Date: June 25, 2009

To: Jurisdictions Eligible for the Community Development Block Grant (CDBG) Program

SUBJECT: CDBG 2009-2010 GENERAL  
CDBG 2008-2009 AND 2009-2010 COLONIAS ALLOCATIONS  
NOTICE OF FUNDING AVAILABILITY (NOFA) AND APPLICATION

QUESTIONS AND ANSWERS

1. Is a set-aside in addition to the maximum amount of the application?

No, a set-aside is calculated as a percentage of the entire amount requested.

2. NOFA Appendix C.A.2 emphasizes that all projects must be completed by the end of the standard agreement, but it doesn’t say when this will occur. What is the term of the contract, when will it begin and when will it end?

The contracts will expire 36 months from the award date (NOFA Page 14 and 31).

3. Based on the Application Table of Contents and instructions, the Threshold Requirements form and related Documentation would be the first pages of the application followed by the Application Summary Forms with the signature page. It was stated that the signature page should be first, then the Threshold Requirements, then the remainder of the Application Summary forms. Please advise.

Follow the instructions in the application. The application will not be disqualified for the order of the forms in the application as long as they are clearly marked and paginated.

4. If the County submits a joint application with the City; would the maximum award per application change?

The maximum amount per application is $800,000, even if the application is a result of a joint agreement between two jurisdictions.
5. **Regarding Colonias, what happens to the remaining funds if an applicant does not apply for maximum funds?**

   It is unlikely that funds will remain under the Colonia allocation, due to its competitiveness. However, if all funds were not awarded, the Department would fund down the list until all funding for the allocation was exhausted.

6. **Will Colonias be combined as one application or are they separate applications?**

   Each Colonia application will be reviewed and scored as a separate application. The amount that can be requested for each Colonia is up to $800,000. However, if a jurisdiction has more than one Colonia, it can include them all in one application, as long as they are clearly delineated.

7. **Which Native American tribes are recognized by State CDBG?**

   Only Non-Federally recognized tribes are eligible to receive State CDBG funds.

8. **What is the Activity Delivery percentage for a Multi-Family project?**

   The Activity Delivery amount for any project is typically 8 percent of the amount requested for the activity. However, if Davis Bacon applies, or if Labor Standards required for the project are complex, the percentage may be up to 12 percent.

9. **If a Redevelopment agency committed two months ago is it too late?**

   Local leverage to a grant application from a Redevelopment Agency must be committed in a separate resolution and may be done any time prior to the final application submittal date of July 14, 2009. See Application Appendix G, page G-1.

**Citizen Participation**

10. **Is citizen participation required to commit Redevelopment Agency funds to the application?**

   If the Redevelopment Agency is committing funding to a project via a resolution, then a public notice and hearing before the local governing body is required and a separate resolution submitted with the application.
11. There is a sample public hearing notice for submittal of the application in Appendix E of the NOFA, and a sample resolution in Appendix I of the Application. In the public hearing sample, it appears that an applicant does not need to break out the activity amounts as they are broken out in the sample resolution. The public hearing sample only lists an up to dollar amount and the proposed activity. The Public Hearing Notice must list the proposed activities and amount for each. The resolution for the application submittal must be specific to include the amount requested for general administration, and the activity delivery and the amount for each activity.

12. The public notice the jurisdiction submits usually lists the activity amounts. The last public notice the jurisdiction published was specific regarding what activities it was applying for but did not mention the set-aside activity. The resolution, if adopted by the Board, will include the set-aside amount. Is it acceptable for the public notice published for submittal of the application to be slightly different than the resolution?

The intent of the citizen participation requirement, in general, and the application phase noticing, in particular, is to ensure full disclosure of the local government’s plans to use CDBG funds and to allow for the opportunity to comment on those plans. If an activity was not included in the public notice and was not disclosed to the public during the application phase, it cannot be applied for, even if it is included in the resolution.

13. When is a public hearing acceptable, if done before this year or is months old?

A public hearing must be held during the time when the jurisdiction is deciding for which local project(s) or activity(ies) to apply for CDBG funding. It need not be held before the governing body. The hearing should be held far enough in advance of the application due date that citizen input from this hearing may be seriously considered as the governing body seeks to identify the community’s best use of CDBG funds. (Grant Management Manual, Chapter 18, pg 18-2)

14. Regarding the CDBG program update on checking debarment status, who are the principals in the jurisdiction that are subject to this search?

Principals mean officers, directors, owners, partners, key employees, or other persons with primary management or supervisory responsibilities within a community. Principals also include persons who have critical influence on or substantive control over a jurisdiction whether or not employed by the jurisdiction. (7 CFR 3017.205)
15. **What is acceptable to show proof of submittal of OMB single audit?**

   It is acceptable to submit a printout of the online submittal of the single audit package to State Controller’s Office or a certified mail receipt.

16. **Is there a Davis Bacon threshold dollar amount, or do all federally funded activities require Davis Bacon (with the exception of housing rehabilitation of less than 8 units)?**

   The Davis-Bacon Act requires that each contract over $2,000 to which the Federal Government is a party for the construction, alteration, or repair of public buildings or public works shall contain a clause requiring prevailing wage. (40 U.S.C. 3142 (a))

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**Targeted Income Group (TIG)/HUD Low/Mod Data**

17. **What satisfies the criteria for random sampling?**

   As a general rule, each individual within the population should have an equal chance of being surveyed. Beware of using data sources that contain only certain portions of your beneficiary population. For example, some utility billing lists may contain only property owners, while the beneficiaries will be both owners and renters. Tax rolls can be used for door-to-door surveys to provide a list of addresses in the universe, but should be adjusted for apartment buildings. City indexes and 911 maps are often helpful sources of data. After identifying the universe, the surveyor must conduct a random drawing of a number of addresses that exceeds the minimum required for that universe. Information on drawing random numbers is available at www.randomizer.org or www.random.org. Within your application to the Department, describe the sampling methodology and how it achieves a randomly-selected sample. (See Appendix F in the NOFA for more information.)

18. **Regarding the Income Survey, can the jurisdiction provide only the revised/new portion of the survey with their application?**

   The Department recommends submitting all documents pertaining to your income survey methodology and results with the application, including any revisions.

19. **What is the definition of Low/Moderate Income Group?**

   Low/Moderate Income Group (TIG) is defined as persons and households with income less than 80 percent of the area median income for a given county. Lowest Targeted Income Group (LTIG) means persons and households with incomes less than 50 percent of the area median income. The application must include a breakdown of both groups.
20. Where is HUD Low/Moderate Income (TIG) data information located online?

HUD Low/Moderate Income data can be found online at:
http://www.hud.gov/offices/cpd/systems/census/ca/

Questions and answers regarding the Low to Moderate income data sets may be found online at:  http://www.hud.gov/offices/cpd/systems/census/lowmod/faq.cfm

21. In calculating TIG benefit the County would like to use zip codes as these are the actual target areas to be served instead of block groups. While navigating the website a HUD approved moderate income calculation process was discovered. Would this calculation suffice for proving TIG Benefit for a 10% set-aside project?

If the proposed activity serves an area smaller than a Census Tract/Block Group, the jurisdiction must conduct an income survey of the potential beneficiaries. The HUD Low/Mod data is not identified by zip codes.

22. If some beneficiaries are not TIG eligible, does the Department prorate the benefit?

To be eligible for funding, a minimum of 51 percent of the beneficiaries of an activity must be TIG. The benefit points are calculated based on a formula prescribed by the State regulations. The higher the TIG benefit, the higher the number of points received under this category. Housing programs must be income restricted, with 100 percent TIG benefit.

23. What is the definition of “severely” disabled?

Persons are considered severely disabled if they:

(1) Use a wheelchair or special aid for 6 months or longer;
(2) Are unable to perform one or more functional activities;
(3) Are prevented from working or doing housework;
(4) Have a condition such as autism, cerebral palsy, Alzheimer’s disease, senility, dementia, or mental retardation; or
(5) Are under 65 years of age and are covered by Medicare or receive Supplemental Security Income.

Note: For purposes of this definition, the term “functional activities” includes seeing, hearing, having one’s speech understood, lifting and carrying, walking up a flight of stairs, and walking.

Note: Presumed TIG benefit relates only to Severely Disabled Adults. Persons with a drug addiction are not considered to be severely disabled.
24. How does the State weigh projects that would meet the “Urgent Need” criteria rather than the principally benefiting TIG households?

In order to be considered under the Urgent Need criteria, your application must demonstrate that the current conditions meet all of the following:

• Pose a serious or immediate threat to the health or welfare of the community;
• Are of recent origin or recently became urgent – within the past 18 months;
• The grantee is unable to finance the activity on its own; and
• Other sources of funding are not available.

If the application includes documentation demonstrating it fully meets these criteria, it will receive full points under Benefit for meeting this National Objective.

25. Regarding Energy Efficiency points for State Objectives, can consideration be given if there are energy efficient components to a public facility?

Energy efficiency under this NOFA typically applies to housing rehabilitation and housing new construction projects.

26. What constitutes HERS Certification?

HERS stands for Home Energy Rating System. The home earns the ENERGY STAR by achieving a HERS Index of 85 or less and passing the Thermal Bypass Checklist.

27. Example: A jurisdiction wants to apply for a homeownership assistance program with an energy efficient focus. The jurisdiction has private funding to install energy efficiency measures (appliances, HVAC tune-ups, energy efficiency whole house retrofits, etc.), and it plans to only sell homes that have had the energy-efficiency measures installed. Our question is if the jurisdiction uses the private funds to install energy efficiency measures during escrow, could the jurisdiction get state objective points for energy efficiency? How about if the measures are installed no later than 30 days after close of escrow?

Under the Homeownership Assistance Program, the jurisdiction would not be selling homes to the buyers, so there would be no improvements made to the properties before close of escrow. After the property has been purchased, the installation of energy efficiency measures would fall under the Housing Rehabilitation Program.

28. Regarding State Objective points for Farmworker Housing/Health Services, would the jurisdiction need to be the primary provider of both Farmworker health services and Farmworker housing to receive points under this objective?

The jurisdiction would not need to provide both health and housing services to Farmworkers to receive State Objective points in this category, but will have to demonstrate the clear link between services provided and housing.
29. How will an application with two activities be scored? Will CDBG take the average of both activities, or will each separate activity be scored against other activities that are the same?

Each activity is scored separately against similar activities. The two activities’ scores are then weighted based on the amount of funds requested per each, to obtain the application’s total score.

30. What is the specific breakdown of Performance bonus points?

Per the NOFA page 10, bonus points will be awarded to applicants whose expenditures exceeded the milestone stated in the contract and/or who have demonstrated timeliness in clearing special conditions or starting the project. If a grantee requested an extension for meeting the special conditions, it will not be awarded above standard points. If a grantee requested and was approved a milestone waiver, it will not receive above standard points, but will be awarded standard points (points will not be deducted).

31. How can a jurisdiction’s performance score be acquired to avoid errors?

Performance points are calculated by the CDBG Representative for that jurisdiction, to ensure that all milestones waiver requests are considered.

32. How will jurisdictions correct deducted points?

Points will be deducted if a grantee did not met the contract milestones, did not spend all leverage by the expiration date of contract, did not report on time, did not meet the OMB A-133 requirements, or has irresolvable monitoring or audit findings. Most of these deficiencies were captured during the holdout process. For milestones and leverage deficiencies, jurisdictions may contact their CDBG Representative to determine if there are any performance issues.

33. Provide clarification on support documentation required under Capacity, if the jurisdiction had a previous grant.

Under capacity, applicants do not need to provide documentation if they have had a previous grant and there are no changes in the administration of the grant. If applicants have had no previous grants, or changes occurred in the administration of the grant, then all documentation specified in the application must be provided.

Please note that, under readiness, all documentation regarding the administration of the specific activity must be provided. For example, if in-house staff is administering an activity, then duty statements and resumes are required.
34. Do you want complete NEPA/CEQA documents and complete plans and specifications submitted? If not, what will suffice as documentation?

As NEPA environmental review is subject to review and approval by the Department, submit all NEPA environmental forms and documents in your application to maximize the readiness score. Submit only proof that CEQA was completed with the application. Do not submit full plans and specifications for a project – a letter from the engineer/architect stating that the plans are complete is adequate documentation.

35. Provide clarification for private leverage, with regard to discounts for services. Does this violate Procurement Policies?

Discounted services receive leverage points. They do not violate procurement policies as long as the procurement is properly conducted.

36. Will leverage be reduced if an application is not entirely funded?

Leverage will be reduced proportionally if an award amount is reduced. This could be due to a number of reasons, such as exhausted funding, 15 percent cap for public services, and the State’s minimum 51 percent requirement to fund housing activities.

37. Last year, there were instances where a jurisdiction had only 51 percent TIG. Is it allowable to document worsened conditions by providing a survey? (Page 33 of NOFA)

HUD Low/Mod data cannot be supplemented with an income survey, as the application requires the most recent data. The income survey results can only be used in lieu of the HUD Low/Mod data.

38. Will CDBG accept the recent foreclosure problem as documentation?

CDBG will accept third-party documentation with regard to the foreclosure problem as a worsened condition as long as it clearly demonstrates rebuttal of the census data, as required in the application.

39. Does a draft Sub-recipient or other agreement garner full points?

A draft Sub-recipient agreement will garner partial points. Only executed agreements/contracts receive full points under the readiness category.
40. How does a contractor/consultant’s participation in the development and submission of an application affect their ability to contract as grant and activity administrators for the same applicant?

Pursuant to Chapter 8 of the CDBG Grant Management Manual, Page 8, “No Loss leader” arrangements are prohibited. However, if the Request for Proposal explicitly described the full scope of work and was properly procured, it may be allowed. Applicants are cautioned to ensure all procurement processes are followed and documented.

41. In relation to Housing Rehabilitation Programs, would loss of jobs be considered as worsened conditions?

Housing Rehabilitation Program worsened conditions must be directly related to the physical condition of the houses to be rehabilitated. If the application includes documentation that clearly demonstrates the link to the housing stock condition, then it may be considered.

42. Under what circumstances would a jurisdiction apply for the Housing Combo activity?

The Department recommends potential applicants assess the overall community needs to determine which housing activity would be best suited to the area. In addition, the progress made on current open grants may also offer an indication of the needs due to the current economic climate. For example, if a grantee has requested an extension to its open housing rehabilitation grant due to current market conditions, such as a lack of demand, there may not be sufficient need to support applying for additional housing rehabilitation funding until the remaining funds are spent. Similarly, if a jurisdiction has a Housing Rehabilitation Revolving Loan Account (RLA) with a large balance of program income that is expended at a lower pace, it can be indicative of insufficient need. Furthermore, if the jurisdiction chooses to apply for new funds, it may not be able to access the CDBG funds until the RLA balance is expended.

43. Provide clarification for Code Enforcement. Eligible tasks within this activity have been misinterpreted in the past.

Code enforcement is eligible under 570.202(c), if such code enforcement together with public or private improvements, rehabilitation, or services to be provided may be expected to arrest the decline of the area.

To support the eligibility, the following is needed: (1) Jurisdiction’s definition of “deteriorated” or “deteriorating”; (2) boundaries of code enforcement area(s); (3) description of conditions to qualify the area under the jurisdiction’s definition of (1) above; (4) the strategy for arresting decline; and (5) the public or private improvements, rehabilitation, or services that will be provided in conjunction with the code enforcement that are expected to arrest the decline of the area.

See also, HUD’s memo at:
44. Is Code Enforcement a Public Service activity?

The activity of bringing properties up to code is a rehabilitation and preservation activity (CFR § 570.202). The actual overhead costs of the Code Enforcement program are eligible under Public Services.

45. Are grouped service laterals in one project proposed to be constructed by a utility provider considered as a public improvement project or a housing rehabilitation project?

The portion of the laterals on public property or in the public right-of-way is eligible under the Public Improvements activity and the portion of the laterals located on private property is eligible under the Housing Rehabilitation activity.

46. Can General Allocation funds be used together with federally recognized Indian tribe CDBG funds for the same project? Specifically, a wastewater treatment facility which will serve both the tribe and non-tribal areas.

Since federally recognized Indian tribes are not eligible for State CDBG funding, CDBG funds may only be used as a percentage based on the non-tribal area of the project. The need would also be based in the need for the non-tribal area.
Public Service Programs

47. Two jurisdictions will be providing the same homeless services, everything else is equal. If one jurisdiction has 50 homeless and serves all 50 and the other has 100 homeless and they also serve 50, who ranks higher? The second jurisdiction would have a higher need, but the first would resolve the problem to a greater extent.

The state regulations require the following factors be considered when evaluating the need for public services:

• Severity of the problem
• Extent to which the problem is solved

Regulations continue on to state that those applicants providing strong third party documentation will be more competitive.

The Department will follow the intent of the regulations in assessing the relative need of the community, by giving equal weight to both of these factors, and allowing for additional points for third party documentation. Each service need will be evaluated based on both factors. As these factors rely heavily on the type of documentation provided to support them, it is unlikely that two applications can be identical. In the event that two applications will acquire equal scores on the two factors, it will be the third party documentation that will help differentiate the two applications, as the applicant pool will set the standard on this item.

In the hypothetical example provided, the simple arithmetical average will be used to score the need for each service, then additional points up to the maximum 200 for this category will be assigned based on the third party documentation. Lack of or little third party documentation will not allow the applicant to receive full points under this category.

Applicants are advised to obtain as much current, quantifiable and specific information related to their community as possible.

48. Can the one set-aside activity be “Public Service” with additional sub-categories?

Each application may include one Public Service Program that can include up to five public service activities. Examples of Public Service activities include, but are not limited to, senior meals, job training, and homeless services. Refer to the NOFA for a list of eligible activities. The set-aside activity can be a Public Services Program.

Note: If Public Services are applied for in the set-aside activity, include all the required information for each activity, with the exception of need. However, in order to demonstrate that the public services are eligible for funding, the application must include information on the status of the service, whether is new, increased or an existing service with reduced funding.
49. Under the 10 percent set-aside Public Service Program, would the salary of a Continuum of Care Director be an eligible expense? This person would facilitate bringing homeless service providers together, provide them with information, and allow them to reach as many people as possible.

*CDBG funds may be used to provide services including labor, supplies, materials, and other costs for specific public service activities. Based on the information provided, it seems that neither the activities are identified yet, nor the service providers. Since the Director will be responsible for outreach of the organizations, this may greatly reduce the competitiveness of an application, as it will receive no or little readiness points.*

50. Can a jurisdiction provide scholarships under a Public Service Activity?

*Financial assistance designed to benefit Low to Moderate Income or Limited Clientele persons for educational services to increase economic opportunities is an eligible Public Service. Applicants are advised to include the guidelines of their scholarship program in the application as evidence that services will be provided only to eligible beneficiaries.*

51. Is an animal shelter an eligible expense under a Public Service Activity?

*Shelters for animals do not meet the national objectives of the CDBG program and therefore are not eligible for CDBG funding.*

52. If a jurisdiction was funded for a Public Service Program in a prior year, can it apply for the same public service for this round, unless they can document a quantifiable increase?

*Regulations state that in order to be eligible for CDBG funding, a public service activity must be new or have encountered a quantifiable increase in demand over the past 12 months. In the Guide to National Objectives, there is language that discusses the services that have been previously funded but funding has decreased or is in imminent danger of being decreased. An existing service that was previously funded with CDBG is treated as an exception from the new or increased need for a service eligible for funding and will be considered for funding only if the application clearly demonstrates the impact that would occur if the services are not funded. Before applying for new CDBG funding, applicants are advised to look at their program income balances and current open grants that include such services and make a determination if it would be more feasible to add program income to the open grants to ensure continuity or funding.*
53. If a City or County receives funds from another agency and those funds are at risk of being cut, can the City/County replace the funding with CDBG funds?

If local funds are used to operate the programs, there needs to be an exceptional reason demonstrated and documented in the application for the City or County’s inability to fund it. The intent of the requirement is to prevent CDBG funds from replacing local funding for public services; therefore reasons such as “we don’t have sufficient funds” are not acceptable, as most local governments are in a similar situation.

54. A jurisdiction is proposing a new shed (energy efficient) to house the ambulance because if they cannot start the ambulance during the winter months in the existing shed, it could threaten the health and/or welfare of the community. Is this an urgent need?

This public facility activity would not qualify under the Urgent Need National Objective because it is not curing an immediate and serious threat that occurred within 18 months prior to application deadline, but it may be applied for under the TIG Benefit National Objective.

55. Can funds awarded for a Public Facility activity be used for architectural plans or is this a planning activity?

Architectural fees are an eligible expense under the public facilities activity along with construction or rehabilitation costs. Readiness points under the public facility activity may be awarded if the architectural plans are complete at the time of application.

56. What activity is eligible to apply for under a proposal to purchase group homes for disabled adults?

Group homes for disabled adults are to be applied for under Public Facilities.

57. The County understands that a timeshare type activity is not allowed under public facilities. The County is proposing to provide a new roof for a building for a non-profit that will lease the facility to expand their services. This expansion would allow hosting a variety of community events such as plays, meetings, and movies. This lease allows the non-profit to use the facility for their events as well as renting the facility to other entities. All income generated would strictly pay for the operations of the building.

CDBG does not allow timesharing of multiple activities, particularly for eligible and ineligible CDBG uses. Multiple public services can occupy separate and identifiable square footage in a public facility. To be eligible for CDBG funding, public facilities owned by non-profits must be open to the general public during regular business hours. Cautionary note: Income generated from the activities will become Program Income and cannot be used for operation or maintenance of the building.
58. Regarding a proposed project which will use existing prescriptive easements for right of way, what type of documentation will be required to indicate site control?

Prescriptive easements are only a claim of a right and cannot be substituted for documented legal access; deeded access, a subdivision map or a judicial settlement are the only recognized forms of legal access. Perfecting an access claim from a servient tenement (grantor) must be done with a recorded deed, henceforth; conflicts between parties may result in lawsuits. As a result, CDBG funds cannot be used on projects with no legal access documentation. Title companies should be contacted when there is a question on legal access.

59. Can CDBG funds be combined to augment funds for NSP?

CDBG funds can be used in combination with NSP1 funds, as long as funds are not co-mingled; however, exercise caution because the beneficiaries, as well as requirements for the two programs are different. Please contact your NSP representatives before applying for a project that uses NSP funds, to ensure that all the requirements are met.

While CDBG funds could be combined with funds under ARRA, such as CDBG-R or NSP-2, the Department recommends contacting us prior to applying for such projects, as Davis-Bacon and Buy American provision can “spill over” to the regular CDBG funding.

60. We have “shovel ready” projects, but we don’t know whether to apply under the General Allocation or the new Stimulus Allocation. To determine whether to submit projects under the General NOFA or the Stimulus NOFA, we need to be able to compare the requirements and the rating criteria of each application. When will the Stimulus NOFA be issued?

Per the Substantial Amendment to the Action Plan posted on the Department website on June 17, and the email update sent on June 18, to meet the spirit and purpose of ARRA, the Department will consider for funding under ARRA, “shovel ready” projects that were applied for and were not funded in the 2008 round, and which have the greatest potential for economic impact. As a result, a NOFA for the CDBG-R purpose will not be released.