



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 11-05

Issued: July 28, 2011  
Expires:

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Cross References: This Notice is effective until amended, superseded, or rescinded.

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

**I. Purpose**

This Notice replaces CPD Notice 10-03 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 2009 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 2010 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 these data annually via a CPD Notice or other issuance. In addition, the State and Small Cities Division (SSCD) 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 accepting the HUD award 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 SSCD. See **Attachment 1** for a sample letter advising a state of a finding for failure to meet the timely distribution requirement. If the CDBG recipient's performance is found, during an on-site monitoring visit, to be less than satisfactory, the Field Office must issue the finding and request the State to provide a written response to the finding within 30 days of the date of the letter. See **Attachment 2** for a sample letter of the finding issued as a result of a monitoring visit.

Required corrective action for findings of untimely distribution should be proportionate to the violation incurred and should address the cause. 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 and send copies to the SSCD in Headquarters.

#### Headquarters:

SSCD 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 with an attached copy of the HUD 40108 form entitled *State CDBG Timely Distribution of Grant Funds Report* to field offices and states at least one month prior to the expiration of the state's 15 month timeliness period. If necessary, at the expiration of each 15 –month deadline a second alert will be sent to the Field Office to follow-up with the state to submit their State's distribution of CDBG funds report.

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. SSCD will update this Notice and the attached summary report annually and make it available through the department's website.

#### Grantees:

Grantees are required to submit the *State CDBG Timely Distribution of Grant Funds Report* to HUD to report on obligations and announcements of State CDBG funds within the timeliness period. The form and instructions are located in **Attachment 3**.

#### **IV. Grantees: 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; however, 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 may 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, for example,:
  - 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 4** to this Notice lists the individual performance by states on the timely distribution of funds at the end of the 15 months for the 2009 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.

Should you have any questions regarding this notice, please contact Stephen Rhodside, Director, State and Small Cities Division in the Office of Block Grant Assistance, phone: (202) 708-1322.

Notices are available online at:

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

Attachments

**Sample Letter – Notice of Finding**  
**(Issued When Finding is not part of Monitoring Visit)**

March 29, 2011

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

**SUBJECT:** Finding of Noncompliance Relating to Timely Distribution of FY 2009 State CDBG Funds

Dear Mr. Johnson:

We have completed a review of the state's distribution of State CDBG funds for Fiscal Year 2009. HUD regulations as described in 24 CFR 570.494, a state must obligate and publicly announce to units of general local government all of the state's annual grant within 15 months of the state signing its grant agreement with HUD. According to the state's CDBG timelines report dated August 15, 2010, the state did not meet the Timely Distribution of funds requirements. Therefore, we are issuing a finding as outlined below.

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 123-456-7890.

Sincerely,

Johnson Smith  
Director  
Community Planning and Development  
Division

Enclosure:

**Description of Finding of noncompliance with the timely distribution requirement:**

Finding: The state failed to distribute 100% of its 2009 Community Development Block Grant (CDBG) funds within 15 months.

Condition: State records show that the state obligated and publicly announced to local governments a total of \$23,000,000.00. The state's 2009 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.

Criteria: 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.

Cause: The problem was caused by delays in completing the economic development competition due to lack of qualified staff.

Effect: Failing to timely distribute State CDBG funds results in delays in program benefits to eligible low-and moderate-income beneficiaries.

Required Corrective Action: Based upon this analysis, provide a written plan describing what changes the State will make to obligate the remaining 4.76% in FY 2009 funds, as well as the changes that the State will make to assure that future allocations of CDBG funds will be distributed in a timely manner. The State must provide the date that the remaining FY 09 funds will be obligated and announced.

**Attachment**

**Sample Letter – Notice of Finding**  
**(Issued After Monitoring Visit)**

August 3, 2010

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

SUBJECT:            On-Site Monitoring Review, July 7-10, 2010  
                         State Community Development Block Grant (CDBG) Program  
                         Grant #: B-10-DC-XX-0001

Dear Mr. Johnson:

This letter transmits the report from our office's on-site monitoring review of the FY 2009 State CDBG program. HUD's overall objective was to evaluate the timeliness of the State's CDBG performance. We sincerely appreciate the cooperation and assistance that staff provided during the course of the review.

Our report contains one finding. A finding is a deficiency in program performance based on a statutory, regulatory, or program requirement. A summary of the results is included in the attached monitoring report. Please provide a written response to the finding 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 you would like to discuss any of the report's conclusions, please contact Ms. Mary Jones, Community Planning and Development Representative, at 123-456-7890, or by email at [mary.x.jones@hud.gov](mailto:mary.x.jones@hud.gov).

Sincerely,

Johnson Smith  
Director  
Community Planning and Development Division

Enclosure



**Finding Portion of Monitoring Report**

- Finding:** The state failed to distribute 100% of its 2009 Community Development Block Grant (CDBG) funds within 15 months.
- Condition:** State records show that the state obligated and publicly announced to local governments a total of \$23,000,000.00. The state's 2009 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.
- Criteria:** 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.
- Cause:** The problem was caused by delays in completing the economic development competition due to lack of qualified staff.
- Effect:** Failing to timely distribute State CDBG funds results in delays in program benefits to eligible low-and moderate-income beneficiaries.

**Required Corrective Action:** To clear this finding within 15 days of the date of this letter, the state must:

- a. Review its current program management system(s) to determine whether changes are needed to assign experienced staff to oversee the review process to ensure that agency staff is able to comply with the timely distribution requirement.
- b. Evaluate the current process for reviewing funding proposals and preparing contracts promptly and establish application and contract execution deadlines.
- c. Based upon this analysis, provide a written plan describing what changes the State will make to obligate the remaining 4.76% in FY 2009 funds, as well as the changes that the State will make to assure that future allocations of CDBG funds will be distributed in a timely manner. The State must provide the date that the remaining FY 09 funds will be obligated and announced.

**State CDBG Timely  
Distribution of Grant  
Funds Report**

**Department of Housing and Urban Development  
Community Planning and Development**

**OMB No. 2506-0085  
Exp. (03-2014)**

	<b>Grant Allocation</b> Subject to 24 CFR 570.494(b)(1)		
1	State		
2	FY		
3	Grant #		
4	Date signed by State		
5	Timeliness compliance date: (date signed + 15 months)		
6	Grant Amount		
7	Admin deduction (NTE \$100,000 + 3% of grant)		
8	TA deduction (NTE 3% of grant)		
9	Total Admin/TA deduction (NTE \$100,000 + 3% of grant)		
10	Expected distribution from annual grant		
11	Adjustments (attach explanation)		
12	Available distribution from annual grant		
13	Amt Obligated & anncd at 15 mos <i>Do <b>not</b> include PI or Recaptures</i>		
14	% obligated & anncd at 15 mos		

<b>Listing of grant awards and amounts (Optional):</b>			
<b>Grantee (Local Govt.)</b>	<b>Grant Amount</b>	<b>Date Obligated / Announced</b>	<b>Grant Number</b>
<b>TOTAL</b>	<b>\$ -</b>		

**Distribution of State CDBG Funds**  
**Timeliness Compliance Report Instructions**

1. **State:** State name or abbreviation
2. **FY:** Fiscal year of the federal appropriation that funds the grant.
3. **Grant #:** Program grant number e.g. B-11-DC-###0001 where “B” indicates the CDBG program, “11” is the fiscal year, “DC” indicates the allocation for states’ use in nonentitlement areas, “##” is a code identification number for the state, and “0001” is the number of the grant.
4. **Date Signed by State:** Date the grant agreement was signed by the state. This date marks the beginning of the 15-month period for timely distribution.
5. **Timeliness Compliance Date:** This is the date 15 months after the date the grant agreement was signed by the state.
6. **Grant Amount:** The amount of the state’s allocation of CDBG funds for this grant.
7. **Admin Deduction:** The state may use \$100,000 plus up to 3% of the grant for state administration and must match the percentage allowance dollar for dollar. This line shows the actual amount claimed for state administration.
8. **TA Deduction:** The state may use up to 3% of the grant for technical assistance to local governments, no state match is required. This line shows the actual amount claimed for technical assistance.
9. **Total Admin/TA Deduction:** This is the total of the previous 2 lines. Note that the percentage allowance for State Administration and for Technical Assistance is a combined allowance for both functions, not a separate allowance for each. The state decides how to allocate the total 3% allowance. The total entered on this line may not exceed \$100,000 plus 3% of the grant.
10. **Expected Distribution:** This equals the Grant Amount less the Total Admin/TA deduction claimed by the state. This is the amount of the annual allocation expected to be available for distribution to its local governments.
11. **Adjustments:** The state may make certain additional adjustments in the amount of funds it distributes to local governments from its annual allocation. These may include Section 108 loan guarantee repayments and/or a 3% allowance for state administration and technical assistance associated with program income retained by units of local government. Any adjustments claimed on this line must be supported by an attached explanation justifying the adjustment in detail.
12. **Available Distribution:** This equals the Expected Distribution less Adjustments claimed on the previous line. This is the amount of the annual allocation required to be distributed to the state’s local governments.

- 13. Amount Obligated & Annncd** (at 15 months): This is the amount which the state has actually obligated and announced to its units of general local government as of the 15-month timeliness target date. To be compliant, it should equal the amount of the “Available Distribution” on the previous line. This amount should include only awards from the original grant allocation. Do not include awards from program income or recaptured funds.
- 14. % Obligated & Annncd** (at 15 months): This is the percentage of the “Amount Obligated and Annncd” divided by the “Adjusted Grant Amount”. To be compliant, this entry should equal 100%.

"Public reporting burden for this collection of information is estimated to average 1.5 hours. This includes the time for collecting, reviewing, and reporting the data. The information is authorized under 24 CFR 570.494 **which** requires state grantees to obligate and announce their annual CDBG grant (excluding state administration & TA), to units of general local government within 15 months of the state signing its grant agreement with HUD and will be used to determine if the states are in compliance with the timely distribution requirement. *Response to this request for information is required to continue receiving CDBG grants.* This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. No confidentiality is assured."

Privacy Statement: Public Law 97-255, Financial Integrity Act, 31 U.S.C. 3512, authorizes the Department of Housing and Urban Development (HUD) to collect all the information (except the Social Security Number (SSN)) which will be used by HUD to protect disbursement data from fraudulent actions. The purpose of the data is to safeguard HUD form 40108. While the provision of the SSN is voluntary, HUD uses it as a unique identifier for safeguarding HUD form 40108. This information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law.

FY 2009 State CDBG Program  
Distribution of Grant Fund

State	Date Grantee Sign-Off	FY 2009 Grant Amount	Funds Available for Distribution	Awards Obligated & Annncd (at 15 months)	% of Funds Distributed (at 15 months)
AK	07/01/09	2,867,778	2,681,745	2,681,745	100.000%
AL	06/24/09	26,411,515	25,519,170	25,519,170	100.000%
AR	07/28/09	19,270,282	18,881,000	18,881,000	100.000%
AZ	09/21/09	12,078,239	11,615,892	11,615,892	100.000%
CA	09/02/09	39,706,909	38,222,182	38,457,450	100.616%
CO	07/08/09	8,327,836	7,978,001	8,213,098	102.947%
CT	07/23/09	13,532,318	13,026,348	13,026,348	100.000%
DE	07/13/09	2,028,182	1,867,337	1,867,337	100.000%
FL	08/06/09	28,531,157	27,575,222	27,575,222	100.000%
GA	08/17/09	39,944,139	38,645,815	38,645,815	100.000%
IA	06/24/09	26,240,724	25,353,503	25,353,503	100.000%
ID	06/30/09	8,621,821	8,263,167	8,263,167	100.000%
IL	07/17/09	32,266,411	32,311,505	32,266,411	99.860%
IN	07/21/09	31,331,173	30,291,238	31,057,455	102.530%
KS	07/09/09	17,215,545	16,599,079	16,599,079	100.000%
KY	09/25/09	27,280,472	26,362,058	26,362,058	100.000%
LA	10/15/09	28,133,015	27,189,025	27,209,559	100.076%
MA	07/02/09	34,088,497	32,965,842	32,965,842	100.000%
MD	08/14/09	8,070,375	7,728,263	7,728,263	100.000%
ME	06/29/09	12,852,382	12,366,811	12,366,811	100.000%
MI	07/14/09	35,945,450	34,767,087	34,767,087	100.000%
MN	06/30/09	20,813,869	20,297,592	20,297,592	100.000%
MO	07/14/09	24,120,069	23,296,468	23,296,468	100.000%
MS	07/07/09	30,239,018	30,239,018	30,239,018	100.000%
MT	07/15/09	6,861,827	6,555,973	6,555,973	100.000%
NC	07/13/09	45,322,896	43,863,209	43,687,209	99.599%
ND	07/13/09	4,862,793	4,616,911	4,616,911	100.000%
NE	07/14/09	12,527,752	12,051,920	12,051,920	100.000%
NH	07/08/09	9,216,873	8,840,367	8,840,367	100.000%
NJ	10/05/09	7,086,011	7,496,660	7,496,660	100.000%
NM	07/10/09	14,228,822	13,708,378	13,708,378	100.000%
NV	09/10/09	2,778,827	2,595,462	2,595,462	100.000%
NY	07/13/09	48,376,971	44,825,564	43,789,394	97.688%
OH	07/26/09	47,727,976	46,651,600	46,651,600	100.000%
OK	07/01/09	16,243,555	15,656,250	15,656,250	100.000%
OR	07/02/09	14,383,907	13,852,390	13,154,626	94.963%
PA	07/07/09	46,555,566	45,624,455	45,258,388	99.198%
PR	07/17/09	47,805,716	46,271,545	45,771,545	98.919%
RI	08/05/09	5,229,149	4,972,276	4,972,276	100.000%
SC	07/07/09	22,169,273	21,404,195	21,404,195	100.000%
SD	07/13/09	6,637,356	6,338,656	6,338,656	100.000%
TN	07/09/09	26,660,860	26,027,643	26,027,643	100.000%
TX	07/01/09	73,017,739	70,727,207	70,727,207	100.000%
UT	07/13/09	6,766,103	6,530,781	6,530,781	100.000%
VA	08/11/09	19,573,424	18,986,222	18,986,222	100.000%
VT	08/25/09	7,411,472	7,089,129	7,089,129	100.000%
WA	08/04/09	15,479,447	14,915,064	14,915,064	100.000%
WI	08/28/09	28,230,931	27,284,003	27,284,003	100.000%
WV	08/04/09	16,890,043	16,738,449	16,736,388	99.988%
WY	07/17/09	3,220,482	2,991,663	2,991,663	100.000%

% distribution by states	
FY 2009	
100%	43
99-100%	4
95-99%	2
90-94%	1
80-89%	0
Under 80%	0
	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 fund