

**SUBCHAPTER 19L - NORTH CAROLINA COMMUNITY DEVELOPMENT BLOCK GRANT
PROGRAM**

SECTION .0100 - GENERAL PROVISIONS

04 NCAC 19L .0101 PROGRAM PURPOSE AND OBJECTIVE

The purpose of the North Carolina Community Development Block Grant Program is to develop viable communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for persons of low and moderate income. Consistent with this primary objective, Community Development Block Grant funds will be directed towards the specific objectives found in the amended Housing and Community Development Act of 1974, Section 101(c).

The assistance provided under this program is intended to help local governments meet needs that are not currently being addressed in their communities. These funds shall not be used to replace local financing of ongoing community development activities.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C. 5301; 42 U.S.C. 5306(d); 24 C.F.R. 570.489; Eff. July, 1, 1982; Amended Eff. March 1, 1986; October 1, 1984; March 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0102 AUTHORITY

History Note: Authority G.S. 143-323; 143B-276; 42 U.S.C.A. 5306(d); Eff. July 1, 1982; Amended Eff. March 1, 1984; Repealed Eff. October 1, 1984.

04 NCAC 19L .0103 DEFINITIONS

- (a) "Act" means Title I of the Housing and Community Development Act of 1974, P.L. 93-383, as amended.
- (b) "Applicant" means a local government which makes application pursuant to the provisions of this Subchapter.
- (c) "CDBG" means the State-administered Community Development Block Grant Program.
- (d) "Chief Elected Official" of a local government means either the elected mayor of a city or the chairman of a county board of commissioners.
- (e) "Community Development Program" means the annual program of projects and activities to be carried out by the applicant with funds provided under this Subchapter and other resources.
- (f) "Department" means the North Carolina Department of Commerce.
- (g) "Division" means the Department of Commerce's Division of Community Assistance.
- (h) "HUD" means the U.S. Department of Housing and Urban Development.
- (i) "Local Government" means any unit of general city or county government in the State.
- (j) Low-income families are those with a family income of 50 percent or less of median-family income. Moderate-income families are those with a family income greater than 50 percent and less than or equal to 80 percent of median-family income. For purposes of such terms, the area involved and median income shall be determined in the same manner as provided for under the Act.
- (k) "Low- and Moderate-Income Persons" means members of families whose incomes are within the income limits of low- and moderate-income families as defined in Paragraph (j) of this Rule.
- (l) "Metropolitan Area" means a standard metropolitan statistical area, as established by the U.S. Office of Management and Budget.
- (m) "Metropolitan City" means a city as defined by Section 102(a)(4) of the Act.
- (n) "Project" means one or more activities addressing either:
 - (1) community revitalization needs; or
 - (2) economic development needs; or
 - (3) development of housing for persons of low- and moderate-income; or
 - (4) urgent needs of the applicant; or
 - (5) infrastructure needs; or
 - (6) scattered site housing.

- (o) "Recipient" means a local government that has been awarded a Community Development Block Grant and executed a Grant Agreement with the Department.
- (p) "Scattered site" means acquisition, clearance, relocation, historic preservation and building rehabilitation activities which benefit low or moderate income persons or eliminate specific conditions of blight or decay on a spot basis not located in a slum or blighted area.
- (q) "Secretary" means the Secretary of Department of Commerce or his designee.
- (r) "State" means the State of North Carolina.
- (s) "Urban County" means a county as defined by Section 102(a)(6) of the Act.
- (t) The definitions in this Rule apply to terms used in this Subchapter.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.481 - 570.483;
Eff. July 1, 1982;
Amended Eff. March 1, 1995; June 1, 1993; May 1, 1992; September 1, 1990;
Temporary Amendment Eff. January 1, 2001;
Amended Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0104 WAIVERS

The Secretary may issue a written waiver of any requirements of this Subchapter not required by law whenever he determines that undue hardship to recipients or beneficiaries will result from applying the requirement and where application of the requirement would adversely affect the purposes of the Act.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.480;
Eff. July 1, 1982;
Amended Eff. June 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0105 ELIGIBLE APPLICANTS

Eligible applicants are all local governments excluding those designated as metropolitan cities or urban counties by Section 102(a)(4) and (6) of the Act. When two or more local governments submit a single application, one of them must be identified in the application as the lead entity.

History Note: Authority 143B-10; 143B-431; 42 U.S.C.A. 5306(d);
Eff. October 1, 1984;
Amended Eff. March 1, 1995; March 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0106 AMENDMENTS ADOPTED BY REFERENCE

All referenced federal documents in this Subchapter are hereby adopted by reference to include any later amendments pursuant to G.S. 150B-14(c).

History Note: Authority 143B-10; 143B-431; 150B-14;
Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

SECTION .0200 - ELIGIBLE APPLICANTS

04 NCAC 19L .0201 GENERAL

History Note: Authority 42 U.S.C.A. 5306(d);
Eff. July 1, 1982;
Amended Eff. March 1, 1984; April 1, 1983;

Repealed Eff. October 1, 1984.

04 NCAC 19L .0202 APPLICATION IN BEHALF OF OTHERS

*History Note: Authority G.S. 143-323; 42 U.S.C.A. 5306(d); 24 C.F.R. 570.489;
Eff. July 1, 1982;
Repealed Eff. April 1, 1983.*

04 NCAC 19L .0203 JOINT APPLICATIONS
04 NCAC 19L .0204 LIMITATIONS

*History Note: Authority G.S. 143-323; 42 U.S.C.A. 5306(d); 24 C.F.R. 570.489;
Eff. July 1, 1982;
Amended Eff. April 1, 1983;
Repealed Eff. March 1, 1984.*

SECTION .0300 - ELIGIBLE AND INELIGIBLE ACTIVITIES

04 NCAC 19L .0301 ELIGIBLE ACTIVITIES

This Subchapter incorporates by reference as eligible activities those activities described in the Housing and Community Development Act of 1974 as amended, including subsequent amendments and editions, under Section 105 (a), "Eligible Activities," and in 24 CFR 570.482. Additional general guidance is found in 24 CFR 570.201-206. Copies of these sections of federal law and regulation are available for public inspection from the Division of Community Assistance. Single copies are available from this Division in Raleigh, North Carolina, for one dollar (\$1.00) each.

*History Note: Authority 143B-10; 143B-431; 42 U.S.C. 5305;
Eff. July 1, 1982;
Amended Eff. June 1, 1993; September 1, 1990; March 1, 1986; March 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

04 NCAC 19L .0302 INELIGIBLE ACTIVITIES

All activities not defined as eligible in Rule .0301 shall be considered ineligible for assistance under this Subchapter. A general guide regarding ineligible activities is found in 24 CFR 570.207. Copies of this federal regulation are available for public inspection and may be obtained from the Division of Community Assistance.

*History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489;
Eff. July 1, 1982;
Amended Eff. September 1, 1990; March 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

SECTION .0400 – DISTRIBUTION OF FUNDS

04 NCAC 19L .0401 GENERAL

- (a) The Division shall designate specific due dates or open periods of time for submission of grant applications under each category, based on the amount of funds available and coordination with other federal program funding cycles. Urgent Needs applications may be submitted at any time.
- (b) In cases where the Division makes a procedural error in the application selection process that, when corrected, would result in awarding a score sufficient to warrant a grant award, the Division may compensate that applicant at the earliest time sufficient funds become available or with a grant in the next funding cycle.
- (c) Applicants may apply for funding under the grant categories of Community Revitalization, Housing Development, Scattered Site Housing, Infrastructure, Demonstration Projects, Urgent Needs, and Economic Development. Applicants shall not apply for Contingency funding. Contingency awards may be made to eligible applicants in any category.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.483;
Eff. July 1, 1982;
Amended Eff. August 1, 1998; March 1, 1986; October 1, 1984; March 1, 1984;
Temporary Amendment Eff. January 1, 2001;
Amended Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0402 TYPES OF GRANTS

History Note: Authority G.S. 143-323; 42 U.S.C.A. 5304(b)(3); 24 C.F.R. 570.489;
Eff. July 1, 1982;
Amended Eff. March 1, 1984;
Repealed Eff. October 1, 1984.

04 NCAC 19L .0403 SIZE AND USE OF GRANTS MADE TO RECIPIENTS

(a) There is no minimum grant amount which applicants may request or be awarded. Grant awards made to any one recipient shall not exceed the following amount in each grant category: Community Revitalization: Concentrated Needs subcategory - seven hundred thousand dollars (\$700,000), Infrastructure category - eight hundred fifty thousand dollars (\$850,000), and Scattered Site Housing category - four hundred thousand dollars (\$400,000) Housing Development - two hundred fifty thousand dollars (\$250,000); Urgent Needs - six hundred thousand dollars (\$600,000); Contingency - six hundred thousand dollars (\$600,000). Applicants shall not have a project or combination of projects under active consideration for funding which exceeds one million two hundred fifty thousand dollars (\$1,250,000), except for Urgent Needs projects, Demonstration projects, Capacity Building, and Scattered Site Housing. Applicants in the Community Revitalization category shall choose to apply for either a Concentrated Needs award, or a Revitalization Strategy award.

(b) No local government may receive more than a total of one million two hundred fifty thousand dollars (\$1,250,000) in CDBG funds in the period that the state distributes its annual HUD allocation of CDBG funds; except that local governments may also receive up to six hundred thousand dollars (\$600,000) for a project that addresses Urgent Needs and funds for one demonstration project in addition to other grants awarded during the same time period.

(c) Concentrated Needs subcategory applicants may spend a portion of their total grant amount to finance local option activities. Up to 15 percent may be spent on eligible activities which do not need to be directly related to proposed projects. Job creation activities are not eligible local option activities. Local option activities shall not be competitively rated by the Division, but may be limited to specific eligible activities. Each local option project must show that:

- (1) At least fifty-one percent of the CDBG funds proposed for each activity will benefit low- and moderate-income persons, except that CDBG funds may be used for acquisition, disposition, or clearance of vacant units to address the national objective of prevention or elimination of slums or blight; and
- (2) CDBG funds proposed for each activity will address the national objective of benefiting low- and moderate-income persons, or aid in the prevention or elimination of slums or blight.

(d) The Division may review grant requests to determine the reasonableness and appropriateness of all proposed administrative and planning costs. Notwithstanding Rule .0910 of this Subchapter, grantees may not increase their approved planning and administrative budgets without prior Division approval. In no case, may applicants budget and expend more than 18 percent of the sum of funds requested and program income for administrative and planning activities for each project, except that demonstration funds may be awarded for projects limited to planning activities only in which case all funds will be spent for planning and administration.

(e) Applicants may spend CDBG funds in those areas in which the applicant has the legal authority to undertake project activities.

(f) Grants to specific recipients shall be provided in amounts commensurate with the size of the applicant's program. In determining appropriate grant amounts for each applicant, the Division may consider an applicant's need, proposed activities, all proposed administrative and planning costs, and ability to carry out the proposed activities.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.483; 42 U.S.C. 5301;
Eff. July 1, 1982;
Amended Eff. August 1, 1998; February 1, 1996; March 1, 1995; June 1, 1994; June 1, 1993;
June 1, 1992;
Temporary Amendment Eff. January 1, 2001;
Amended Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,
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04 NCAC 19L .0404 GRANT CATEGORY ALLOCATION

Each program year, funds shall be reserved for each grant category. When authorized by the General Assembly the Division may set aside up to two percent for demonstration grants. The remaining funds shall be distributed by the Division to Community Revitalization grant applications unless otherwise specified in the General Assembly.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C. 5304; 24 C.F.R. 570.482; 24 C.F.R. 570.483;
Eff. July 1, 1982;
Amended Eff. August 1, 1998; June 1, 1994; June 1, 1993; May 1, 1992; April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,
2018.

04 NCAC 19L .0405 MULTI-YEAR GRANT COMMITMENTS

History Note: Authority G.S. 143-323; 24 C.F.R. 570.489; 24 C.F.R. 570.491;
Eff. July 1, 1982;
Repealed Eff. March 1, 1984.

04 NCAC 19L .0406 INDIVIDUAL GRANT AMOUNTS

History Note: Authority G.S. 143-323; 24 C.F.R. 570.489;
Eff. July 1, 1982;
Repealed Eff. October 1, 1984.

04 NCAC 19L .0407 GENERAL APPLICATION REQUIREMENTS

(a) Local governments shall submit applications as prescribed by this Rule in order to be considered for funding. Selection of applications for funding shall be based primarily on information contained in the application; thus applications must contain sufficient information for the Division to rate them against the selection criteria. In addition, the following may be considered: information from any source which regards the eligibility of the applicant or application; the legality or feasibility of proposed activities; the applicant's compliance with application procedures specified in this Subchapter or the accuracy of the information presented in the application; evaluation of proposed projects by on-site review; and category-specific information described in Sections .0500, .0700, .0800, .1200, .1300, and .1700 of this Subchapter. All applicants shall address their projects to one of the following grant categories: Community Revitalization (either Concentrated Needs, or Revitalization Strategies), Housing Development, Urgent Needs, Demonstration, Scattered Site Housing, Infrastructure, and Economic Development. Applicants may apply in more than one grant category, providing the total grant application and award does not exceed the maximum limits described in Paragraphs (a) and (b) of Rule .0403 of this Section. Applicants shall submit an application that describes each project in sufficient detail to be rated.

(b) Applications must be received by the Division's administrative offices in Raleigh before 5:00 p.m. on the submission date or sent by mail and postmarked on the submission date.

(c) Applicants must provide citizens with adequate opportunity for meaningful involvement in the development of Community Development Block Grant applications. Specific citizen participation guidelines are described further in Rule .1002 of this Subchapter. If the Division is aware of an applicant's failure to meet these citizen participation requirements, the Division may not rate the application.

(d) The Division may submit all CDBG applications and environmental review records as may be required by the National Environmental Policy Act and the State Environmental Policy Act to the State Clearinghouse of the Department of Administration for review and comments. The Division may require each applicant to submit a written description of how the applicant proposes to address each comment received from the State Clearinghouse.

- (e) The applicant shall certify to the Division that it will comply with all applicable federal and state laws, regulations, rules and Executive Orders. Copies of these federal and state requirements are available for public inspection from the Division.
- (f) Applicants must comply with the Housing and Community Development Act of 1974 as amended, all applicable federal and state laws, regulations, rules, and Executive Orders.
- (g) Application requirements described in this Rule .0407 do not apply to demonstration grants and Urgent Needs grants, except for Paragraphs (a), (d), and (f).
- (h) For multi-family rental housing activities, the applicant must state in the application the standards it has adopted for determining affordable rents for such activities.
- (i) Applicants that receive CDBG funding for projects may charge the cost of application preparation to prior CDBG programs or to the current program provided that procurement procedures consistent with 24 CFR 85.36 are followed. No more than three thousand five hundred dollars (\$3,500) may be charged to the CDBG program for application preparation,
- (j) Applicants may apply for a Capacity Building grant in any category except in the Urgent Needs and Demonstration Projects categories.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(a); 24 C.F.R. 570.483; Eff. July 1, 1982; Amended Eff. August 1, 1998; March 1, 1995; June 1, 1994; June 1, 1993; June 1, 1992; Temporary Amendment Eff. January 1, 2001; Amended Eff. August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0408 SPECIAL ALLOCATIONS FROM HUD

Periodically the Department may receive from HUD special allocations of CDBG funds that are separate from its annual funding allocation to meet specific community development needs and priorities. The Division will consult with local officials and hold at least one public hearing prior to the distribution of any special CDBG allocation. The provisions of 4 NCAC 19L shall apply to the administration of any special allocation, except where otherwise required by a federal statute or regulation applicable to the special allocation.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C. 5301; Eff. August 1, 1983; Amended Eff. June 1, 1993; September 1, 1990; March 1, 1986; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

SECTION .0500 – COMMUNITY REVITALIZATION PROJECTS

04 NCAC 19L .0501 DESCRIPTION

(a) The Community Revitalization category includes activities in which a majority of funds is directed towards improving, preserving or developing residential areas. All eligible CDBG activities may be undertaken for the purpose of community revitalization. Applications for funding may involve single or multiple activities, addressing one or more needs in the area. All Community Revitalization activities, must be carried out within defined project areas. Community Revitalization funds shall be distributed to eligible units of local government on a competitive basis. Community Revitalization projects shall be evaluated against other Community Revitalization project proposals.

(b) The Community Revitalization category includes a subcategory for Revitalization Strategies activities which provides funds to selected governments to address multiple need in high poverty areas. This new subcategory shall provide funding to help carry out a long term revitalization strategy. Up to three hundred fifty thousand dollars (\$350,000) per year, shall be awarded to eligible local government to carry out a strategy over three to five years. Revitalization Strategies funds may be used for any of the following components as part of strategies to address high poverty arrears in Tier 1/Tier 2 counties and non-entitlement municipalities with State Development Zones: housing, public services, economic development, public facilities, infrastructure. Activities must be targeted toward a defined geographical area that has at least 25% poverty and must involve collaboration with community/economic development organizations and partners.

(c) The Community Revitalization category includes a subcategory for concentrated needs activities which provides funds for improving, preserving, or developing residential neighborhoods. Concentrated Needs may not include more than one project. A project may have two sub-areas. Projects may have single or multiple activities except a project may not have only water and sewer activities. The maximum award amount for a Concentrated Needs application is seven hundred thousand dollars (\$700,000). The highest priority is given to housing needs, substandard housing, lack of water/sewer, and the second priority is given to neighborhood needs (streets and drainage). Concentrated needs funds can be used for rehabilitation, acquisition, clearance, relocation, disposition, water and wastewater, and streets and drainage.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5301; 24 C.F.R. 570.483; Eff. July 1, 1982; Amended Eff. August 1, 1998; March 1, 1995; June 1, 1994; June 1, 1993; October 1, 1990; Temporary Amendment Eff. January 1, 2001; Amended Eff. August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0502 ELIGIBILITY REQUIREMENTS

(a) Applications for concentrated needs subcategory funds must show that:

- (1) At least 51 percent of the CDBG funds proposed for each project shall benefit low- and moderate-income persons, except that CDBG funds proposed for local option activities may be used for acquisition, disposition, or clearance of vacant units to address the national objective of prevention or elimination of slums or blight; and
- (2) CDBG funds proposed for each activity shall meet a national objective as specified in HUD regulations previously incorporated by reference, except that funds shall not be used to meet the national objective of urgent need which is covered by Rule .0801 of this Subchapter.

Applications that do not meet these eligibility requirements shall not be rated or funded. In designing projects which meet these requirements, applicants must ensure that activities do not benefit moderate-income persons to the exclusion of low-income persons.

(b) Applicants for Revitalization Strategies subcategory funds must show that:

- (1) the defined area has at least 25% poverty as determined in the most recent decennial census and defined in HUD CPD NOTICE 97-01 paragraph D section 2 third bullet as all of census tracts/block numbering areas in the area have at least a 20% poverty rate, and at least 90% of them have at least a 25% poverty rate; and the area is primarily residential.
- (2) CDBG funds proposed for acquisition, clearance, and disposition of vacant units shall address a national objective of preventing or eliminating slums or blight.

(c) Applicants shall have the capacity to administer a CDBG program. The Division may examine the following areas to determine capacity:

- (1) audit and monitoring findings on previously funded Community Development Block Grant programs, and the applicant's fiscal accountability as demonstrated in other state or federal programs or local government financial reports; and
- (2) the rate of expenditure of funds and accomplishments in previously funded CDBG programs. Applicants that show a lack of capacity shall not be rated or funded.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5301; 24 C.F.R. 570.483; Eff. July 1, 1982; Amended Eff. August 1, 1998; March 1, 1995; June 1, 1994; June 1, 1993; September 1, 1990; Temporary Amendment Eff. January 1, 2001; Amended Eff. August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0503 APPLICATION CONTENTS

04 NCAC 19L .0504 FUNDING CYCLE

History Note: Authority G.S. 143-323; 42 U.S.C.A. 5304(a)(1); 42 U.S.C.A. 5306; 24 C.F.R. 570.489;

24 C.F.R. 570.490;
Eff. July 1, 1982;
Amended Eff. March 1, 1984; April 1, 1983;
Repealed Eff. October 1, 1984.

04 NCAC 19L .0505 SELECTION CRITERIA

Projects shall be evaluated and rated in accordance with the following rating factors:

- (1) benefit to low and moderate income persons,
- (2) project severity of need,
- (3) project treatment of need,
- (4) appropriateness and feasibility of proposed project activities, and
- (5) local commitment of funds and community efforts.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(a)(1); 24 C.F.R. 570.483;
Eff. July 1, 1982;
Amended Eff. August 1, 1998; March 1, 1995; June 1, 1993; March 1, 1986; March 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,
2018.

04 NCAC 19L .0506 TARGETING

History Note: Authority G.S. 143-323; 42 U.S.C.A. 5301; 24 C.F.R. 570.489;
Eff. July 1, 1982;
Repealed Eff. October 1, 1984.

SECTION .0600 - ECONOMIC DEVELOPMENT PROJECTS

04 NCAC 19L .0601 DEFINITION

04 NCAC 19L .0602 ELIGIBILITY REQUIREMENTS

History Note: Authority G.S. 143-323; 42 U.S.C.A. 5301; 24 C.F.R. 570.489;
Eff. July 1, 1982;
Amended Eff. March 1, 1984; April 1, 1983;
Repealed Eff. March 1, 1986.

04 NCAC 19L .0603 APPLICATION CONTENTS

04 NCAC 19L .0604 FUNDING CYCLE

History Note: Authority G.S. 143-323; 42 U.S.C.A. 5304(a)(1); 42 U.S.C.A. 5306; 24 C.F.R. 570.489;
24 C.F.R. 570.490;
Eff. July 1, 1982;
Amended Eff. March 1, 1984; April 1, 1983;
Repealed Eff. October 1, 1984.

04 NCAC 19L .0605 SELECTION CRITERIA

History Note: Authority G.S. 143-323; 42 U.S.C.A. 5304(a)(1); 24 C.F.R. 570.489;
Eff. July 1, 1982;
Amended Eff. March 1, 1984; April 1, 1983;
Repealed Eff. March 1, 1986.

04 NCAC 19L .0606 TARGETING

History Note: Authority G.S. 143-323; 24 C.F.R. 570.489;
Eff. July 1, 1982;
Repealed Eff. October 1, 1984.

04 NCAC 19L .0607 PRELIMINARY AWARDS

History Note: *Authority G.S. 143-323; 42 U.S.C.A. 5301;*
 Eff. March 1, 1984;
 Repealed Eff. March 1, 1986.

SECTION .0700 - DEVELOPMENT PLANNING PROJECTS

04 NCAC 19L .0701 DEFINITION

04 NCAC 19L .0702 ELIGIBILITY REQUIREMENTS

History Note: *Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5301; 24 C.F.R. 570.489;*
 Eff. July 1, 1982;
 Amended Eff. September 1, 1990; May 1, 1988; March 1, 1986; February 1, 1985;
 Repealed Eff. May 1, 1992.

04 NCAC 19L .0703 APPLICATION CONTENTS

04 NCAC 19L .0704 FUNDING CYCLE

History Note: *Authority G.S. 143-323; 42 U.S.C.A. 5304(a)(1); 42 U.S.C.A. 5306; 24 C.F.R. 570.489;*
 24 C.F.R. 570.490;
 Eff. July 1, 1982;
 Amended Eff. March 1, 1984; April 1, 1983;
 Repealed Eff. October 1, 1984.

04 NCAC 19L .0705 SELECTION CRITERIA

History Note: *Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5304(a)(1); 24 C.F.R. 570.489;*
 Eff. July 1, 1982;
 Amended Eff. March 1, 1986; March 1, 1984; April 1, 1983;
 Repealed Eff. May 1, 1992.

04 NCAC 19L .0706 DEFINITION

Demonstration grants are provided to assist local governments to develop innovative strategies for addressing specific community development needs and priorities.

History Note: *Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5301; 24 C.F.R. 570.489;*
 Eff. August 1, 1998;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,
 2018.

04 NCAC 19L .0707 ELIGIBILITY REQUIREMENTS

(a) Applications for Demonstration Projects must show that:

- (1) the proposed project meets a national objective in accordance with 24 CFR 570.483; and
- (2) the proposed project meets the specific purpose and priorities adopted by the General Assembly.

Applicants that do not meet these eligibility requirements shall not be considered for funding.

(b) Applicants shall have the capacity to administer a CDBG program. The Division may examine the following areas to determine capacity:

- (1) audit and monitoring findings on previously funded Community Development Block Grant programs, and the applicant's fiscal accountability as demonstrated in other state and federal programs or local government financial reports; and
- (2) the rate of expenditure of funds and accomplishments in previously funded CDBG programs.

Applicants that show a lack of capacity shall not be considered for funding.

History Note: *Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5301; 24 C.F.R. 570.489;*

Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0708 SELECTION CRITERIA

Selection criteria for demonstration grants shall be:

- (1) Benefit to low and moderate income people.
- (2) Eligibility of activities.
- (3) Project feasibility.

History Note: Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5301; 24 C.F.R. 570.489;
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

SECTION .0800 - URGENT NEEDS/CONTINGENCY PROJECTS

04 NCAC 19L .0801 DESCRIPTION

Urgent Needs grants are provided to localities to meet certain community development needs that have a particular urgency because conditions pose a serious and immediate threat to the health and welfare of the community.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(b)(3); 24 C.F.R. 570.483;
Eff. July 1, 1982;
Amended Eff. March 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0802 ELIGIBILITY REQUIREMENTS

Urgent Needs grant applicants must meet all four of the following eligibility requirements:

- (1) the need addressed by the application must have arisen during the preceding 18-month period and represent an imminent threat to public health or safety;
- (2) the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent;
- (3) the applicant does not have sufficient local resources; and
- (4) other financial resources are not available to alleviate the urgent need.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(b)(3); 24 C.F.R. 570.483;
Eff. July 1, 1982;
Amended Eff. August 1, 1998; March 1, 1995; June 1, 1993; March 1, 1986; March 1, 1984;
Temporary Amendment Eff. January 1, 2001;
Amended Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0803 APPLICATION CONTENTS

04 NCAC 19L .0804 FUNDING CYCLE

History Note: Authority G.S. 143-323; 42 U.S.C.A. 5304(b)(3); 42 U.S.C.A. 5306; 24 C.F.R. 570.489;
Eff. July 1, 1982;
Amended Eff. March 1, 1984;
Repealed Eff. October 1, 1984.

04 NCAC 19L .0805 SELECTION CRITERIA

Selection of Urgent Needs grant recipients will be based upon availability of funds and eligibility requirements as presented in Rule .0802 of this Subchapter.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(a)(1); 24 C.F.R. 570.483; Eff. July 1, 1982; Amended Eff. June 1, 1993; March 1, 1986; October 1, 1984; April 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

SECTION .0900 – GRANT ADMINISTRATION

04 NCAC 19L .0901 GRANT AGREEMENT

- (a) Upon approval of the application by the Division, a written grant agreement shall be executed between the recipient and the Division. These Rules, the approved application, and any subsequent amendments to the approved application shall become a part of the grant agreement.
- (b) The grant agreement in its original form and all modifications thereto shall be kept on file in the office of the recipient in accordance with Rule .0911 of this Section.
- (c) The Division may condition the grant agreement until the recipient demonstrates compliance with all applicable laws and regulations. In the case of Housing Development and Revitalization Strategies projects the grant agreement may be conditioned until legally binding commitments have been obtained from all participating entities.
- (d) Neither CDBG nor non-CDBG funds involved in a project may be obligated, nor may any conditioned project activities begin until the Division releases in writing any and all applicable conditions on the project. Recipients may incur costs prior to release of conditions with prior Division approval in accordance with Rule .0908 of this Section.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.483; Eff. July 1, 1982; Amended Eff. August 1, 1998; June 1, 1994; June 1, 1983; September 1, 1990; May 1, 1998; Temporary Amendment Eff. January 1, 2001; Amended Eff. August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0902 METHOD OF ADMINISTRATION

- (a) Recipients may delegate to statutorily authorized subrecipients the responsibility of undertaking or carrying out any specified community development activities. All entities so designated under this Paragraph by recipients to undertake or carry out community development activities pursuant to this Subchapter shall be considered subrecipients.
- (b) Recipients may contract with any person, association, or corporation in undertaking specified community development activities. All contracts, shall be made in conformance with the procurement standards set forth in Rule .0908 of this Section. Rule .0908 does not apply to recipients in the selection of subrecipients.
- (c) Subrecipients undertaking or carrying out community development activities shall do so in conformance with Rule .0903, METHOD OF PAYMENT; Rule .0906, FINANCIAL MANAGEMENT SYSTEMS; Rule .0907, PROGRAM INCOME; Rule .0908, PROCUREMENT STANDARDS; Rule .0909, PROPERTY MANAGEMENT STANDARDS; and Rule .0911, RECORDKEEPING.

History Note: Authority G.S. 143B-10; 143B-431; 153A-376(b); 160A-456(b); 24 C.F.R. 570.488; 24 C.F.R. 570.489; Eff. July 1, 1982; Amended Eff. March 1, 1995; June 1, 1993; March 1, 1986; April 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0903 METHOD OF PAYMENT

- (a) Advance payments will be made by the Department to recipients when the following conditions are met:
 - (1) The recipient has demonstrated to the Secretary, initially through certification in a form prescribed by the Department and subsequently through performance, that procedures have been established to insure a maximum of three banking days time elapsing between the receipt of funds to it and its disbursement of such funds.

- (2) The recipient's financial management system meets the standards for fund control and accountability prescribed in Rule .0906 FINANCIAL MANAGEMENT SYSTEMS of this Subchapter.
 - (3) No payment to the recipient from the Department shall be for an amount less than one hundred dollars (\$100.00).
 - (4) All requests for advance payments are required to meet immediate disbursing needs.
- (b) Recipients who do not meet or adhere to the conditions in Paragraph (a) of this Rule will not receive advance payments. Those recipients will receive grant payments on a reimbursement basis.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489; 42 U.S.C.A. 5304(g); Eff. July 1, 1982;
Amended Eff. March 1, 1995; June 1, 1993; September 1, 1990; April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0904 ESCROW ACCOUNTS

History Note: Authority G.S. 143B-10; 143B-431; 159-7 through 159-38; 24 C.F.R. 570.494; 24 C.F.R. 570.496; 42 U.S.C.A. 5304(b),(d),(e); Eff. July 1, 1982;
Amended Eff. May 1, 1992; March 1, 1984; April 1, 1983;
Repealed Eff. March 1, 1995.

04 NCAC 19L .0905 LUMP SUM DRAWDOWN FOR PROPERTY REHABILITATION

History Note: Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5304(g); 24 C.F.R. 570.489; 24 C.F.R. 570.494; Eff. July 1, 1982;
Amended Eff. September 1, 1990; May 1, 1988; March 1, 1984; April 1, 1983;
Repealed Eff. June 1, 1993.

04 NCAC 19L .0906 FINANCIAL MANAGEMENT SYSTEMS

Recipient financial management systems shall provide for accurate, current and complete disclosure of the financial results of each grant program in accordance with fiscal control and reporting requirements set forth in G.S. 159, Article III, the Local Government Budget and Fiscal Control Act. Recipients shall meet the following requirements:

- (1) All grant funds shall be expended in accordance with a budget ordinance or project ordinance adopted under G.S. 159-8 and G.S. 159-13.2 respectively;
- (2) A recipient may deposit or invest all or part of the cash balance of any grant fund; however, all interest earned shall be returned to the Department in accordance with Rule .0907(c) of this Section;
- (3) Investment deposits shall be secured as provided in G.S. 159-31(b);
- (4) The recipient shall designate as its official depositories one or more banks or trust companies in the State in accordance with G.S. 159-31(a);
- (5) All budgetary accounting for appropriations of grant funds shall be in accordance with the procedures for incurring obligations and disbursements as set forth in G.S. 159-28;
- (6) Each recipient shall establish an accounting system in accordance with G.S. 159-26;
- (7) The recipient's finance officer, and each officer, employee, or agent who handles or has in his custody more than one hundred dollars (\$100.00) of grant funds at any time, or who handles or has access to the recipient's inventories, shall be bonded in accordance with G.S. 159-29;
- (8) Each recipient shall maintain records that identify adequately the source and application of funds for grant-supported activities. These records shall contain information pertaining to federal awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;
- (9) A system for procedures for procurement and property management shall be provided in accordance with Rule .0908 and Rule .0909 of this Section;

- (10) All cash receipts must be deposited with, or to the credit of, the finance officer. This includes program revenues, reimbursements of travel, vendor payments or other items previously recorded as expenditures, and all other grant monies from the Department;
- (11) Recipients must develop a systematic method to assure timely and appropriate resolution of audit findings and recommendations;
- (12) Recipients shall require subgrantees to adopt the standards set forth in this Rule;
- (13) Recipients shall comply with the Office of Management and Budget Circular A-87, entitled Cost Principles for State and Local government, which is incorporated in these Rules by reference including subsequent amendments and editions. A copy of this circular is available from the Division of Community Assistance, Raleigh, North Carolina. In applying OMB A-87 the term "federal agency" shall mean the Department;
- (14) Recipients shall record the receipt and expenditure of project revenues from taxes, special assessments, evies, fines, etc., in accordance with generally accepted accounting principles;
- (15) Subrecipients shall comply with the Office of Management and Budget Circular A-110, entitled Uniform Administrative Requirements for Grants and other Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations which is incorporated in these Rules by reference including subsequent amendments and editions. A copy of this circular is available from the Division of Community Assistance, Raleigh, North Carolina.

History Note: Authority G.S. 14-234; 143B-10; 143B-431; 24 C.F.R. 570.489; 24 C.F.R. 570.496; 42 U.S.C.A. 5304(b),(d),(e);
 Eff. July 1, 1982;
 Amended Eff. August 1, 1998; June 1, 1994; June 1, 1993; September 1, 1991; September 1, 1990;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0907 PROGRAM INCOME

- (a) Definition. Program Income is defined as gross income earned by the recipient from grant supported activities. Such earnings may include, but not be limited to, sale of property, interest received from a loan program, and the return of sales taxes on purchases made during the program. Receipts derived from the operation of a public work or facility, the construction of which was assisted by this program, do not constitute program income. Income generated under the Development Loan Fund program, including loan repayments, fees, lease payments does not constitute program income.
- (b) Unless the grant agreement provides otherwise, recipients shall have no obligation to the Department with respect to royalties received as a result of copyrights or patents produced under the grant or other agreement. Recipients must however, follow the procedures set forth in Rule .0909 PROPERTY MANAGEMENT STANDARDS.
- (c) All interest earned on grant funds prior to distribution shall be returned to the Department, except recipients may keep one hundred dollars (\$100.00) per year for administrative expenses in accordance with 24 CFR 570.489(c)(2).
- (d) Recipients shall record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.) as a part of grant project transactions when such revenues are specifically earmarked for a grant project in accordance with the grant agreement.
- (e) Unless otherwise required, program income generated by a pre-1986 grant may be retained by the recipient. Program income is identified by the grant year in which the activities which generated the program income were funded. Pre-1986 program income shall be added to funds committed to a current project and used for activities approved in the project's application. Pre-1986 program income shall be expended prior to requesting additional funds from the Department or shall be used in future CDBG projects.
- (f) Program Income generated by grants made in 1986 or afterwards shall be returned to the Department except when:
 - (1) the recipient shall propose at the time of application or at the time the program income is anticipated, a use or uses for the projected program income, and
 - (2) the Department determines that, at the time of the proposal, the use of the projected program income meets federal requirements prohibiting the state from recapturing the program income; or
 - (3) the recipient, designated at the time of the preliminary grant award as a "severely distressed county" pursuant to G.S. 105-130.40(c), or a city in such a county, wishes to retain the program income to establish a local economic development revolving loan fund. Any activities that are

eligible under Title I of the federal Housing and Community Development Act of 1974, as amended, and that meet at least one of the three national objectives of the Housing and Community Development Act may be undertaken. If the designation, pursuant to G.S. 105-130.40(c), as a "severely distressed county" is removed from a county, projects having received at least a preliminary grant award prior to the removal of the designation may continue to retain program income resulting from that grant as provided in this subsection. Provisions of 4 NCAC 19L .0913 apply at the time of closeout; or

- (4) the program income is generated from an Entrepreneurial Empowerment project, and the Department has approved the plan for re-use of program income.
- (g) Income after closeout and not subject to Rule .0907(e) and (f) of this Subchapter.
- (1) Except as may be otherwise provided under the terms of the grant agreement or any closeout agreement, program income of twenty-five thousand dollars (\$25,000) or more received annually subsequent to the CDBG Program closeout shall be used for any eligible activity pursuant to Rule .0301 of this Subchapter. Recipients must receive Division approval in writing prior to obligation of program income under this Paragraph to determine if the proposed use is plainly appropriate to meeting the recipient's needs and objectives. When income received is less than twenty-five thousand dollars (\$25,000) annually, the recipient may spend the funds at the end of the 12 month period according to its own needs; and
 - (2) Accurate records shall be kept on all program income and reported annually to the Division when the annual amount exceeds twenty-five thousand dollars (\$25,000) and to determine when the twenty-five thousand dollars (\$25,000) threshold is exceeded subsequent to grant closeout.
- (h) Program income generated under the Development Loan Fund program, including loan repayments, fees, lease payments shall meet all the requirements outlined in 24 CFR 570.489(e) and the contract between the unit of local government and the Department of Housing and Urban Development.

History Note: Authority G.S. 143B-431; 153A-376; 160A-456; 24 C.F.R. 570.489(e);
Eff. July 1, 1982;
Temporary Amendment Eff. August 19, 1988 for a period of 180 days to expire on February 15, 1989;
Amended Eff. August 1, 1998; March 1, 1995; June 1, 1993; September 1, 1991; September 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0908 PROCUREMENT STANDARDS

- (a) Local governments shall follow the procurement standards established in the Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments (24 C.F.R., Part 85) and HUD implementing regulations contained in 24 CFR 570.489(g), which explicitly prohibit cost plus a percentage of cost and percentage of construction cost methods of contracting. This Subchapter incorporates by reference the federal law and regulations described in 24 CFR, Part 85, 24 CFR 570.489(g), and 24 CFR 570.489(h), including subsequent amendments and editions. Copies of these sections of federal law and regulation are available for public inspection from the Division of Community Assistance. Single copies are available from this Division in Raleigh, North Carolina, for one dollar (\$1.00) each.
- (b) Recipients may incur costs with written approval of the Division for the procurement of supplies, equipment, construction and services before the Grant Agreement between the recipient and the Division has been executed. In the case of program amendments, recipients may not incur costs for the procurement of supplies, equipment, construction and services that are the subject of the program amendment until the program amendment has been approved in writing by the Division. Recipients that incur costs prior to execution of the grant agreement must ensure that the activities are eligible and meet requirements of 24 CFR Part 58, Environmental Review.
- (c) Recipients must also comply with the North Carolina General Statutes applicable to the procurement of supplies, equipment, construction and services. Relevant state laws include:
- (1) Conflict of Interest, G.S. 14-234 (cities and counties);
 - (2) Public Building Contracts, G.S. 143-128 through 135 (cities and counties); and
 - (3) Model payment and performance bond, G.S. 44A-25 through 33 (cities and Counties).

(d) Additional rules governing property acquisition are found in this Subchapter under Rule .1003 ACQUISITION AND RELOCATION; Rule .0907 PROPERTY MANAGEMENT STANDARDS; Rule .1001 EQUAL OPPORTUNITY; and Rule .1006 LABOR STANDARDS.

(e) The requirements of the Office of Management and Budget Circular No. A-87, Cost Principles for State and Local Governments, shall apply to the procurement of materials and services funded in whole or in part with CDBG funds.

History Note: Authority G.S. 14-234; 143-128 through 143-135; 143B-431; 153A-158; 153A-163 through 153A-165; 159-15; 42 U.S.C.A. 5304(b)(4); 24 C.F.R. 570.489; Eff. July 1, 1982; Amended Eff. June 1, 1993; September 1, 1990; April 1, 1989; March 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0909 PROPERTY MANAGEMENT STANDARDS

This Rule prescribes uniform standards governing the use and disposition of property acquired in whole or in part with Community Development Block Grant funds.

(1) Definitions.

- (a) "Real property" means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.
- (b) "Personal property" means any kind of property except real property. It may be tangible - having physical existence, or intangible - having no physical existence, such as patents, inventions, and copyrights.
- (c) "Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of one thousand dollars (\$1,000.00) or more per unit.
- (d) "Expendable personal property" refers to all tangible personal property other than nonexpendable property.
- (e) "Acquisition cost of purchased nonexpendable personal property" means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property useable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty, or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the regular accounting practices.

(2) Real Property.

- (a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the original grant as long as needed.
- (b) The recipient shall obtain prior approval by the Division for the use of the real property in other projects when the recipient determines that the property is no longer needed for the original grant purposes. Use in other projects will be limited to those under other federal and state grant programs, or programs that have purposes consistent with those authorized for support by the Department.
- (c) When the real property is no longer needed as provided in (a) and (b) of this Paragraph, the recipient shall request disposition instructions from the Division, according to the following rules:
 - (i) The recipient may be permitted to retain title after it compensates the program budget in an amount computed by applying the CDBG percentage of participation in the cost of the original project to the current fair market value of the property.
 - (ii) The recipient may be directed to sell the property under guidelines provided by the Division.

(3) Nonexpendable Personal Property. Title to nonexpendable personal property whose acquisition cost is borne in whole or part by Community Development Block Grant funds shall be vested in the recipient subject to the following restrictions:

- (a) Use. The recipient shall use the property as long as there is a need for such property to accomplish the objectives of the Housing and Community Development Act of 1974, as amended, whether or not the recipient is supported by funds appropriated under this Act.
 - (b) Disposition. When the recipient no longer needs the property as provided in this Rule, the property may be used in accordance with the following standards:
 - (i) Nonexpendable personal property with a unit acquisition cost of less than one thousand dollars (\$1,000) may be retained by the recipient for other programs or sold by the recipients without reimbursement to the program budget.
 - (ii) Nonexpendable personal property with a unit acquisition cost of one thousand dollars (\$1,000) or more may be retained by the recipient for other uses provided that compensation is made as program income in accordance with Rule .0907. The amount of compensation shall be computed by applying the percentage of CDBG participation in the cost of the original project or program to the current fair market value of the property. If the recipient has no need for the property then it shall dispose of the property in accordance with State law and proceeds shall be considered as program income.
 - (c) Property records shall be maintained accurately and shall include:
 - (i) a description of the property;
 - (ii) manufacturer's serial number, model number, federal stock number, national stock number, or other identification number;
 - (iii) source of the property including grant or other agreement number;
 - (iv) acquisition date;
 - (v) percentage of CDBG participation in the cost of the project for which the property was acquired;
 - (vi) location, use, and condition of the property and the date the information was reported;
 - (vii) unit acquisition cost; and
 - (viii) ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Department for its share.
 - (d) A physical inventory of property shall be taken annually to verify the existence, current utilization and continued need for the property. The results shall be reconciled with the property records at least once every two years. Any differences between the quantities determined by the physical inspections and those shown in the accounting records shall be investigated to determine the causes of the differences.
 - (e) Adequate maintenance procedures shall be implemented to keep the property in good condition.
 - (f) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.
 - (g) Where the recipient is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.
- (4) Expendable Personal Property. Title to expendable personal property shall vest in the recipient upon acquisition. If there is a residual inventory of such property exceeding one thousand dollars (\$1,000) in total aggregate fair market value, upon termination or completion of the grant and if the property is not needed for any other federally sponsored project or program, the recipient shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case, compensate the program for its share. The amount of compensation will be computed in the same manner as nonexpendable personal property.
- (5) Intangible Property.
- (a) Inventions and patents. If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by the Department, such fact shall be promptly and fully reported to the Department. Unless there is a prior agreement between the recipient and the Department on disposition of such items, the Department shall determine whether protection on the invention or discovery shall be sought. The

Department will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administrated in order to protect the public interest consistent with "Government Patent Policy" (President's memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and Statement of Government Patent Policy as printed in 36 FR 16889); and

- (b) Copyrights. Except as otherwise provided in the terms and conditions of the agreement, the author or the recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a Departmental agreement, but the Department shall reserve a royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(b)(4),(d)(2),(e); 24 C.F.R. 570.489; Eff. July 1, 1982;
Amended Eff. June 1, 1993; September 1, 1990; May 1, 1988; April 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0910 PROGRAM AMENDMENTS

(a) Community development program amendments. Recipients shall request prior Division approval for all program amendments when:

- (1) The recipient proposes to change the approved project budget amount for any activity by more than 10 percent of the total project amount;
- (2) The recipient proposes to add or delete any activity or activities, change project locations, or change the scope of the program or class of beneficiaries of previously approved activities; and
- (3) The cumulative effect of a number of smaller changes involving the approved activities exceeds 10 percent of the total project amount. In such instances, the recipient shall include in its request for an amendment documentation describing the smaller changes previously made, as well as those being proposed. After the amendment is approved by the Division, the accrual of smaller changes begins again.

(b) Citizen Participation. Recipients proposing amendments and other changes to the approved application which require prior Division approval pursuant to Paragraph (a) of this Rule shall hold one public hearing in accordance with Paragraph (f) of Rule .1002, CITIZEN PARTICIPATION.

(c) Citizen objections to the amendment. Persons wishing to object to the approval of an amendment by the Division shall make such objection in writing to the Division in accordance with Paragraph (f) of Rule .1002 CITIZEN PARTICIPATION.

(d) Budget ordinance amendment. Any amendment to the grant program that involves a financial transaction shall comply with the provisions set forth in G.S. 159-15, Amendments to the Budget Ordinance.

(e) All requests for program amendments that require prior Division approval shall be submitted to the Division and include the following:

- (1) copy of the current budget and proposed changes;
- (2) detailed narrative description of the proposed changes and their effect upon the approved project;
- (3) maps showing any change in location;
- (4) signature of approval by the recipient's chief elected official on a form prescribed by the Division; and
- (5) other information appropriate for evaluating the proposed amendment.

(f) All requests for program amendments that require prior Division approval may be submitted by the Division to the appropriate agency or agencies for clearinghouse review. Procedures for this review shall be in accordance with Rule .1012 of this Subchapter.

(g) All records of program amendments shall be kept on file in accordance with Rule .0911 of this Section.

(h) Division Review of Amendments. In approving or denying proposed amendments pursuant to Paragraph (a) of this Rule .0910, the Division may consider the following factors:

- (1) amendments which include new or significantly altered activities may be rated in accordance with the selection criteria applicable at the time the original application was rated;
- (2) whether the proposed amendment activities can be completed within the scheduled duration of the project;
- (3) feasibility of the proposed amendment; and

- (4) appropriateness of the proposed amendment.

History Note: Authority G.S. 143B-10; 143B-431; 159-15; 159-34; 42 U.S.C.A. 5304(a)(2),(d)(2); 24 C.F.R. 570.489; Eff. July 1, 1982; Amended Eff. June 1, 1993; September 1, 1990; April 1, 1989; March 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0911 RECORDKEEPING

- (a) The Secretary of the Department of Commerce, the Secretary of the Department of Housing and Urban Development, or any of their duly authorized representatives shall have access to all books, accounts, records, reports, files, and other papers or property of recipients or their subgrantees and contractors pertaining to funds provided under this Subchapter for the purpose of making surveys, audits, examinations, excerpts and transcripts.
- (b) All Community Development Program records that are public under G.S. 132 shall be made accessible to interested individuals and groups during normal working hours, and shall be maintained at all times at the recipient's local government office.
- (c) Financial records, supporting documents and all other reports and records required under this Subchapter, and all other records pertinent to the Community Development Program shall be retained by the recipient for a period of five years from the date of the closeout of the program, except as follows:
 - (1) Records that are the subject of audit findings shall be retained for five years or until such audit findings have been resolved, whichever is later;
 - (2) Records for nonexpendable property which was acquired with Federal grant funds shall be retained for five years after its final disposition;
 - (3) Records for any displaced person shall be retained for five years after he/she has received final payment;
 - (4) Records pertaining to each real property acquisition shall be retained for five years after settlement of the acquisition, or until disposition of the applicable relocation records in accordance with Subparagraph (3) of this Section, whichever is later; and
 - (5) If a litigation, claim or audit is started before the expiration of the five-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.
- (d) All records shall be sufficient to determine compliance with the requirements and primary objectives of the Community Development Block Grant Program and all other applicable laws and regulations. All accounting records shall be supported by source documentation and shall be in compliance with Rule .0906 of this Section.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(d)(2),(e); 24 C.F.R. 570.490; Eff. July 1, 1982; Amended Eff. August 1, 1998; June 1, 1993; September 1, 1990; May 1, 1988; April 1, 1983; Temporary Amendment Eff. January 1, 2001; Amended Eff. August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0912 AUDIT

- (a) The recipient's financial management systems shall provide for audits to be made by the recipient or at the recipient's direction, in accordance with the following:
 - (1) The recipient shall provide for an audit of its CDBG program on an annual basis for any fiscal year in which twenty-five thousand (\$25,000) or more in CDBG funds are received in accordance with the annual independent audit procedures set forth in G.S. 159-34;
 - (2) The CDBG program audit shall be performed in conjunction with the regular annual independent audit of the recipient and shall contain an examination of all financial aspects of the CDBG program as well as a review of the procedures and documentation supporting the recipient's compliance with applicable statutes and regulations;
 - (3) CDBG program funds may only be used to pay for the CDBG portion of the audit costs if more than three hundred thousand dollars (\$300,000) in all Federal Programs are used;

- (4) The recipient shall submit the Annual Audit Report to the Division, including the information identified in Paragraph (b) of this Rule, along with an Annual Performance Report as required by Rule .1101 of this Subchapter; and
 - (5) The Division may require separate closeout audits to be prepared by the recipient in accordance with Paragraph .0913(e) of this Section.
- (b) Audits shall comply with the requirements set forth in this Paragraph:
- (1) Audits shall include, at a minimum, an examination of the systems of internal control, systems established to insure compliance with laws and regulations affecting the expenditure of grant funds, financial transactions and accounts, and financial statements and reports of recipient organizations;
 - (2) Financial statements shall include footnotes, comments which identify the statements examined, the period covered, identification of the various programs under which the recipient received CDBG funds, and the amount of the awards received;
 - (3) Audits shall be made in accordance with the GENERAL ACCOUNTING OFFICE STANDARDS FOR AUDIT OF GOVERNMENTAL ORGANIZATIONS, PROGRAMS, ACTIVITIES AND FUNCTIONS, THE GUIDELINES FOR FINANCIAL AND COMPLIANCE AUDITS OF FEDERALLY ASSISTED PROGRAMS, any compliance supplements approved by the Federal Office of Management and Budget (OMB), and generally accepted auditing standards established by the American Institute of Certified Public Accountants;
 - (4) The audit shall include the auditor's opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, the auditor shall state the nature of the qualification;
 - (5) The auditors' comments on compliance and internal control shall:
 - (A) Include comments on weaknesses in and noncompliance with the systems of internal control, separately identifying material weaknesses;
 - (B) Identify the nature and impact of any noted instances of noncompliance with the terms of agreements and those provisions of State or Federal laws and regulations that could have a material effect on the financial statements and reports;
 - (C) Contain an expression of positive assurance with respect to compliance with requirements for tested items and negative assurance for untested items;
 - (D) Comment on the accuracy and completeness of financial reports and claims for advances or reimbursement to Federal agencies;
 - (E) Comment on corrective action taken or planned by the recipient;
 - (6) Work papers and reports shall be retained for a minimum of five years from the date of the audit report unless the auditor is notified in writing by the Division of the need to extend the retention period based on changes in Federal regulations. The audit work papers shall be made available upon request to the Division and the General Accounting Office or its designees;
 - (7) If during the course of the audit, the auditor becomes aware of irregularities in the recipient organization the auditor shall promptly notify the Division and recipient management officials about the level of involvement. Irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets;
 - (8) Selection of an independent auditor shall be in accordance with Rule .0908 of this Section.
- (c) A "single audit," in which the regular independent auditor will perform an audit of all compliance aspects for all federal grants along with the regular financial audit of the recipient, is permissible. Where feasible, the recipient shall use the same auditor so that the audit will include the financial and compliance work under a single plan in the most economical manner.
- (d) Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts awarded with CDBG funds. Recipients shall take the following affirmative action to further this goal:
- (1) Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals as defined in P.L. 95-507 are used to the fullest extent practicable;
 - (2) Make information on forthcoming opportunities available, and arrange time frames for the audit so as to encourage and facilitate participation by small or disadvantaged firms;
 - (3) Consider in the contract process whether firms competing for larger audits intend to subcontract with small or disadvantaged firms;

- (4) Encourage contracting with small or disadvantaged audit firms which have traditionally audited government programs, and in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities;
 - (5) Encourage contracting with consortiums of small or disadvantaged audit firms when a contract is too large for an individual small or disadvantaged audit firm; and
 - (6) Use the services and assistance, as appropriate, of the Small Business Administration, and the Minority Business Development Agency of the U.S. Department of Commerce in the solicitation and utilization of small or disadvantaged audit firms.
- (e) All records, data, audit reports and files shall be maintained in accordance with Rule .0909 of this Section, unless otherwise stated in this Rule.
- (f) The provisions of this Rule do not limit the authority of the Department to make audits of recipients' organizations.

History Note: Authority G.S. 143B-10; 143B-431; 159-34; 42 U.S.C.A. 5304(d)(2),(e); 24 C.F.R. 44.6; 24 C.F.R. 85.36(e); 24 C.F.R. 570.492; Eff. April 1, 19983; Amended Eff. June 1, 1994; June 1, 1993; September 1, 1990; May 1, 1988; Temporary Amendment Eff. January 1, 2001; Amended Eff. August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0913 GRANT CLOSEOUTS

(a) Initiation of closeout. The Division will advise the recipient to initiate closeout procedures when the Division determines, in consultation with the recipient, that there are no impediments to closeout and that the following criteria have been met or will be met shortly:

- (1) All costs to be paid with grant funds have been incurred with the exception of closeout costs such as payment for the final audit and any unsettled third-party claims against the recipient. Costs are incurred when goods and services are received or contract work is performed. With respect to activities (such as rehabilitation of privately owned properties) which are carried out by means of revolving loan accounts, loan guarantee accounts, or similar mechanisms, costs shall be considered as incurred at the time funds for such activities are drawn from the Department and initially used for the purposes described in the approved Community Development Program. The phrase "initially used for the purposes described in the approved Community Development Program" means the payment of such funds for work actually performed and is not intended to mean the initial deposit(s) of funds into the revolving loan account, loan guarantee account, or similar mechanism (such as loan or grant escrow account);
- (2) The recipient shall submit to the Division within 90 days after the date of completion of the grant all financial, performance, and other reports required as a condition of the grant;
- (3) With respect to any grant for which an Annual Performance Report is required pursuant to Rule .1101, for purposes of the closeout, and has not been submitted or updated, the failure of a recipient to submit or update as required will not preclude the Division from effecting a grant closeout when such action is determined to be in the best interest of the Division. The failure or refusal by a recipient to comply with such requirement shall be taken into account in the performance determination by the Division in reviewing any future grant applications from the recipient. Any excess grant amount which is otherwise authorized to be retained by the recipient shall be refunded to the Division in the event of a recipient's failure to furnish the Annual Performance Report or update it as required under this Rule;
- (4) Other responsibilities of the recipient under the grant agreement and closeout agreement, applicable laws and regulations appear to have been carried out satisfactorily, or the Division has no further interest in keeping the grant agreement open for the purpose of securing performance. A final review of the recipient's compliance with the grant agreement and any closeout agreement, applicable laws and regulations will be made during the final audit or Division review in lieu of the final audit pursuant to Paragraph (e) of this Rule.

(b) Program Income. The recipient shall account for any program income in accordance with Rule .0907 of this Section.

- (c) Disposition of nonexpendable personal property. The recipient shall account for any nonexpendable personal property acquired with grant funds in accordance with Rule .0909 of this Section entitled PROPERTY MANAGEMENT STANDARDS and Rule .0907 of this Section entitled PROGRAM INCOME.
- (d) Disposition of real property. Disposition of real property shall be in accordance with the requirements of Rules .0909 and .0907 of this Section.
- (e) Audit. Upon notification from the Division to initiate closeout procedures, the recipient shall arrange for a final audit to be made of its grant accounts and records in accordance with Rule .0912 of this Section, and any other audit requirements of the Department hereafter in effect. The Division may determine that, due to the nature of the recipient's program or the relatively small amount of funds which have not been audited, a final audit is not required. In such instances, the Division will notify the recipient that the Department will perform necessary review of documentation and activities to determine that claimed costs are valid program expenses and that the recipient has met its other responsibilities under the grant agreement.
- (f) Certificate of completion and final cost. Upon resolution of any findings in the final audit or, if the final audit is waived, after the Division has performed the review of documentation described in Paragraph (e) of this Rule, the recipient shall prepare a certificate of completion and final cost, on a form prescribed by the Division, and submit it to the Division.
- (g) Refund of excess grant funds. Recipients shall refund to the Department any cash advance in excess of the final grant amount, as shown on the certificate of completion approved by the Division. However, recipients may request Division approval to use any excess grant funds to complete additional eligible activities where at least fifty-one percent of the funds benefit low- and moderate-income persons. Division approval must be obtained prior to such use of excess funds.
- (h) Termination of grant for mutual convenience. Grant assistance provided under this part may be cancelled, in whole or in part, by the Division or the recipient, prior to the completion of the approved Community Development Program, when both parties agree that the continuation of the program no longer is feasible or would not produce beneficial results commensurate with the further expenditure of funds. The Division shall determine whether an environmental review of the cancellation is required, and if a review is required it shall be performed by the recipient. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the recipient for the noncancelable obligations properly incurred by the recipient in carrying out the program prior to termination. The closeout policies and procedures contained in this Rule shall apply in all such cases except where the total grant is cancelled in its entirety, in which event only the provisions of Paragraph (f) and (g) of this Rule shall apply.
- (i) Termination for cause. In cases in which the Secretary terminates the recipient's entire grant, or the remaining balance thereof, in accordance with Rule .1103 of this Subchapter, provisions of Paragraphs (f) and (g) of this Rule shall apply.
- (j) The recipient shall hold a public hearing prior to closeout of the CDBG program to assess the performance of the recipient in accordance with Rule .1002 of this Subchapter.
- (k) All records of the closeout process shall be maintained in accordance with Rule .0911 of this Section.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489; Eff. April 1, 1983; Amended Eff. June 1, 1993; September 1, 1990; May 1, 1988; March 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .0914 CONFLICT OF INTEREST

In all cases not governed under Rule .0908 of this Section regarding procurement procedures, recipients shall meet the requirements of HUD implementing regulations contained in 24 CFR 570.489(h). For the purposes of this Rule, the following definitions apply:

- (1) "family ties" means spouse, parents, children, brother, sister, grandparents, grandchildren and the step, half, and in-law relationships;
- (2) "business ties" means an officer, employee, agent, or any stockholder or shareholder holding at least 10 percent ownership of any firm, contract, or subcontract which benefits from funding assistance under the grant agreement.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489; Eff. June 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

SECTION .1000 - COMPLIANCE REQUIREMENTS

04 NCAC 19L .1001 EQUAL OPPORTUNITY AND NONDISCRIMINATION

No person shall on the grounds of race, color, national origin, sex, religion, handicap or familial status be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this Subchapter.

- (1) Recipients shall meet the requirements of:
 - (a) The Civil Rights Act of 1964 (P.L. 88-352) and specifically Title VI which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity which receives federal funds;
 - (b) The Civil Rights Act of 1968 (P.L. 90-284) as amended, and specifically Title VIII which requires recipients to administer all programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take action to affirmatively further fair housing in the sale and rental of housing, the financing of housing, and the provision of brokerage services;
 - (c) Section 109 of the Housing and Community Development Act of 1974, as amended (P.L. 93-383) which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds provided under this Subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et. seq.) or with respect to any otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), shall also apply to any such program or activity;
 - (d) Executive Order 11063, as amended by Executive Order 12259, Leadership and Coordination of Fair Housing in Federal Programs, requiring that programs and activities relating to housing and urban development be administered in a manner to affirmatively further the goals of Title VIII of the Civil Rights Act of 1968;
 - (e) Executive order 11246, as amended, which provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal and federally assisted construction contracts, and that affirmative action will be taken in all aspects of personnel negotiations; and
 - (f) Section 3, of the Housing and Urban Development Act of 1968, (P.L. 90-448) as amended, which requires that to the greatest extent feasible, opportunities for training and employment arising in connection with the planning and carrying out of any project assisted under any federal block grant program be given to lower-income residents of the unit of local government, metropolitan area or nonmetropolitan county in which the project is located and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in, the same metropolitan area or nonmetropolitan county as of the project.
- (2) Recipients shall meet the implementing requirements of:
 - (a) Regulations under Title VI of the Civil Rights Act of 1964, 24 C.F.R., Part 1 and 2;
 - (b) Equal Employment Opportunity under HUD Contracts and HUD Assisted Construction, 24 C.F.R. Part 130;
 - (c) Employment Opportunities for Businesses and Lower Income Persons In Connection With Assisted Projects, 24 C.F.R. 135; and
 - (d) HUD implementing regulations contained in 24 C.F.R. Part 107.
- (3) Local government recipients shall meet the requirements of Title II of the Americans with Disabilities Act of 1990 (P.L. 101-336) and its implementing regulations (28 CFR Part 35).

- (4) Recipients shall maintain records and data and document compliance efforts as required by the laws and regulations in this Rule including data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program and shall comply with Rule .0911 of this Subchapter.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489; 24 C.F.R. 570-490; 24 C.F.R. 570.496; 42 U.S.C.A. 1982; 42 U.S.C.A. 2000d et seq.; 42 U.S.C. 5309; Eff. July 1, 1982; Amended Eff. June 1, 1993; March 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1002 CITIZEN PARTICIPATION

(a) Each applicant and recipient shall provide citizens with an opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of the program. Each applicant and recipient shall provide information to citizens, hold public hearings, provide for timely responses to citizens' complaints, and certify that it is following a detailed Citizen Participation Plan as in (b) through (h) of this Rule. All public hearings shall be held by the governing board of the applicant or recipient.

(b) Citizen participation in the application process.

(1) Each applicant for CDBG funds shall:

- (A) Solicit and respond in a timely manner to views and proposals of citizens, particularly low- and moderate-income persons, members of minority groups, and residents of blighted areas where activities are proposed. Applicants shall respond in writing to written citizen comments. Responses shall be made within 10 calendar days of receipt of the citizen comment, when practicable.
- (B) Provide technical assistance to facilitate citizen participation, where requested. The technical assistance shall be provided to groups representative of persons of low- and moderate-income that request such assistance in developing proposals. The level and type shall be determined by the applicant.
- (C) Provide notices of public hearings in a timely manner to all citizens and in such a way as to make them understandable to non-English speaking persons. Hearings must be held at times and locations convenient to potential or actual beneficiaries and with accommodations for persons with disabilities. A notice of the public hearing shall be published at least once in the nonlegal section of a newspaper having general circulation in the area. The notice shall be published not less than ten days nor more than 25 days before the date fixed for the hearing. The notice of public hearing to obtain citizens' views after the application has been prepared, but prior to the submission of the application to the Division, shall contain a description of the proposed project(s) including the proposed project location, activities to be carried out, and the total costs of activities. The notice of the public hearing shall also contain the language for submitting objections contained in the Part (b)(2)(A) of this Rule.
- (D) Schedule hearings to obtain citizens' views and to respond to citizen proposals at times and locations which permit broad participation, particularly by low- and moderate-income persons, members of minority groups, handicapped persons, and residents of blighted neighborhoods and project areas.
- (E) Conduct one public hearing during the planning process to allow citizens the opportunity to express views and proposals prior to formulation of the application, except that applicants in the Urgent Needs category are exempt from holding this public hearing.
- (F) Conduct one public hearing after the application has been prepared but prior to submission of the application to the Division.

(2) Submitting objections to the Division.

- (A) Persons wishing to object to the approval of an application by the Division shall submit to the Division their objections in writing. The Division shall consider objections made only on the following grounds:
 - (i) The applicant's description of the needs and objectives is plainly inconsistent with available facts and data,

- (ii) The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant, and
 - (iii) The application does not comply with the requirements of this Subchapter or other applicable laws.
 - (B) All objections shall include an identification of the requirements not met. In the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with available facts and data, the objection shall include the facts and data upon which the objection is based.
- (c) Citizen Participation Plan. Recipients shall develop and adopt, by resolution of their governing board, a written citizen participation plan developed in accordance with all provisions of this Rule and which:
 - (1) provides for and encourages citizen participation with particular emphasis on participation by persons of low- and moderate-income who are residents of slum and blight areas and of areas in which CDBG funds are proposed to be used;
 - (2) provides citizens with reasonable and timely access to local meetings, information, and records relating to the recipient's proposed and actual use of funds;
 - (3) provides for technical assistance to groups representative of persons of low- and moderate-income that request such assistance in accordance with Part (b)(1)(B) of this Rule;
 - (4) provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program in accordance with Paragraphs (b), (f), and (g) of this Rule;
 - (5) provides a procedure for developing written responses to written complaints and grievances within ten calendar days of receipt of the complaint. The procedure shall include all provisions of Paragraph (d) of this Rule; and
 - (6) identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.
- (d) The recipient shall develop and adopt a written complaint procedure to respond to citizen complaints involving the CDBG program. The complaint procedure shall be applicable through the life of the grant and available to the general public. It shall specify that the recipient will respond in writing to written citizen complaints within 10 calendar days of receipt of the complaint. The procedure shall include a phone number for further information or clarification on the complaint procedure and shall identify any local procedures or appeals process that would normally be used by the recipient to address citizen complaints. The complaint procedure shall also state that if a citizen lodging a complaint is dissatisfied with the local response, then that person may direct the complaint to the North Carolina Division of Community Assistance.
- (e) Citizen participation during program implementation. Citizens shall have the opportunity to comment on the implementation of a Community Development Program throughout the term of the program. Recipients shall solicit and respond to the views and proposals of citizens in the same manner as in Part (b)(1)(A) of this Rule.
- (f) Citizen participation in the program amendment process.
 - (1) Recipient procedures.
 - (A) Recipients proposing amendments which require prior Division approval in accordance with Rule .0910 of this Subchapter shall to conduct one public hearing prior to submission of the amendment to the Division in the same manner as in Part (b)(1)(C) of this Rule.
 - (B) Each recipient shall respond to citizen objections and comments in the same manner as in Part (b)(1)(A) of this Rule.
 - (2) Submitting Objections to the Division.
 - (A) Persons wishing to object to the approval of an amendment by the Division shall make such objection in writing. The Division shall consider objections made only on the following grounds:
 - (i) The recipient's description of needs and objectives is plainly inconsistent with available facts and data,
 - (ii) The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the recipient, and
 - (iii) The amendment does not comply with the requirements of this Section or other applicable laws and regulations.

- (B) All objections shall include an identification of the requirements not met. In the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with available facts and data, the objection shall include the facts and data upon which the objection is based.
- (g) Citizen participation in the program closeout process.
 - (1) Recipients shall conduct one public hearing to assess program performance during the grant closeout process and prior to the actual closeout of the grant in the same manner as in Part (b)(1)(C) of this Rule.
 - (2) Recipients shall continue to solicit and respond to citizen comment in the same manner as in Part (b)(1)(A) of this Rule until such time as the grant program is closed.
- (h) Persons may submit written comments to the Division at any time concerning the applicant's or recipient's failure to comply with the requirements contained in this Subchapter.
- (i) All records of public hearings, citizens' comments, responses to comments and other relevant documents and papers shall be kept in accordance with Rule .0911 of this Subchapter. All program records shall be accessible to citizens in accordance with Rule .0911(b) of this Subchapter.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(a)(2); 24 C.F.R. 570.486; Eff. July 1, 1982; Amended Eff. August 1, 1998; June 1, 1993; September 1, 1990; May 1, 1988; March 1, 1984; Temporary Amendment Eff. January 1, 2001; Amended Eff. August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1003 ACQUISITION AND RELOCATION

(a) The purpose of this Rule is to insure that owners of real property to be acquired under the provisions of this Subchapter are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in governmental land acquisition; and to insure that persons displaced as a result of CDBG-assisted projects are treated equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole. Recipients shall follow the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), Sections 104(d) and 106(d)(5)(A) of Title I of the Housing and Community Development Act of 1974, as amended, and HUD implementing regulations [24 CFR 570.488 and 570.496(a)]. This Subchapter incorporates by reference the federal regulations described in 24 CFR 570.488 and 24 CFR 570.496(a), including subsequent amendments and editions. Copies of these laws and regulations are available for public inspection from the Division of Community Assistance. Single copies are available from this Division in Raleigh, North Carolina, for one dollar (\$1.00) each. The following definitions shall apply:

- (1) "HUD" means the Department.
- (2) "Federal agency" means the Department.
- (3) "State agency" means the recipient of CDBG funds as defined in this Subchapter.

(b) The recipient may provide relocation payments and assistance for individuals, families, businesses, non profit organizations and farm operations displaced by an activity that is not subject to the Uniform Act. The recipient also may provide relocation payments and other assistance at levels above those established under the Uniform Act. All such relocation assistance not required by the Uniform Act must be determined by the recipient to be appropriate to its community development program. The recipient shall adopt a written policy available to the public setting forth the relocation payments and assistance it elects to provide and providing for equal payments, and assistance within each class of displacees.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5301 and 5304(b)(4); 24 C.F.R. 570.488; Eff. July 1, 1982; Amended Eff. June 1, 1993; September 1, 1990; April 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1004 ENVIRONMENTAL REVIEW

(a) Applicants and recipients shall comply with the policies of the National Environmental Policy Act of 1969 and all other applicable provisions of Federal and State law which further the purposes of such act (as specified in 24 C.F.R. Part 58). This Subchapter incorporates by reference 24 CFR Part 58, including subsequent amendments and editions. Copies of this federal regulation are available for public inspection from the Division of Community Assistance. Single copies are available from this Division in Raleigh, North Carolina, for one dollar (\$1.00) each.

(b) Applicants and recipients shall assume the responsibilities for environmental review, decision-making, and other actions which would otherwise apply to the Secretary, under NEPA and other provisions of law which further the purposes of NEPA in accordance with section 104(f)(4) of Title I of the Housing and Community Development Act of 1974, as amended and the implementing regulations at 24 C.F.R. Part 58.

(c) Applicants and recipients shall meet the requirements of the following Federal laws and regulations:

- (1) The National Environmental Policy Act of 1969 ("NEPA", 42 U.S.C. 4321 et seq., P.L. 91-190) which establishes national policy, goals, and procedures for protecting, restoring and enhancing environmental quality;
- (2) Environmental Review Procedures for Title I Community Development Block Grant Programs, (24 C.F.R. Part 58), which sets forth the procedures for carrying out the environmental responsibilities under NEPA;
- (3) Executive Order 11988, Floodplain Management, May 24, 1977 (42 F.R. 26951 et seq.);
- (4) Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 F.R. 26961 et seq.);
- (5) The Coastal Zone Management Act of 1972, (16 U.S.C. 1451 et seq.), as amended;
- (6) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. 349), as amended, particularly concerning sole source aquifers;
- (7) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended;
- (8) The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.), as amended;
- (9) The Clean Air Act (42 U.S.C. 7401 et seq.);
- (10) The Fish and Wildlife Coordination Act of 1958 as amended, (16 U.S.C. 661 et seq);
- (11) The Federal Water Pollution Control Act (P.L. 92-500);
- (12) HUD environmental criteria and standards (24 C.F.R. Part 51), and the Council on Environmental Quality Standards at 40 C.F.R. Part 1500-1508;
- (13) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended;
- (14) Procedures for the Protection of Historic and Cultural Properties, 36 CFR 800;
- (15) Executive Order 11593, Protection and Enhancement of the Cultural Environment. May 13, 1971 (36 F.R. 8921 et seq.);
- (16) The Reservoir Salvage Act of 1960 (16 U.S.C. 469 et seq.); as amended by the Archaeological and Historic Preservation Act of 1974; and
- (17) The Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), as amended.

(d) The recipient shall meet the requirements of the following State laws and rules where they are applicable to the provisions of this Subchapter:

- (1) Chapter 113A of the General Statutes of North Carolina, entitled Pollution Control and Environment;
- (2) G.S. 143-215.108 which designates the Environmental Management Commission as the issuing authority for air quality permits;
- (3) G.S. 143-215.1 which governs water pollution permits and designates the Environmental Management Commission as the issuing authority;
- (4) G.S. 121-12, Protection of Properties on the National Register, which requires consideration of project impact on any property listed in the National Register; and
- (5) G.S. 70-1 through 70-3, Indian Antiquities laws, which urges private landowners to refrain from excavation and other actions leading to the destruction of Indian archaeological sites on their property. It also requires local governments to report the discovery of artifacts and refrain from further excavation or construction when excavating or constructing on public lands.

(e) The recipient shall obtain all air pollution and water pollution permits for a CDBG program pursuant to Paragraph (d) of this Rule.

(f) All records and data shall be maintained pursuant to Rule .0911 of this Subchapter.

History Note: Authority G.S. 143-215.1; 143-215.108; 143B-10; 143B-431; 24 C.F.R. Part 58; 24 C.F.R. 570.487; 42 U.S.C.A. 4321 through 4370; 42 U.S.C.A. 5304(b)(4);
Eff. July 1, 1982;

Amended Eff. August 1, 1998; June 1, 1993; September 1, 1990; May 1, 1988; October 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1005 HISTORIC PRESERVATION

History Note: Authority G.S. 70-1 through 70-3; 113A; 121-12; 143-323; 24 C.F.R. 570-496; 42 U.S.C.A. 5304(b)(4); 42 U.S.C.A. 5321; Eff. July 1, 1982; Amended Eff. April 1, 1983; Repealed Eff. October 1, 1984.

04 NCAC 19L .1006 LABOR STANDARDS

(a) The following labor standards provisions outline the responsibilities of the recipient concerning the payment of wages, contract work hours, safety, health standards, and equal opportunity for programs governed under this Subchapter. Recipients must comply with the following federal laws and regulations:

- (1) Davis-Bacon Act (40 U.S.C.A. 276a). This act requires that prevailing local wage levels be paid to laborers and mechanics employed on construction work assisted with CDBG funds.
- (2) Contract Work Hours and Safety Standards Act (40 U.S.C.A. 327 through 333). Under this act, laborers and mechanics employed by contractors and subcontractors on construction work assisted with CDBG funds must receive overtime compensation at a rate not less than one and one-half the basic rate of pay for all hours worked in excess of forty hours in any workweek.

Violators shall be liable for the unpaid wages and in addition for liquidated damages computed in respect to each laborer or mechanic employed in violation of the act.

- (3) Fair Labor Standards Act (29 U.S.C. 201 et seq.), requiring that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed work-week.
- (4) Federal anti-kickback laws (18 U.S.C. 874 and 40 U.S.C. 276a), which outlaws and prescribes criminal penalties for "kickbacks" of wages in federally financed or assisted construction activities. Weekly statements of compliance and weekly payrolls must be provided by all contractors and subcontractors.

(b) The U.S. Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 F.R. 3176; 64 Stat. 1267 and Section 2 of the Act of June 13, 1934, (48 Stat. 948, Ch. 482)(40 U.S.C. 276c).

(c) All contracts shall contain labor standards provisions as required in this Rule.

(d) Subparagraph (a)(1) and (4) of this Rule shall apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more families or if eight or more single family dwellings in the project area are owned in common and are located on contiguous lots or parcels.

(e) Recipients shall maintain records regarding compliance with the laws and regulations cited in this Rule in accordance with Rule .0911 of this Subchapter.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.487; 40 U.S.C. 276(a) and 276(c); 40 U.S.C.A. 328; 42 U.S.C.A. 5310; Eff. July 1, 1982; Amended Eff. May 1, 1988; April 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1007 ARCHITECTURAL BARRIERS

All buildings or facilities (other than privately owned residential structures) designed, constructed or altered with CDBG funds shall be made accessible and useable to the physically handicapped.

- (1) Recipients must comply with the following:
 - (a) Architectural Barriers Act of 1968 (P.L. 90-480). This act requires recipients to insure that buildings constructed or altered with CDBG funds (except private residential structures) are readily accessible to the physically handicapped.

- (b) Minimum Guidelines and Requirements for Accessible Design 36 C.F.R. Part 1190. These regulations establish guidelines for implementing the federal acts described in Subparagraph (a) of this Paragraph. The regulations provide technical standards which must be met by recipients.
 - (c) Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities or the Uniform Federal Accessibility Standards.
- (2) Recipients must comply with provisions of the North Carolina Building Code, Volume I, Chapter 11-X. These provisions describe minimum standards recipients must meet in constructing or altering building and facilities, to make them assessable to and useable by the physically handicapped.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.487; 29 U.S.C.A. 792; 36 C.F.R. Part 1190; 42 U.S.C.A. 4151 through 4157; 42 U.S.C.A. 5304 (b)(4); 28 C.F.R. 35.15; Eff. July 1, 1982; Amended Eff. June 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1008 HATCH ACT

All recipients shall comply with the Hatch Act (P.L. 76-252) as amended, which limits the political activities of employees. This act prevents recipients, local CDBG program officials or other personnel employed by a CDBG program from undertaking certain political activities or from using CDBG funds for political activities. Generally, these activities include the use of official authority to affect the results of an election or to coerce employees to contribute to a political party or organization. In addition, personnel covered under this act may not be a candidate for elected office unless candidacies are non-partisan.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.487; 5 U.S.C.A. 1501 through 1508; 42 U.S.C.A. 5304 (b)(4); Eff. July 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1009 HOUSING REHABILITATION

- (a) Grant assistance may be used for housing rehabilitation activities eligible under Rule .0301 of this Subchapter.
- (b) The local government shall provide a work write up which precisely defines the rehabilitation work to be undertaken to bring the dwelling up to the following standards. The dwelling:
 - (1) shall contain a room or defined area for the safe, sanitary storage and preparation of food.
 - (2) shall contain a bathroom with permanently affixed and properly operating fixtures.
 - (3) shall have a one time treatment for insects and pests.
 - (4) shall have a structurally sound building foundation system.
 - (5) shall have structurally sound flooring systems.
 - (6) shall have structurally sound wall systems.
 - (7) shall have a structurally sound roofing system.
 - (8) shall have at least two remotely located doors for means of egress.
 - (9) shall have electrical wiring and fixtures that are safe and operating properly.
 - (10) shall have plumbing fixtures and piping that are safe and operating properly.
 - (11) shall have a heating source capable of heating the entire dwelling unit to 70 degrees Fahrenheit when the outside temperature is 0 degrees.
 - (12) shall contain a U.L. approved smoke detector wired directly to the electrical panel with battery back up.
- (c) Construction or rehabilitation work on all dwelling units, assisted entirely or partially with CDBG funds, shall comply with the North Carolina State Building Code, Volumes I-X, as applicable.
- (d) Section 8 Housing Quality Standards shall not be applicable when work is funded under Local Option Activities as described in Rule .0403(c) of this Subchapter.
- (e) Housing rehabilitation activities must comply with the following standards required under this Subchapter:
 - (1) Lead-based paint (Rule .1011); and

(2) Equal opportunity (Rule .1001).

(f) The recipient shall provide for benefits to any person involuntarily and permanently displaced as a result of the use of CDBG assistance to substantially rehabilitate property in accordance with 49 CFR Part 24.

(g) Homes inhabited by disabled or elderly persons must be analyzed as to the physical needs of such persons. Improvements such as widened doorways, ramps, level entry and doorways, and grab bars in bath areas must be installed if appropriate.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.487; 42 U.S.C.A. 5305(a);
Eff. July 1, 1982;
Amended Eff. August 1, 1998; May 1, 1988; March 1, 1984; April 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1010 NATIONAL FLOOD INSURANCE PROGRAM

(a) No CDBG funds shall be used for acquisition or construction purposes as defined under section 3(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) in any area that has been identified as an area having special flood hazards, unless the recipient in such an area is participating in the National Flood Insurance Program.

(b) Recipients must comply with the Regulations implementing the Flood Disaster Protection Act of 1973 (44 C.F.R. 60.3), unless the recipient is participating in the National Flood Insurance Program.

(c) The use of CDBG funds governed by this Subchapter for acquisition or construction shall be subject to the mandatory purchase of flood insurance requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234).

(d) Records of participation in the National Flood Insurance Program shall be maintained by the recipient pursuant to Rule .0911 of this Subchapter.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. Chapter X; 24 C.F.R. 570.487; 42 U.S.C.A. 4002 through 4027; 42 U.S.C.A. 5304(b)(4);
Eff. July 1, 1982;
Amended Eff. March 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1011 LEAD-BASED PAINT

(a) The recipient must comply with the Lead-Based Paint Poisoning Prevention Act [42 U.S.C. 4831(b)], 24 CFR Part 570.608, and 24 CFR Part 35, including provisions and subsequent amendments of the above:

- (1) prohibiting the use of lead-based paint;
- (2) requiring elimination of lead-based paint hazards; and
- (3) requiring notification of the hazards of lead-based paint poisoning to purchasers, owners and tenants of housing constructed prior to 1978 which was acquired or rehabilitated with CDBG assistance.

(b) All construction contracts as described in this Rule shall contain a provision prohibiting the use of lead based paint.

(c) In lieu of the testing procedures set forth in the 1996 HUD Guidelines, the recipient may forego testing and abate all applicable surfaces in accordance with the methods set out in the HUD regulations.

(d) Lead-based paint hazard evaluation and abatement activities financed with CDBG funds must be conducted by individuals and firms that are certified in accordance with the applicable EPA and HUD requirements for Lead Based Paint activities.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(b)(4); 42 U.S.C.A. 4821 through 4846;
Eff. July 1, 1982;
Amended Eff. August 1, 1998; June 1, 1994; June 1, 1993; May 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1012 CLEARINGHOUSE REVIEW

- (a) Applications for funding under this Subchapter may be submitted by the Division to the appropriate state clearinghouse agencies.
- (b) Comments containing any findings of inconsistency with state or local plans, significant adverse urban impacts, noncompliance with environmental laws, failure to provide equal opportunity or other comments that require a response may result in disapproval or conditional approval of the application by the Division. Applicants must consider all findings and submit to the Division a written statement indicating what action they plan to take as a result of these findings.
- (c) Program amendments which must receive Division approval pursuant to Rule .0910 Paragraph (a) of this Subchapter, may be submitted to clearinghouse review in accordance with Paragraph (a) of this Rule.
- (d) All clearinghouse comments and responses shall be kept in accordance with Rule .0911 of this Subchapter.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489;
Eff. July 1, 1982;
Amended Eff. March 1, 1995; June 1, 1993; September 1, 1990; March 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1013 COMMUNITY DEVELOPMENT PLAN

- (a) Recipients shall develop a Community Development Plan that identifies community development and housing needs, including the needs of low- and moderate-income persons, and activities to be undertaken to meet such needs.
- (b) The Community Development Plan shall be maintained in accordance with Rule .0911 of this Subchapter.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C. 5301;
Eff. March 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

SECTION .1100 - PERFORMANCE

04 NCAC 19L .1101 REPORTING

- (a) Recipients shall submit an Annual Performance Report at the close of each fiscal year concurrently with the annual audit of the program required by Rule .0912 of this Subchapter. Failure to provide the APR and audit within 60 days of the end of the fiscal year may be grounds for withholding further grant payments until the APR and audit have been submitted. A performance report may also be required of the recipient prior to the grant closeout pursuant to Rule .0913 of this Subchapter.
- (b) The Annual Performance Report and any other performance report required prior to the grant closeout shall contain completed copies of all forms and narratives requested by the Department.
- (c) Between the required performance reporting dates, events may occur which have significant impact upon the project or program. In such cases, the recipient shall inform the Department as soon as the following types of conditions become known:
 - (1) Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Departmental assistance needed to resolve the situation.
 - (2) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.
- (d) For both construction and nonconstruction grants, recipients shall notify the Department promptly whenever the amount of CDBG authorized funds is expected to exceed the needs of the recipient by more than five thousand dollars (\$5,000) or five percent of the Community Development grant, whichever is greater.
- (e) Recipients shall submit such reports as may be necessary, pursuant to the rules and regulations under Title VI, Civil Rights Act of 1964; Title VIII, Civil Rights Act of 1968; Section 3 of the Housing and Urban Development Act of 1968; Section 109 of the Housing and Community Development Act of 1974, as amended; Executive Order 11246, as amended; and Executive Order 11063.
- (f) Recipients will be required to report data annually as specified by the Division for the state's Comprehensive Housing Affordability Strategy (CHAS) for response by the Division to 24 CFR Part 91, State and Local Housing Affordability Strategies.

(g) Recipients shall submit other reports as outlined in this Subchapter or as may be further required by the Division.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(b)(4); 24 C.F.R. Part 91; 24 C.F.R. 570.490; 24 C.F.R. 570.491; Eff. July 1, 1982; Amended Eff. June 1, 1993; September 1, 1990; March 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1102 MONITORING BY THE RECIPIENT

Recipients shall constantly monitor the performance under grant-supported activities to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved. This review shall be made for each program, function, or activity of each grant as set forth in the approved grant application.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(d)(2),(e); Eff. July 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1103 MONITORING BY THE DIVISION

(a) The Secretary shall, in addition to the annual audit, evaluate programs conducted under this Subchapter and their effectiveness in meeting the objectives of the CDBG Program.

(b) The Secretary may conduct such evaluation using Division personnel, or by contract or other arrangement with public or private agencies. The evaluations will consist of site visits as frequently as practical to:

- (1) Review Program accomplishments and management control systems as outlined in Paragraph (d) of this Rule; and
- (2) Provide such technical assistance as may be required.

(c) Recipients may be required to supply data or make available such records as are necessary for the accurate completion of these evaluations, including, but not limited to the following:

- (1) the approved CDBG application and any amendments thereto;
- (2) reports prepared by the recipient including the performance report described in Rule .1101;
- (3) records maintained by the recipient pursuant to Rule .0911;
- (4) results of the Division's monitoring of recipient performance;
- (5) audit reports;
- (6) records of drawdowns; and
- (7) records of comments and complaints by citizens and/or other organizations, or litigation.

(d) Review criteria:

- (1) Substantial progress. The Division will review a recipient's performance to determine the recipient's progress in carrying out approved activities and will take into account such factors as expenditure of funds, obligation of funds, award of third party contracts, and other measures of progress. The Division will compare a recipient's progress with that of other recipients of comparable size with similar activities and grant amounts. If a recipient's progress lags substantially behind that of other similar recipients, further reviews may be conducted to determine the reasons for a lack of progress.
- (2) Conformance with approved program. The Division will review a recipient's performance to determine whether the activities undertaken during the period under review conform substantially to the Community Development Program described in the application, including any amendments approved by the Division.
- (3) Compliance. The Division will review a recipient's performance to determine whether the program carried out complies with the requirements of the Act, this Subchapter, and other applicable laws and regulations.
- (4) Continuing Capacity. The Division will review a recipient's performance to determine whether the recipient has a continuing capacity to carry out the approved program in a timely manner.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(d)(2),(e); 24 C.F.R. 570.492; Eff. July 1, 1982; Amended Eff. June 1, 1993; September 1, 1990; March 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1104 REMEDIES

(a) When the Secretary determines on the basis of a review of a recipient's performance that the objectives of the program, as well as the objectives as described in its application, have not been met, the Secretary may take one or more of the actions authorized in Paragraph (b) of this Rule. In each instance, the action taken will be designed to first, prevent a continuance of the deficiency (lack of progress, nonconformance, noncompliance, lack of continuing capacity); second, mitigate any adverse effects or consequences of the deficiency to the extent possible under the circumstances; and third, prevent a recurrence of the same or similar deficiencies.

(b) The action that the Department or Division may take in response to a negative review of a recipient's performance include:

- (1) Require the recipient to submit additional information:
 - (A) concerning the administrative, planning, budgeting, management and evaluation functions to determine any reasons for lack of progress;
 - (B) explaining any actions being taken to correct or remove the causes for delay;
 - (C) documenting that activities undertaken were not in conformance with the approved program or were in noncompliance with applicable laws or regulations; and
 - (D) demonstrating that the recipient has a continuing capacity to carry out the approved program in a timely manner.
- (2) Require the recipient to submit progress schedules for completing approved activities;
- (3) Issue a letter of warning that advises the recipient of the deficiency and puts the recipient on notice that more serious sanctions will be taken if the deficiency is not corrected or is repeated;
- (4) Instruct the recipient that a certification will no longer be acceptable and that additional information or assurances will be required;
- (5) Instruct the recipient to suspend, discontinue or not incur costs for the affected activity;
- (6) Instruct the recipient to reprogram funds from affected activities to other eligible activities; provided, that such action shall not be taken in connection with any substantial violation of Rule .1004 Environmental Requirements;
- (7) Instruct the recipient to reimburse the recipient's program account or the Department in any amounts improperly expended;
- (8) Change the method of payment from advance payment to a reimbursement basis;
- (9) Condition the approval of a succeeding year's application if there is substantial evidence of a lack of progress, nonconformance, noncompliance, or a lack of continuing capacity. In such cases, the reasons for the conditional approval and the actions necessary to remove the condition shall be as specified by the Division; and
- (10) Reduce the recipient's annual grant by up to the amount conditionally approved where such condition or conditions have not been satisfied.

(c) When the Secretary determines, on the basis of a review of a recipient's performance that objectives of the program as described in its application have not been met, the Secretary may reduce, withhold funds or withdraw the grant, except for funds already expended on otherwise eligible activities which may not be recaptured or deducted from future grants.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.492; Eff. July 1, 1982; Amended Eff. June 1, 1993; September 1, 1990; April 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1105 ADMINISTRATIVE HEARINGS

(a) Recipients may contest Departmental actions with respect to this Subchapter under the Contested Case Hearing Procedures set forth in G.S. 150B and 26 NCAC 3 - Office of Administrative Hearings, Hearings Division.

(b) The Department may also commence contested case hearing procedures against recipients pursuant to G.S. 150B and 26 NCAC 3 - Office of Administrative Hearings, Hearings Division.

History Note: Authority G.S. 143B-10; 143B-431;
Eff. July 1, 1982;
Amended Eff. September 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

SECTION .1200 - CONTINGENCY PROJECTS

04 NCAC 19L .1201 DESCRIPTION

Contingency projects are those projects which, in the judgment of the Secretary, are deemed to meet community development needs of the applicant.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.482;
Eff. March 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1202 ELIGIBILITY REQUIREMENTS

Applicants must meet the eligibility requirements described in Rule .0502.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.482;
Eff. March 1, 1986;
Amended Eff. June 1, 1994; May 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1203 SELECTION CRITERIA

Consideration for contingency grants will be given to applications at the discretion of the Secretary. Applicants will be selected for consideration by the Department.

History Note: Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(a)(1); 24 C.F.R. 570.482;
Eff. March 1, 1986;
Amended Eff. September 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

SECTION .1300 - HOUSING DEVELOPMENT PROJECTS

04 NCAC 19L .1301 DESCRIPTION

04 NCAC 19L .1302 ELIGIBILITY REQUIREMENTS

04 NCAC 19L .1303 SELECTION CRITERIA

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.482; 24 C.F.R. 570.483; 24 C.F.R. 570.489;
Eff. March 1, 1986;
Amended Eff. August 1, 1998; June 1, 1994 (Rule .1302, .1303); June 1, 1993 (Rule .1302, .1303);
May 1, 1992 (Rule .1301); September 1, 1990 (Rule .1302); April 1, 1990 (Rule .1302, .1303);
Repealed Eff. July 1, 2012.

SECTION .1400 - ECONOMIC DEVELOPMENT PROJECTS

04 NCAC 19L .1401 DEFINITION

04 NCAC 19L .1402 ELIGIBILITY REQUIREMENTS

04 NCAC 19L .1403 SELECTION CRITERIA

04 NCAC 19L .1404 PRELIMINARY AWARDS

History Note: *Filed as a Temporary Repeal Eff. July 20, 1992 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*
Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5301; 42 U.S.C.A. 5304(a)(1);
24 C.F.R. 570.489;
Eff. March 1, 1986;
Amended Eff. September 1, 1990; April 1, 1989; May 1, 1988;
Repealed Eff. November 2, 1992.

04 NCAC 19L .1405 SELECTION CRITERIA - SMALL BUSINESS LOAN PROGRAM

History Note: *Filed as a Temporary Repeal Eff. July 20, 1992 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*
Authority G.S. 143-323; 42 U.S.C.A. 5301; 24 C.F.R. 570.489;
Eff. April 1, 1989;
Repealed Eff. November 2, 1992.

SECTION .1500 - INTERIM ASSISTANCE

- 04 NCAC 19L .1501 DESCRIPTION**
- 04 NCAC 19L .1502 ELIGIBILITY REQUIREMENTS**
- 04 NCAC 19L .1503 SELECTION CRITERIA**
- 04 NCAC 19L .1504 FUNDS AVAILABLE**
- 04 NCAC 19L .1505 PRELIMINARY AWARDS**

History Note: *Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.482;*
Eff. May 1, 1988;
Amended Eff. June 1, 1993; September 1, 1990;
Repealed Eff. June 1, 1994.

SECTION .1600 - COMMUNITY INVESTMENT FOR ECONOMIC OPPORTUNITY

- 04 NCAC 19L .1601 DESCRIPTION**
- 04 NCAC 19L .1602 ELIGIBILITY REQUIREMENTS**
- 04 NCAC 19L .1603 SELECTION CRITERIA**
- 04 NCAC 19L .1604 PRELIMINARY AWARDS**

History Note: *Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.482;*
Eff. June 1, 1990;
Amended Eff. June 1, 1993;
Repealed Eff. June 1, 1994.

SECTION .1700 - SCATTERED SITE HOUSING CATEGORY

- 04 NCAC 19L .1701 DESCRIPTION**
- 04 NCAC 19L .1702 ELIGIBILITY REQUIREMENTS**
- 04 NCAC 19L .1703 SELECTION CRITERIA**

History Note: *Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.482; 24 C.F.R. 570.483; 24 C.F.R. 570.489;*
Eff. March 1, 1995;
Amended Eff. August 1, 1998;
Temporary Amendment Eff. January 1, 2001;
Amended Eff. August 1, 2002;
Expired Eff. April 1, 2018 pursuant to G.S. 150B-21.3A.

SECTION .1800 - NORTH CAROLINA DEVELOPMENT LOAN FUND

04 NCAC 19L .1801 GENERAL

- (a) The North Carolina Development Loan Fund is a loan program for non-entitlement communities participating in the Small Cities Community Development Block Grant program to access the Department of Housing and Urban Development's Section 108 Guaranteed Loan Program. The funds under this program are loaned to units of local governments for projects meeting one of the national objectives of benefitting low and moderate income persons, eliminating slums and blight or addressing a community's urgent needs, as defined in the Housing and Community Development Act of 1974 as amended.
- (b) The Division shall review applications from local governments to the Department of Housing and Urban Development under the Development Loan Fund program. The review and approval must be made to pledge future state CDBG allocation as additional collateral for the Development Loan fund program.
- (c) The Division shall review applications for projects with housing, commercial and mixed use components. The Commerce Finance Center shall review and approve economic development projects.

History Note: Authority G.S. 143B-431; 153A-376; 160A-456; 24 C.F.R. 570 Subpart M;
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1802 ELIGIBLE ACTIVITIES

- (a) This section incorporates by reference as eligible activities those activities described in the Housing and Community Development Act of 1974, as amended, including subsequent amendments and editions under Section 108 and in 24 CFR 570.703.
- (b) G.S. 143B-431(d)(3) - further limits eligibility by finding that hotels, motels, private recreational facilities, private entertainment facilities and convention centers are ineligible for Development Loan Funds.
- (c) Copies of these sections of state and federal law and regulation are available for public inspection from the Division of Community Assistance.

History Note: Authority G.S. 143B-431; 24 C.F.R. 570.703;
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1803 ELIGIBILITY REQUIREMENTS

- (a) Applications for Development Loan Funds must show that:
- (1) All activities are eligible under state and federal regulations; and
 - (2) Development Loan Funds proposed for each activity meet a national objective as specified by HUD regulations incorporated by prior reference; and
 - (3) The applicant has the capacity to administer a Development Loan Fund project.
- (b) The Division must make the following findings prior to an award:
- (1) A loan loss reserve is in place equal to 10% of the amount of the outstanding balance.
 - (2) The approved loan may not take the total amount of outstanding obligations under the Development Loan Fund to more than twice the amount of the annual CDBG allocation.

History Note: Authority G.S. 143B-431; 24 C.F.R. 570 Subpart M;
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1804 SIZE OF LOAN APPROVALS

- (a) Maximum and minimum loan amounts as set by the General Assembly shall be published by the Division in the annual CDBG Consolidated Plan Action Plan, part of the North Carolina Consolidated Plan.
- (b) Development Loan Funds approved shall not count toward a community's receipt of CDBG funds in any program year as outlined in Rule .0403 of this Subchapter.

History Note: Authority G.S. 143B-431; 24 C.F.R. 570 Subpart M;
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .1805 SELECTION CRITERIA

Projects will be evaluated and maybe approved in accordance with the following selection factors:

- (1) Public benefit,
- (2) Project feasibility,
- (3) Cash flow of the project,
- (4) Collateral of the project.

History Note: Authority G.S. 143B-431; 24 C.F.R. 570 Subpart M;
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

SECTION .1900 - HURRICANE FLOYD RECOVERY ASSISTANCE

Codifier's Note: This Section, 04 NCAC 19L .1900, has been transferred and recodified as 14B NCAC 14 .0100, effective June 1, 2013. See Executive Order 8, Governor Michael Easley, July 6, 2001.

SECTION .2000 - INFRASTRUCTURE

04 NCAC 19L .2001 DESCRIPTION

The infrastructure category includes activities in which funds are directed toward improving existing infrastructure or providing new infrastructure to existing neighborhoods with environmental or health problems; and providing public infrastructure to low- and moderate-income persons.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489;
Temporary Adoption Eff. January 1, 2001;
Amended Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .2002 ELIGIBILITY REQUIREMENTS

- (a) The only eligible activities in infrastructure are related to public water and public wastewater (sewer) to benefit homes in residential neighborhoods. Street repairs only to the extent necessary to repair surfaces dug up in laying pipe may be included in the public water sewer budget line items. Infrastructure may not include more than one project. Projects may carry out either public water or public wastewater (sewer) activities or both.
- (b) Applicants must insure that each Infrastructure activity benefits at least 51% low and moderate income persons. Additionally, applicants must ensure that activities do not benefit moderate income persons to the exclusion of low income persons, and that all funds are spent in support of a national objective.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489;
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

04 NCAC 19L .2003 SELECTION CRITERIA

Criteria for Infrastructure awards are:

- (1) severity of needs;
- (2) benefit to low and moderate income persons;
- (3) local commitment;
- (4) treatment of needs; and

(5) appropriateness and feasibility.

History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489;
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,
2018.