



U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of:

All Regional Directors
All Field Office Directors
All CPD Division Directors
All State CDBG Program Managers

Notice: CPD-10-01

Issued: April 15, 2010
Expires: April 15, 2011

Cross References: 24 CFR 570

SUBJECT: Timely Distribution of State CDBG Funds

I. Purpose

This Notice replaces CPD Notice 06-12 and reiterates HUD's policy and standards for the timely distribution of Community Development Block Grant (CDBG) funds by states. States administer the program but must distribute the funds to local governments, which carry out eligible activities. Since no one benefits from these funds until specific activities are underway or completed, states must distribute the funds in order to benefit low- and moderate-income people. The distribution requirements allow states a reasonable time to administer the program while assuring that the funds are used as Congress intended. The Notice also provides a summary report of the states' performance in meeting the timely distribution requirements established by regulation for the three program years 2005 through 2007. Timeliness for program years 2008 and 2009 will be reported in future notices. HUD will begin reporting on the states' results on an annual basis. The Office of the Inspector General (OIG), the Government Accountability Office (GAO), and other entities maintain a continuing interest in the performance and results of the CDBG program including the states' distribution of their allocations.

II. Statutory and Regulatory Requirements

The Housing and Community Development Act of 1974 as amended (HCDA) [section 104(e)(2)] requires that HUD determine "whether the State has distributed funds to units of general local government in a timely manner." This is the statutory basis for requiring States to meet a timeliness standard in distributing CDBG funds to units of general local government under their jurisdiction.

HUD regulations as established in 24 CFR 570.494, Timely Distribution of Funds by States, define the state's distribution of CDBG funds as timely if "All of the state's annual grant (excluding state administration) has been obligated and announced to units of general local government within 15 months of the state signing its grant agreement with HUD." The regulation also encourages states to obligate and announce 95 percent of funds within 12 months of the state signing its grant agreement with HUD.

Definition:

The term “obligated and announced to” means the date on which a state officially announces the selection and award of grants to its units of general local government by means of any official letter, press release, news media announcement, public notice, or official notice of award that the state may use to notify its localities and citizens that a grant has been awarded. The date of such an announcement will be used to measure compliance with the 15-month period for timely distribution. This terminology replaced the term “placed under contract” and was developed in response to comments during the rule-making process in 1992. Its purpose was to allow States more flexibility in distributing grant amounts. Note that this definition of “obligated” is not the same as a business definition which establishes a legal duty for payment. It is more appropriately classified as a “commitment” or “reservation” which provides for budgetary control of the grant funds.

The exclusion for state administration includes both state administrative expenses and technical assistance provided by the state to local governments and nonprofit program recipients. Under the HCDA [section 106(d)] as amended by the Consolidated Appropriations Act of 2004 (H. R. 2673-414) States are authorized a maximum exclusion for the combined purposes of state administration and technical assistance of \$100,000 plus up to three percent of the grant amount. A state may opt to use less than this authorization in order to increase its distribution to local governments.

Recaptured funds and program income must also be expeditiously obligated and announced in order to meet the timeliness requirement at 24 CFR 570.494(b)(2). Special attention should be directed to program income to ensure that an amount equal to the amount received each year is budgeted for and committed to local governments. This is a separate standard from the requirement at 24 CFR 570.494(b)(1) to distribute the annual grant funds in a timely manner. Program income and recaptured funds should not be combined with the annual grant funds when determining compliance with the regulatory requirements.

To demonstrate compliance with the timely distribution requirement, the total funds obligated and announced from the annual grant should equal the total available after subtracting the allowance for state administration and the technical assistance set-aside. A state may also reduce its distribution of its gross annual grant when necessary to fulfill an obligation for repayment of a Section 108 loan guarantee. The timely distribution requirement applies to the balance of funds remaining after any adjustments.

Requirements for HUD’s reviews and audits of the State CDBG program at 24 CFR 570.493(a)(1) provide that HUD will review, at least annually, whether the state has distributed CDBG funds to units of general local government in a timely manner. Whenever HUD finds evidence that a program statute, regulation or requirement has been violated, it is required to make a finding. HUD Headquarters will review the timely distribution of State CDBG funds and report on this data annually via a CPD Notice or other issuance. In addition, the State and Small Cities Division will request information

from field offices on findings issued and actions taken to address non-compliance. This information will be provided to the OIG, GAO or other parties as requested.

III. Required Actions by CPD Field Offices and Headquarters

CPD Field Offices:

Field Offices are responsible for reviewing state compliance with the requirement at 24 CFR 570.494(b)(1) for the timely distribution of its annual grant. Field Offices will review the total amount of funds obligated and announced to local recipients from the State CDBG program allocation through the end of the 15-month period. Field staff should include funds distribution as part of their annual review of the grantee's Performance and Evaluation Report (PER). A review at that time will provide an opportunity to resolve any problems with funds distribution before they become an issue of non-compliance.

Amounts from prior year allocations, recaptured funds and program income are not included in evaluating basic compliance with distributing the annual allocation. Field Offices will continue to separately review the timely distribution of recaptured funds and program income as required at 24 CFR 570.494(b)(2).

Each state must meet the regulatory requirement for timely distribution. States that do not meet the standard of obligating and announcing 100 percent of their grants within 15 months of the HUD award date are in noncompliance. HUD is required to make a finding when a regulatory requirement has been violated, but findings made outside formally scheduled monitoring based on risk analysis will not be tracked in the Grants Management Process (GMP) system. Upon making a finding of noncompliance with the timely distribution requirement, the Field Office will send a letter to the state advising it of the finding and send a copy of the letter to the State and Small Cities Division.

Required corrective action for findings of untimely distribution should be proportionate to the violation incurred. If the Field Office finds that performance is significantly deficient (e.g., less than 99% of funds distributed at 15 months) or the record shows repeated findings of noncompliance in this area, the Field Office will give the state an opportunity to contest the finding and will request a plan for corrective action. Such plan should address how the state will distribute any outstanding prior year's balance within the current program year as well as how it will fully distribute the current program year's funds within the timely distribution period. Where appropriate, the Field Office may recommend how it wants the state to meet the timely distribution requirement by proposing specific timetables and procedures. For lesser violations where 99% or more of a state's grant has been distributed and the evidence suggests that the remaining funds will be committed quickly, it may be appropriate to require no further action.

If the state's response or corrective plan is not satisfactory to HUD, the Field Office may take additional action as specified in 24 CFR 570.495. If the state fails to adequately respond to any corrective or remedial actions, the regulations at 24 CFR 570.496 provide for a hearing and the imposition of additional remedies including financial and civil

actions. Such remedies may include reduction of one or more future grant allocations. Field Office records must document all findings, corrective actions, and resolution for review by the OIG and other oversight offices.

Headquarters:

The State and Small Cities Division in HUD Headquarters will review data from LOCCS and the Grants Management Process (GMP) system 15 months after the beginning of each state's program year and request that Field Offices verify that states have obligated and announced funds in compliance with the timely distribution requirement. The State and Small Cities Division will update this Notice and the attached report annually and make it available through the department's website.

IV. Report Results

Information provided by HUD Field Offices shows 31 of 50 states met the standard of obligating and announcing 100 percent of their grants to local governments within 15 months of award of funds by HUD for the three grant years FY 2005 through FY 2007. Seven additional states distributed 99% or more of their grant within 15 months in all 3 years. Five states failed to timely distribute at least 95% of their allocations in one or more years.

The Attachment to this Notice lists the individual performance by states on the timely distribution of funds at the end of the 15 months for grants awarded in federal fiscal years 2005 through 2007. This attachment includes a table summarizing the number of states by percent of their grant amount obligated and announced 15 months after award.

Please contact Diane Lobasso, Director, State and Small Cities Division in the Office of Block Grant Assistance at (202) 708-1322 should you have any questions regarding this notice.

Notices are available online at:

<http://www.hud.gov/offices/cpd/communitydevelopment/rulesandregs/index.cfm>

Attachment

Percentage of funds Distributed after 15 months

State	FY 2005	FY2006	FY2007
ALABAMA	100.00%	100.00%	100.00%
ALASKA	100.00%	99.99%	100.00%
ARIZONA	100.00%	98.80%	100.00%
ARKANSAS	99.40%	100.00%	100.00%
CALIFORNIA	100.00%	100.00%	100.00%
COLORADO	52.81%	100.00%	100.00%
CONNECTICUT	99.00%	100.00%	96.00%
DELAWARE	100.00%	100.00%	100.00%
FLORIDA	99.20%	100.00%	100.00%
GEORGIA	100.00%	100.00%	100.00%
IDAHO	100.00%	100.00%	100.00%
ILLINOIS	100.00%	100.00%	100.00%
INDIANA	100.00%	96.89%	100.00%
IOWA	100.00%	100.00%	100.00%
KANSAS	100.00%	100.00%	100.00%
KENTUCKY	100.00%	100.00%	97.89%
LOUISIANA	100.00%	100.00%	100.00%
MAINE	100.00%	100.00%	100.00%
MARYLAND	100.00%	100.00%	100.00%
MASSACHUSETTS	100.00%	100.00%	100.00%
MICHIGAN	100.00%	93.64%	86.47%
MINNESOTA	100.00%	100.00%	100.00%
MISSISSIPPI	100.00%	100.00%	100.00%
MISSOURI	100.00%	100.00%	100.00%
MONTANA	100.00%	100.00%	100.00%
NEBRASKA	100.00%	100.00%	100.00%
NEVADA	100.00%	100.00%	98.00%
NEW HAMPSHIRE	100.00%	100.00%	100.00%
NEW JERSEY	100.00%	100.00%	100.00%
NEW MEXICO	99.60%	100.00%	100.00%
NEW YORK	100.00%	100.00%	100.00%
NORTH CAROLINA	100.00%	100.00%	100.00%
NORTH DAKOTA	100.00%	100.00%	52.37%
OHIO	100.00%	100.00%	100.00%
OKLAHOMA	100.00%	100.00%	99.90%
OREGON	100.00%	100.00%	99.98%
PENNSYLVANIA	100.00%	100.00%	100.00%
PUERTO RICO	100.00%	95.92%	100.00%
RHODE ISLAND	100.00%	100.00%	100.00%
SOUTH CAROLINA	100.00%	100.00%	100.00%
SOUTH DAKOTA	100.00%	78.23%	65.21%
TENNESSEE	100.00%	100.00%	90.30%
TEXAS	100.00%	100.00%	100.00%
UTAH	100.00%	100.00%	100.00%
VERMONT	100.00%	100.00%	100.00%
VIRGINIA	100.00%	100.00%	100.00%
WASHINGTON	100.00%	100.00%	100.00%
WEST VIRGINIA	100.00%	99.60%	100.00%
WISCONSIN	100.00%	100.00%	100.00%
WYOMING	97.84%	100.00%	95.25%

% distribution by states by FY			
	2005	2006	2007
100%	44	43	40
99-100%	4	2	2
95-99%	1	3	4
90-94%	0	1	1
80-89%	0	0	1
Under 80%	1	1	2
	50	50	50
Achieved 100% standard all 3 years:			31
Failed 100% standard in at least 1 yr:			19
Failed 100% standard all 3 years:			0
Distributed under 90% at least 1 yr:			4
Distributed under 90% all 3 years:			0

Shaded cells are less than 100% obligated and announced within 15 months of State signing HUD grant agreement.