



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 18-11

Issued: September 4, 2018

Expires: This Notice remains in effect until amended, superseded, or rescinded.

Cross References: 24 CFR 570, Notice CPD-16-08

SUBJECT: Timely Distribution of State CDBG Funds

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I. Purpose

This Notice replaces CPD Notice 16-08 and reiterates HUD’s policy and standards for the timely distribution of Community Development Block Grant (CDBG) funds by states.

This Notice includes a **new HUD 40108 form [Attachment 1]** which has substantive format differences from the previous version.

This Notice announces a change to the Department’s policy regarding the publication frequency of this Notice. In past years, the Department published this Notice annually to issue an annual National Compliance Report. The report provided

information on each state's compliance with the timely distribution requirements in 24 CFR 570.494(b)(1). Going forward, these reports will be available upon request to the State and Small Cities Division (SSCD) in HUD Headquarters (HQ). Therefore, it is no longer necessary to publish this Notice on an annual basis.

This Notice will remain in effect through future years until amended, superseded, or rescinded.

II. Statutory and Regulatory Requirements

Section 104(e)(2) of the Housing and Community Development Act of 1974 (HCDA) requires HUD to review state CDBG grants to determine "whether the state has distributed funds to units of general local government in a timely manner."

HUD's regulation at 24 CFR 570.494 defines 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." As explained in previous Notices, the terms "obligated and announced to" refer to the date on which a state officially announces the selection and award of a grant to a unit of general local government (UGLG) 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 localities and citizens that a grant has been awarded.

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.

The regulation at 24 CFR 570.494 is designed to assure that the portion of the annual grant that is to be distributed to units of general local government (UGLGs) is fully done so in a timely manner. There are portions of the annual grant or *adjustments* that are not distributed to UGLGs and are not included when calculating the amount that must be obligated and announced within 15 months under the regulations:

- State administration and technical assistance costs are specifically excluded from the timely distribution requirement under 24 CFR 570.494(b)(1). Under section 106(d) of the HCDA, states are authorized to use grant funds for the combined purposes of state administration and technical assistance. This *adjustment* may be up to \$100,000 plus up to three percent of the total grant amount.
- Section 108 loans may result in *adjustments* to the amount available for distribution to UGLGs. Pursuant to 24 CFR 570.705(c), Community Development Block Grants may be used for:
 - Paying principal and interest due on the debt obligations guaranteed under the Section 108 program (including such issuance, servicing, and underwriting);
 - Defeasing such debt obligations; and

- Establishing debt service reserves as additional security.
- Other amounts that would not be available for awards to UGLGs include any amounts subject to termination or reduction pursuant to 24 CFR 570.496(b).

The regulation at 24 CFR 570.494(b)(1) applies the timely distribution requirements to the grant funds excluding the allowable *adjustments* described above.

Program income and recaptured funds must also be expeditiously obligated and announced pursuant to 24 CFR 570.494(b)(2). However, program income and recaptured funds should not be included with the annual grant funds when determining compliance with the 15-month requirement. Pursuant to 24 CFR 570.489(e)(3)(i), to the maximum extent feasible, the state must distribute program income to UGLGs before it makes additional withdrawals from the United States Treasury. Therefore, the total amount of resources available in a program year should account for the grant funds and program income being distributed by the state during the program year.

There are other considerations for locally-retained program income, where program income is retained by an UGLG in the form of general program income or revolving funds. Locally-retained program income must be expended ahead of draws from the U.S. Treasury in a manner consistent with the requirements of 24 CFR 570.489(e)(3) for general program income, 24 CFR 570.489(f) for revolving loan funds, and 24 CFR 570.489(c) for federal grant payments in general. Furthermore, locally-retained program income amounts expected to be available for expenditure during the program year must be reported in the annual action plan's method of distribution pursuant to 24 CFR 91.320(k)(1)(iv). Therefore, while locally-retained program income is not subject to the expeditious obligation requirement in 24 CFR 570.494(b)(2), the state should be taking into consideration any locally-retained program income when making awards of grant funds. For example, if the state was to award grant funds to an UGLG, and that UGLG also had general program income available, the activity budget would need to account for both the program income and grant funds. If the grant award is made without considering other available program income funding, the result could be funding in excess of the activity budget. In this example, the program income would be expended first, offsetting or disencumbering the grant award, leaving a remaining balance of grant funds to be returned to the state. Then, the state would need to re-award those disencumbered grant funds in an expeditious manner pursuant to 24 CFR 570.494(b)(2). The result would be an increased administrative burden on the state, a strain on timeliness, and a failure to fully account for all the CDBG funds available throughout the state, including program income.

In some cases, grant funds distributed to UGLGs may be rescinded, recaptured, reduced, or unaccepted by the UGLG for a variety of reasons. If the initial award was made in good faith, and later canceled or modified, then compliance with 24 CFR 570.494(b)(1) should be determined based upon the initial awards. In such cases, the state must expeditiously re-obligate and announce the available grant funds. Depending on a

state's method of distribution of the grant funds, an amendment to the annual action plan may be necessary.

III. Required Actions

The CDBG regulations at 24 CFR 570.493(a)(1) provide that HUD will review, at least annually, whether the state has distributed CDBG funds to UGLGs in a timely manner. HUD also reviews whether the state has carried out its responsibilities in compliance with the Act, this subpart and other applicable laws. Whenever HUD finds evidence that a statute, regulation or program requirement has been violated, HUD issues a finding. The following are required actions:

- **State's 15-Month Deadline:** The state must comply with 24 CFR 570.494(b)(1) by obligating and announcing all of the state's annual grant (excluding any allowable *adjustments* as described in this Notice) within 15 months of the date of the state's signature on the grant agreement with HUD. Note: The state's signature is not necessarily the last signature executing the agreement.
- **HQ Reminder:** SSCD in HUD Headquarters will send an email notification to the Field Office approximately one month prior to the expiration of the 15-month period as a reminder to Field Office staff of the reporting requirement placed on the state.
- **State's 45 Days to Report:** The state must report compliance with 24 CFR 570.494(b)(1) by submitting the HUD 40108 to the Field Office within 45 days from the end of the 15-month period. A new format for the HUD Form 40108 is in **Attachment 1** of this Notice.
- **FO Review:** Field Offices are responsible for reviewing state compliance. **The Field Office will send an electronic copy of the HUD 40108 to SSCD.** If the HUD 40108 does not demonstrate compliance with 24 CFR 570.494(b)(1), or the state does not submit the HUD 40108 within 45 days from the end of the 15-month period, the Field Office will issue a finding.
- **HQ Follow-up and National Compliance Report:** SSCD will follow up with Field Offices, as necessary, to collect HUD 40108 forms, to assist in the compliance review, and to assist in the making of findings. SSCD will also compile an annual National Compliance Report listing each state and its compliance with 24 CFR 570.494(b)(1) for each annual grant. The National Compliance Report is available upon request.

The Field Office will separately review the timely distribution of funds recaptured by the state and program income pursuant to 24 CFR 570.494(b)(2) during the annual review of the State Performance and Evaluation Report (PER) as described in CPD Notice 16-10. The State PER includes the *PR28 Financial Summary*, a report generated in the Integrated Disbursement and Information System, IDIS. Part I, lines 19 through 28 of the *PR28 Financial Summary* address amounts of program income, including locally-retained revolving funds and state revolving funds, which have been receipted in IDIS and subsequently used to fund activities. Line 11 of the *PR28 Financial Summary* represents the amount of the annual grant that has been added to activity funding with an

adjustment made by the state to represent the full amount of the annual grant that has been obligated and announced, including amounts that have been re-awarded by the state.

The Field Office may also separately review compliance with these requirements during on-site monitoring. Exhibit 4-5 in the *CPD Monitoring Handbook 6509.2* provides some basic calculations to assist in the review of the state's supporting documentation used to populate both IDIS and the HUD 40108.

IV. Making a Finding

As stated above, if the HUD 40108 does not demonstrate compliance with 24 CFR 570.494(b)(1), or the state does not submit the HUD 40108 within 45 days from the end of the 15-month period, the Field Office will issue a finding. Additionally, during on-site or remote monitoring, HUD may review a state's records for those awards referenced in the HUD 40108 using Exhibit 4-5 in the *CPD Monitoring Handbook 6509.2*. Examples of supporting documentation are listed in section V, *Grantees: Record Keeping and Reporting* of this Notice. 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 SSCD. When the finding is not part of a monitoring see **Attachment 2** for a sample letter advising a state of a finding for failure to meet the timely distribution requirement. When the monitoring and finding is part of an onsite or remote monitoring, see the sample letter in **Attachment 3**.

The corrective action should include:

- A procedural assessment that may contribute to a better understanding of factors causing or contributing to the untimely distribution,
- A description of how the state will distribute any outstanding balance within the current program year,
- A target date for full distribution of the remaining balance, and
- A description of how the state will comply with the timeliness requirement for future allocations.

Where appropriate, the Field Office may advise the state regarding its fulfillment of the four items above. Any corrective action should be proportionate to the violation incurred. For violations involving lesser amounts where evidence suggests that the remaining funds will be committed quickly, it may be appropriate for the Field Office to require no further action from the state. Additionally, for repetitive violations or cases where significant amounts of funding were not awarded to units of general local government, the Field Office may consider more progressive sanctions than those suggested here.

The state must notify the Field Office that the corrective actions have been implemented and submit a revised HUD 40108 demonstrating that all outstanding funds from the annual grant have been committed. The Field Office sends a

notification to the state notifying it that the finding has been closed. See **Attachment 4** for a sample letter that closes the finding.

If the state's response or plan for corrective action 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 that after notice and an opportunity for a hearing, HUD may impose additional remedies. Such remedies may include, but are not limited to, reduction of one or more future grant allocations. Field Office records must document all findings, corrective actions, and resolution for review by the Office of Inspector General (OIG) and other oversight offices.

IDIS Activity Funding and the PR57: The Field Office may also use the *CDBG State Timely Awards of Funds Performance Report (PR57)* from IDIS to assist in the review. The PR57 report is a management tool to monitor grantee progress in assigning funding to activities in IDIS, which serves as an indicator of a state's progress towards obligating and announcing grant awards to participating units of general local government; it should NOT be used as a basis of a finding.¹

V. Grantees: Record Keeping and Reporting

States are required to maintain records documenting their administration of CDBG funds pursuant to 24 CFR 570.490(a). For timely distribution, records supporting the HUD 40108 include documentation related to the obligation and announcement of awards, such as any official letters, press releases, news media announcements, public notices, or official notice of awards that the state may use to notify localities and citizens of grant awards. In addition to the HUD 40108, IDIS has automated the collection of timeliness data to help assess the progress of each grantee's timely distribution of its annual grant. Grantees can enter the *Date Funds Obligated and Announced* on the IDIS Activity *Edit CDBG Setup Detail (Page 1)* to show that the state has distributed funds to units of local government within 15 months of the state signing its grant agreement with HUD. In addition, the state can use the *Report Parameters* IDIS screen for the *PR28 Financial Summary* to enter an adjustment on line 10 to the amount *Obligated to recipients* on line 9, thus providing an adjusted total on line 11. This adjustment line allows states to report the actual amount of an annual grant that has been obligated and announced, similar to the HUD 40108, rather than just the amount of the annual grant added to activity funding in IDIS, similar to the PR57. In addition to reporting the obligation and announcement of grant funds, states are required to report funding data for program income, including the receipt and expenditure of program income by UGLGs.

¹ A finding will not be made on the sole basis of the PR57, because it has limitations. The primary limitation is that the PR57 uses activity funding in IDIS as a proxy for obligations and announcements. However, the reporting of activity funding in IDIS may occur at a later date than the obligation and announcement of the award, especially because IDIS reporting is only required on an annual basis pursuant to 24 CFR 570.490(a)(3).

VI. For Further Information

Please contact James Höemann, Deputy 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.

ATTACHMENTS

- Attachment 1: HUD 40108 Form
- Attachment 2: Sample Letter - Notice of Finding (NOT part of Monitoring)
- Attachment 3: Sample Letter – Notice of Finding (Issued After an On-site or Remote Monitoring)
- Attachment 4: Sample Letter – Notice of Closing Finding

Timely Distribution of Funds by States
24 CFR 570.494(b)(1)

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
State Community Development Block Grant Program

OMB No: 2506-0085
exp. (12/30/20)

This form is for use by State grantees of the Community Development Block Grant program in order to demonstrate compliance with timely distribution requirements pursuant to 24 CFR 570.494(b)(1).

1. Name of State Grantee (as shown in item 5 of Standard Form 424)	3. Fiscal Year (Fiscal year of the grant funds)
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424)	4. Grant Number (Format "B-##-DC-##0001")
	5. Date Signed by State (Date grant agreement, HUD 7082, was signed by the state)
6. Compliance Date (Line 5 plus 15 months.)	7. State CDBG Grant Amount (Excluding program income and prior year grants).
ADJUSTMENTS	12. Expected Distribution (Line 7 minus Line 11)
8. Administrative Cost Allowance 24 CFR 570.489(a)	
9. Technical Assistance Allowance 24 CFR 570.489(a)	13. Total Awards to Units of General Local Government (Must equal <i>Total Awards</i> in REQUIRED table on page 2.)
10. Section 108 Loan Allowance 24 CFR 570.705(c)	
11. Total Adjustments (Sum of Lines 8, 9 and 10)	
15. Date of Last Award (Most recent award from REQUIRED table on page 2)	14. Percent Awarded (Line 13 divided by Line 12 multiplied by 100%.)
By signing this form, I certify that the statements herein are true, complete and accurate to the best of my knowledge. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 18, Section 1001).	
Authorized Representative	
First Name	Prefix
Middle Name	Suffix
Last Name	Telephone Number
Title	Email
Signature of Authorized Representative	Date Signed

Attachment 2

Sample Letter – Notice of Finding (NOT part of Monitoring)

MONTH DAY, YEAR

NAME
TITLE
DEPARTMENT
ADDRESS

SUBJECT: Finding of Noncompliance Relating to Timely Distribution of FY 20## State Community Development Block Grant (CDBG) Funds

Dear Mr./ Ms. Name:

We have completed a review of the State's distribution of State CDBG funds for Fiscal Year 20##. The CDBG regulations at 24 CFR 570.494(b)(1) require a state to obligate and publicly announce to units of general local government the state's annual grant within 15 months of the state signing its grant agreement with HUD. According to the State's CDBG timeliness report dated MONTH DAY, YEAR, the State did not meet the timely distribution of funds requirement. Therefore, we are issuing the following finding:

Finding of Noncompliance with the timely distribution requirement

Condition: State records show that the state obligated and publicly announced to local governments a total of \$#,###,###.##. The state's 20## award, less any allowable adjustments, was \$#,###,###.##. Based upon this information, the state was not timely in its distribution of CDBG funding. Only ##.##% of the funds available were obligated and announced to units of general local government.

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 and other allowable adjustments) 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 [PROVIDE ADDITIONAL EXPLANATION and ensure that some aspect of the Corrective Action identified below is directly responsive to Cause]

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

Required Corrective Action: To clear this finding, within 30 days of the date of this letter, the state must:

- Provide a procedural assessment identifying the factors causing or contributing to untimely distribution; and, provide a description of how the state will comply with the timeliness requirement for future allocations.
- Provide a description of how the state will distribute any outstanding balance in the current program year,
- Provide a target date for full distribution of the remaining balance, and
- Upon full distribution of the remaining balance, submit a revised HUD 40108.

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 NAME, TITLE, PHONE, EMAIL.

Sincerely,

NAME
Director, Community Planning and Development

Attachment 3

Sample Letter – Notice of Finding (Part of an On-site or Remote Monitoring)

MONTH DAY, YEAR

NAME
TITLE
DEPARTMENT
ADDRESS

SUBJECT: On-Site Monitoring Review, DATES, State Community Development Block Grant (CDBG) Program Grant #: B-###-DC-###-0001

Dear Mr./ Ms. NAME:

This letter transmits the report from our office’s monitoring review of the FY 20## State CDBG program. HUD’s 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 this 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 NAME, TITLE, PHONE, EMAIL.

Sincerely,

NAME
Director, Community Planning and Development

Enclosure

Description of Finding of noncompliance with the timely distribution requirement:

Finding: The state failed to distribute 100% of its 20## Community Development Block Grant (CDBG) funds within 15 months [less any allowable adjustments].

Condition: State records show that the state obligated and publicly announced to local governments a total of \$#,###,###.##. The state's 20## award, less any allowable adjustments, was \$#,###,###.##. Based upon this information, the state was not timely in its distribution of CDBG funding. Only ##.##% of the funds available were obligated and announced to units of general local government.

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 and other allowable adjustments) 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 [PROVIDE ADDITIONAL EXPLANATION and ensure that some aspect of the Corrective Action identified below is directly responsive to Cause]

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

Required Corrective Action: To clear this finding, within 30 days of the date of this letter, the state must:

- Provide a procedural assessment identifying the factors causing or contributing to untimely distribution; and, provide a description of how the state will comply with the timeliness requirement for future allocations.
- Provide a description of how the state will distribute any outstanding balance in the current program year,
- Provide a target date for full distribution of the remaining balance, and
- Upon full distribution of the remaining balance, submit a revised HUD 40108.

Attachment 4

Sample Letter – Notice of Closing Finding

MONTH DAY, YEAR

NAME
TITLE
DEPARTMENT
ADDRESS

SUBJECT: Closing of Finding of Noncompliance Relating to Timely Distribution of FY 20## State Community Development Block Grant (CDBG) Funds

Dear Mr./ Ms. NAME:

Thank you for the DATE letter and documentation demonstrating that the State obligated the remaining FY 20## funds and implemented the required corrective actions. In response to the corrective actions executed by your office, HUD has determined that the finding below is cleared and closed.

FINDING: The State failed to distribute 100% of its 20## Community Development Block Grant (CDBG) funds within 15 months.

STATE ACTIONS: The State provided a written plan on DATE for fully obligating and announcing the FY 20## funding, as well as a description of the process the State is taking to fully obligate future allocations. Subsequently, on DATE, the State provided notification to HUD that the corrective action has been implemented and submitted a revised HUD 40108 demonstrating compliance. Therefore, the State's actions are sufficient to close this finding.

We thank the State for diligently resolving this finding. If we may be of further assistance, please contact NAME, TITLE, PHONE, EMAIL.

Sincerely,

NAME
Director, Community Planning and Development