



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

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Special Attention of:

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

**Notice:** CPD 10-03

Issued: September 24, 2010  
Expires: September 24, 2011

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Cross References: 24 CFR 570

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**SUBJECT: Timely Distribution of State CDBG Funds**

**I. Purpose**

This Notice replaces CPD Notice 10-01 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 a timely manner 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. This Notice also provides a summary report of the states' performance in meeting the timely distribution requirements established by regulation for the 2008 annual allocations. The 15-month timely distribution period for the 2009 allocations expires for the earliest grantees on September 24, 2010 and for the latest grantee on January 15, 2011. Timeliness for the 2009 grants will be reported in the next annual Notice. 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 a 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. For the purpose of this regulation, it is more appropriately classified as a “commitment” or “reservation” which provides for budgetary control of the grant funds.

Under the HCDA [section 106(d)] as amended by Public Law 108-199 (Jan. 23, 2004) states are authorized a maximum deduction for the combined purposes of state administration and technical assistance of \$100,000 plus up to three percent of the grant amount. The exclusion for state administration includes both state administrative expenses and technical assistance provided by the state to local governments and nonprofit program recipients. 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 for timely distribution.

To demonstrate compliance with the timely distribution requirement, the total funds obligated and announced from the annual grant should equal the total remaining after subtracting the deduction for state administration and the technical assistance set-aside. Program income is treated as additional CDBG funds and a state may take up to a 3 percent deduction for state administration and technical assistance from program income received. When program income is retained by units of general local government, the state may take its deduction for state administration and technical assistance from its annual allocation. The state must be able to support such an adjustment from its accounting records. 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. See Attachment 1 for a sample letter advising a state of a finding for failure to meet the timely distribution requirement.

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, how it will fully distribute the current allocation's funding within the timely distribution period, and how it will comply with the timeliness requirement for future allocations. 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 (SSCD) in HUD Headquarters will review data from the Line of Credit Control System (LOCCS), the Integrated Disbursement and Information System (IDIS), and GMP and send an alert notice to field offices and states at least one month prior to the expiration of the state's 15-month timeliness period. A second alert will be sent at the expiration of each 15-month period. Upon completion of the 15-month timeliness period for the latest grant agreement, SSCD will request that Field Offices verify that states have obligated and announced funds in compliance with the timely distribution requirement or have issued findings for non-compliance. The State and Small Cities Division will update this Notice and the attached summary report annually and make it available through the department's website.

#### **IV. Record Keeping and Reporting**

States are required to maintain records documenting their administration of CDBG funds [24 CFR 570.490(a)]. In order for HUD to determine if a state has distributed its funds in a timely manner, the Department must review information concerning the state's obligations. HUD has a goal of automating the collection of supporting data through IDIS but is dependent on the availability of programming resources to modify the system. Likewise, the nature of the "obligated and announced to" standard for determining timeliness provides flexibility to state administrators which may not be readily captured in IDIS. In order to determine compliance with the timeliness standard, HUD will review the following elements documented in state records:

- Deduction claimed by the state for state administration of the grant.
- Deduction claimed by the state for technical assistance to local governments.
- Adjustments to the allocated amount, e.g.:
  - Section 108 loan repayments,

- Admin/TA allowance claimed for program income retained by local governments,
- Other approved adjustments.
- Total funds distributed (i.e. “obligated and announced”) from the annual grant as of the date 15 months after the state signed the grant agreement. State records must identify distributions made from the annual grant allocation. Distributions from program income and recaptured funds must be identified separately as they are subject to a different timeliness standard.

Attachment 2 to this Notice lists the individual performance by states on the timely distribution of funds at the end of the 15 months for the 2008 grant awards. 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>

Attachments

**Sample Letter – Notice of Finding**

August 3, 2010

Mr. T. Johnson  
Director  
State Department of  
Economic Development  
200 East Broadway  
Capital City, BA 12345-6789

Dear Mr. Johnson:

We have completed a review of the state's distribution of State CDBG funds for Fiscal Year 2008. The state's records show that it did not distribute 100 percent of available funds to its local governments within 15 months of the date it signed its grant agreement. As a result of the review, we are issuing a finding as outlined below.

**FINDING #1:** The state failed to distribute 100% of its 2008 Community Development Block Grant (CDBG) funds within 15 months.

State records show that the state obligated and publicly announced to local governments a total of \$23,000,000.00. The state's 2008 award, less the deduction for state administration and technical assistance, was recorded as totaling \$24,150,000.00. Based upon these figures, the state was not timely in its distribution of CDBG funding. Only 95.24% of the funds available were obligated and announced to units of general local governments.

The regulations at 24 CFR 570.494(b)(1) establish that a state's distribution of CDBG funds is 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.

Corrective Action: The state must provide a written plan describing the steps the state will take to distribute the remaining 2008 CDBG funding. In addition, the plan must address the process the state will follow to assure that CDBG funding will be distributed timely for the 2009 and subsequent allocations.

Please provide a written response to our office within 30 days of the date of this letter. Your response may either contest the finding or provide the state's plan for corrective action. If further information is necessary regarding this letter, please contact Ms. Mary Jones, Community Planning and Development Representative at 888/123-9876.

Sincerely,

J. Smith  
Director  
Community Planning and Development Division

FY 2008 State CDBG Program  
Distribution of Grant Funds

State	Date Grantee Sign-Off	FY 2008 Grant Amount	Funds Available for Distribution	Awards Obligated & Annncd (at 15 months)	% of Funds Distributed (at 15 months)
AK	09/16/08	2,506,211	2,339,250	2,339,250	100.000%
AL	04/18/08	25,983,873	25,104,357	25,104,357	100.000%
AR	07/01/08	18,962,771	18,587,000	18,587,000	100.000%
AZ	08/15/08	11,793,037	11,339,246	11,339,246	100.000%
CA	09/09/08	39,262,869	36,036,498	33,582,569	93.190%
CO	04/17/08	10,546,315	10,147,926	10,147,926	100.000%
CT	08/18/08	13,330,342	12,830,432	13,660,420	106.469%
DE	08/21/08	1,982,003	1,822,543	1,822,543	100.000%
FL	08/25/08	27,755,925	26,823,247	20,095,365	74.918%
GA	06/06/08	40,055,203	38,753,547	38,753,547	100.000%
IA	07/16/08	25,854,555	24,978,919	24,065,361	96.343%
ID	05/09/08	8,449,812	8,096,318	8,096,318	100.000%
IL	04/04/08	31,644,905	30,416,558	30,555,499	100.457%
IN	07/24/08	30,866,525	29,840,530	30,368,265	101.769%
KS	04/14/08	16,956,657	16,347,958	15,878,278	97.127%
KY	08/19/08	26,823,326	25,918,627	25,918,627	100.000%
LA	06/30/08	27,552,106	26,625,543	26,625,543	100.000%
MA	04/01/08	33,553,851	32,447,237	32,447,237	100.000%
MD	09/03/08	7,932,564	7,594,587	7,594,587	100.000%
ME	04/22/08	12,690,754	12,210,031	12,210,031	100.000%
MI	04/25/08	35,323,601	34,163,891	34,163,891	100.000%
MN	04/09/08	20,499,118	19,989,136	19,989,136	100.000%
MO	06/05/08	23,714,036	22,902,616	22,902,616	100.000%
MS	03/25/08	29,751,893	28,759,337	29,751,893	103.451%
MT	04/24/08	6,744,834	6,442,489	6,442,489	100.000%
NC	03/26/08	44,528,548	43,537,977	43,537,977	100.000%
ND	04/28/08	4,791,211	4,547,475	2,595,898	57.084%
NE	07/29/08	12,348,630	11,878,172	11,878,172	100.000%
NH	04/25/08	9,077,193	8,704,877	9,337,502	107.267%
NJ	08/26/08	7,170,552	6,927,241	6,927,241	100.000%
NM	03/19/08	14,014,805	13,494,361	13,494,361	100.000%
NV	09/09/08	2,729,194	2,547,318	2,547,318	100.000%
NY	04/03/08	47,471,352	43,947,211	43,947,211	100.000%
OH	08/07/08	47,760,768	46,287,600	46,570,965	100.612%
OK	05/13/08	15,972,200	15,393,038	15,393,038	100.000%
OR	04/29/08	14,145,128	13,568,293	13,568,293	100.000%
PA	03/24/08	45,834,505	44,359,469	44,359,469	100.000%
PR	08/05/08	47,007,180	45,597,167	45,597,167	100.000%
RI	07/10/08	5,156,870	4,902,165	4,902,165	100.000%
SC	06/12/08	21,829,088	21,074,215	21,074,215	100.000%
SD	04/03/08	6,530,307	6,234,707	5,568,970	89.322%
TN	08/18/08	26,154,131	25,531,048	25,531,048	100.000%
TX	03/25/08	71,779,088	69,525,715	69,525,715	100.000%
UT	05/07/08	6,548,834	6,317,857	6,317,857	100.000%
VA	08/14/08	19,247,912	18,670,475	18,670,475	100.000%
VT	08/25/08	7,303,812	6,984,698	6,984,698	100.000%
WA	08/06/08	15,200,000	14,744,000	14,744,000	100.000%
WI	08/04/08	27,769,125	26,836,051	26,836,051	100.000%
WV	08/06/08	16,642,524	16,478,500	16,478,500	100.000%
WY	04/15/08	3,161,507	2,266,662	2,084,291	91.954%

% distribution by states	
	FY 2008
100%	43
99-100%	0
95-99%	2
90-94%	2
80-89%	1
Under 80%	2
	50

Shaded cells indicate less than 100% obligated and announced within 15 months of State signing HUD grant agreement. Distributions above 100% include Program Income and/or recaptured or re-programmed funds.