-877-8339 (this is a toll-free number). Before the application submission date, HUD staff will be available to provide general guidance and assistance about this BEDI NOFA. However, HUD staff is not permitted to assist in preparing a BEDI application. Following selection of applicants, but before awards are made, HUD staff are available to assist in clarifying or confirming information that is a prerequisite to the offer of an award by HUD. In addition, the Section 108 Loan Guarantee program is not a competitive program and therefore is not subject to those provisions of the HUD Reform Act pertaining to competitions that do not permit HUD staff to assist in the preparation of applications. HUD staff is available to provide advice and assistance to develop Section 108 loan applications.

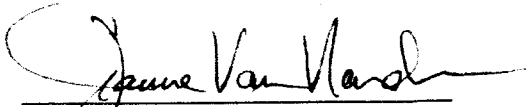
VIII. Other Information

A. Environmental Impact. A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

B. Paperwork Reduction Act. The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2506-0153. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a current OMB control number. Public reporting burden for the collection of

information is estimated to average 40 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing and reporting the data for the application and for the annual report. The information will be used for grantee selection and monitoring and the administration of funds. Response to this request for information is required in order to receive the benefits to be derived.

Dated: _____


for Mercedes Márquez
Assistant Secretary for
Community Planning and Development

[FR- FR-5419-N-01]

APPENDIX A

BEDI CHECKLIST AND SUBMISSION TABLE OF CONTENTS

This checklist identifies application submission requirements. Applicants are requested to use this checklist when preparing an application to ensure submission of all required elements. Applicants must submit the checklist and place the application in the order listed in the checklist. All forms can be downloaded from the application and instructions at:

http://www.grants.gov/applicants/apply_for_grants.jsp

- Application for Federal Assistance (form SF424) -signed
- BEDI Checklist and Submission Table of Contents (this form)
- BEDI/Section108/CDBG Funding Eligibility Statement, Pages 1 and 2, (form HUD40123-Exhibit D)
- Request for Loan Guarantee Assistance** (check one of the five options below)
- 1. Concurrent Application Submitted Under Separate Cover;
- 2. Subsequent Application;
- 3. Pending, Unapproved Application;
- 4. Increase to a Project Assisted Under Previously Approved Application; or
- 5. Deobligation of Previously Approved Section 108 Authority

Response to Rating Factors

- 1. Capacity of the Applicant and Relevant Organizational Experience
- 2. Distress/Extent of the Problem
 - Distress/Extent of Problem (form HUD40123-Exhibit A)
- 3. Soundness of Approach
 - Project Timeline (form HUD40123-Exhibit C)
 - Financial Feasibility (form HUD40123-Exhibit B)
- 4. Leveraging of Resources/Financial Need
- 5. Achieving Results and Program Evaluation
 - Program Outcome Logic Model (form HUD96010)

Application Forms and Certifications

- Applicant/Recipient Disclosure Update Report (HUD-2880) ("HUD Community Initiative Form")
- Certification and Disclosure Form Regarding Lobbying (SF-LLL) (if applicable) -signed
- Section 108 Certifications (if submitting full 108 application)
- Certification of Consistency with the Consolidated Plan (HUD-2991), (if applicable)-signed
- RC/EZ/EC-II Certification of Consistency with Strategic Plan (HUD-2990) (if applicable)-signed
- If necessary, State Certifications Related to Nonentitlement Public Entities (form HUD-40122)
- A Code of Conduct unless an approved Code of Conduct is on file with HUD.