

Module 6

Timely Distribution and Timely Expenditures



TIMELY DISTRIBUTION AND TIMELY EXPENDITURE

GOAL: To provide participants with an understanding of the requirements for Timely Distribution and Timely Expenditure of State CDBG funds.

OBJECTIVES: Participants will be able to:

1. Understand the statutory and regulatory basis of timeliness in the State CDBG program.
2. Understand compliance with the timely distribution regulatory requirement.
3. Understand data contained in the monthly State CDBG Expenditure reports.
4. Understand how program design decisions can affect timely performance.

Time: 45 minutes

TIMELY DISTRIBUTION AND TIMELY EXPENDITURE

I. Flow of Funds

Congress appropriates funds to HUD. HUD grants funds to states and states distribute funds to Units of General Local Government (UGLGs). Program Income and Recaptured funds may be returned to the state. Funds must be distributed by the states in a timely manner.

II. Statutory and Regulatory References and HUD Guidance

Section 104(e) (2) of the Housing and Community Development Act indicates that [HUD] “shall...make...reviews and audits to determine – (2)...whether the State has distributed funds to units of general local government in a timely manner...”

24 CFR

570.494 indicates that :(a) States are encouraged to adopt and achieve a goal of obligating and announcing **95** percent of funds to units of general local government within **12** months of the state signing its grant agreement with HUD.

b) HUD will review each state ...The state’s distribution of CDBG funds is timely if: (1) 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; ...”

This means that all of the State’s annual grant (excluding administration) must be distributed within 15 months of the state signing its agreement with HUD.

HUD Notice CPD-06-12

This Notice establishes HUD’s policy and standards for the timely distribution of Community Development Block Grant (CDBG) funds by States.

III. Key Deadlines in the Process

- Consolidated Plan / Grant Application
 - Must be submitted at least 45 days before start of Program Year
- HUD review / approval
 - 45 days after receipt
- Congressional release of funds-HUD’s notification to Congress of award amounts

- State signature (State grant agreement with HUD)
 - **This date begins the 15 month timeliness period**

IV. “Obligated and Announced”

The term “obligated and announced to” means the date on which a state officially announces the selection and awards of grants to its units of general local government. “Obligated” can be defined by any of the following methods (list is not exclusive).

- Contract
- Letter
- Press Release
- News Announcement
- Public Notice
- Etc.

V. Program Income and Recaptures

The state’s distribution of CDBG funds is timely if recaptured funds and program income received by the state are expeditiously obligated and announced to units of general local government. Regulatory Cite: **24 CFR 570.494...**

States should be able to demonstrate that Program Income and recaptured funds have been distributed as soon as practical within the state’s method of distribution.

VI. Timely Expenditure of Funds

There is currently no timely **expenditure** regulatory requirement for the State CDBG program in either statute or regulation.

There is a timely expenditure requirement in the Entitlement Program. It is cited below:

24 CFR 570.902

“... HUD will consider an entitlement recipient to be failing to carry out its CDBG activities in a timely manner if:

- (i) Sixty days prior to the end of the grantee’s current program year, the amount of entitlement grant funds available to the recipient under grant agreements but undisbursed by the U.S. Treasury is more than 1.5 times the entitlement grant amount for its current program year; ...”

This means that 60 days before end of the Program Year if the Entitlement

grantee has over 1.5 times the current grant amount unspent then grantee is untimely. Sanctions (grant reduction) may apply if grantee is still untimely a year later.

VII. State Expenditures

As a reminder, there is no timely expenditure regulatory requirement in the State CDBG program. Such a requirement could be established in the future. As a note, there is Congressional interest in appropriated funds not spent.

HUD tracks state expenditures via the Line of Credit Control System (LOCCS) and it is reported monthly to states. (Refer to sample report in notebook). On this report the two most significant indicators are:

1. The “Ratio of Unexpended Funds to Grant” This shows the number of years of funds that are unexpended in terms of the latest grant amount. States should pay careful attention to the trend of this ratio; is the ratio increasing over time (not favorable) or decreasing (favorable)? A ratio that increases from year to year because funds in the line of credit are increasing may be an indicator that projects are not on schedule.
2. The “Ratio of Funds Expended in the Last 12 Months to Grant” portrays a State’s drawdown rate in the last 12-month period compared to the latest grant amount. If the ratio is less than 1.0, the State is spending less than 1 year’s worth of money per year and the “Ratio of Unexpended Funds to Grant” will eventually increase. Conversely, if the ratio is greater than 1.0, the State is spending more than 1 year’s worth of money per year and the “Ratio of Unexpended Funds to Grant” will eventually decrease. Thus, a spending ratio of 1.0 or above will assure that excess funds do not accumulate in the State’s line of credit.

States should focus on the trend of the ratio rather than the particular ratio each month.

VIII. Benchmarks

The Entitlement regulatory timeliness standard may be inappropriate, as states need additional time to distribute funds to localities. States may wish to set a goal or target ratio to measure program performance.

IX. The Expenditure Report

As mentioned previously, HUD provides states with a monthly report that describes how timely a state is in expending funds. The report shows:

- the monthly listing of states ranked by the unexpended ratio (described previously)
- a chart showing individual state's ratios over 24 months
- a chart showing national average over 24 months, and
- a list of state rankings by program year group.

Refer to key definitions above. Note, HUD does **NOT** use relative rankings of states for program evaluation. These rankings are provided as a program management tool for states.

X. The State Chart

The State charts (see slides 22-24) track two ratios::

- 1)the unexpended balance ratio is a bar-graph and
- 2) the spending rate is a line across the bars.

The chart displays the current and prior year data. The unexpended balance ratio decreases as drawdowns are made and increases with each new annual allocation of funds.

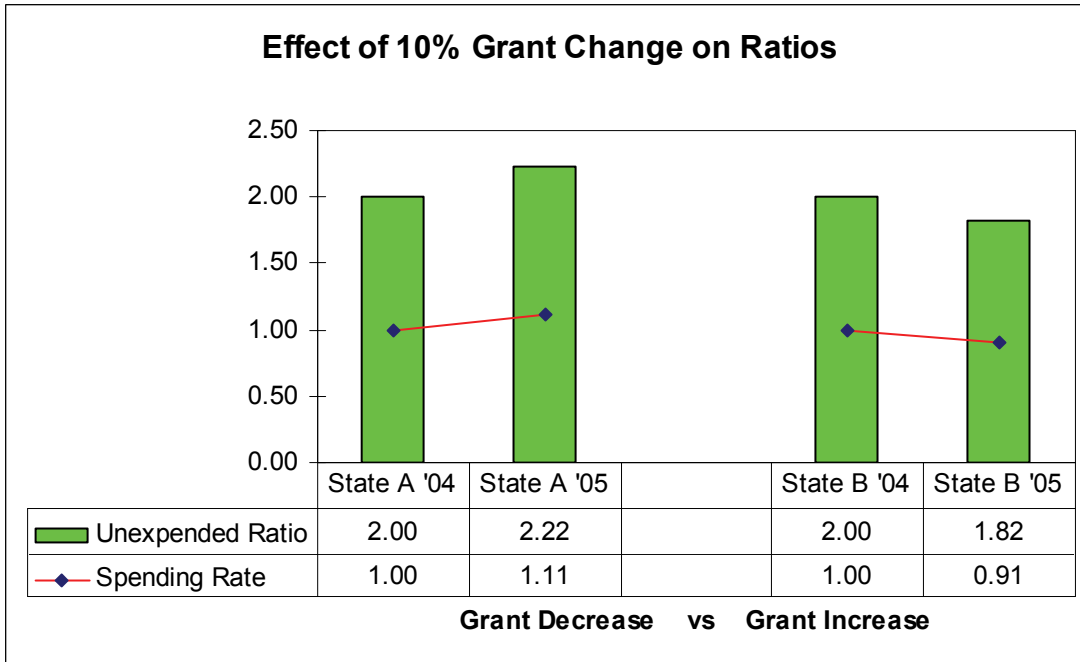
XI. The National Chart

The National chart (see slide 26) tracks a dollar balance and two ratios:

- 1)the dollar balance is a bar graph,
- 2) the unexpended balance ratio is a bar graph, and
- 3) the spending rate is a line across the bars.

The chart displays the current and prior year data

XII. Example of the Effect of a 10% Grant Change on Ratios



This chart illustrates the effect of a 10% change in a state’s grant amount from its previous program year. It demonstrates the effect of changes in the grant amount on the respective ratios.

States receiving a **decrease** in their grant will show an increase in both their Unexpended funds ratio (worse) and in their Expenditure rate (better) as soon as the new grant award appears in LOCCS. These states should review their expenditures with a goal of reducing their Unexpended ratio.

e.g: a grant (G) decreases from \$20M to \$18M.
 The Unexpended balance (B) is \$40M. Annual expenditure (E) is \$20M.
 Unexpended ratio (B/G): old 40/20 = 2.0, new 40/18 = 2.22
 Expenditure ratio (E/G): old 20/20 = 1.0, new 20/18 = 1.11

States receiving an **increase** in their grant will show a decrease in both their Unexpended funds ratio (better) and in their Expenditure rate (worse) as soon as the new grant award appears in LOCCS. These states should consider increasing their annual expenditures to at least equal the new grant amount.

e.g: a grant (G) increases from \$20M to \$22M.
 The Unexpended balance (B) is \$40M. Annual expenditure (E) is \$20M.
 Unexpended ratio (B/G): old 40/20 = 2.0, new 40/22 = 1.82
 Expenditure ratio (E/G): old 20/20 = 1.0, new 20/22=0.91

XIII. Program Design and Timeliness

Program Design can and does affect timeliness. Some of the things to consider that affect timeliness:

- Program Year start date
- Method of Distribution
- State statutes / constitution
- Politics
- State bureaucracy
- Type of activities
 - construction season
 - maximum grant size

Some ways to increase timely performance include:

- Holding 2 years competition at same time
- Separating planning from construction grants for large projects
- Requiring Environmental review to be complete at time of application
- Requiring specific performance / time-frame goals as condition for keeping grant

Refer to the Method of Distribution and Timely Expenditures handout on page 12 and to the “Methods for Improving Timely Performance” booklet for a detailed discussion about how Program Design can affect timeliness.

ADDITIONAL INFORMATION ABOUT TIMELY DISTRIBUTION & EXPENDITURE CONSIDERATIONS IN STATE PROGRAM DESIGN

Areas in which a state's program design & program implementation decisions affects a state's timely distribution of funds and expenditure of funds...and vice-versa:

Program year start date:

- Program year start date may have been chosen by an entity other than the CDBG agency
- Program year start date may have been chosen for reasons unrelated to the timing of states' funding cycles
- On the other hand, some states have specifically chosen their start date and timed their funding cycles to ensure timely distribution
- Some states have moved their program year start dates to provide for more timely distribution of grants and faster start-up of localities' grants
- Timing of grant funding cycles relative to program year start date (number, type, etc. of funding categories; awarding multi-year grants; awarding 2 years' funds simultaneously).
- Timing of program year start date relative to Federal Fiscal Year appropriations bills. January-start-date grantees rarely receive their grant funds on time.
- Delays in issuing the grant agreement between HUD and the state don't affect timely distribution compliance, but can affect the state's rate of expending that year's funds: localities may be delayed in receiving their awards and thus in beginning to implement activities.

Method of Distribution & Timely Distribution:

- State program design considerations that impact timely distribution:
 - type of funding process, number of people involved, review timetables
 - funding categories
 - amount of funding set-asides relative to demand for funds
 - multistage application processes
 - involvement of other state agencies in application reviews
 - involvement of regional planning organizations/councils of government in application reviews
 - combining two years' funding categories in changing start date or timing of funding cycles
 - Allowing float-funded activities or Section 108 loan guarantees
 - Readiness-to-go application threshold criteria or selection criteria
 - Past performance application threshold criteria or selection criteria
 - Awarding funds prior to HUD grant to state (pre-agreement costs)

- Retention of program income at local level vs. return to state—affects amount of funds to be re-awarded
- Aggressiveness in recapturing funds from UGLGs—affects amount of funds to be re-awarded
- State statutory or constitutional limitations:
 - Anti-deficiency limitations (can't start incurring costs before receipt of funds)
 - State rule-making procedures
 - Constitutional prohibitions against lending money to private businesses
 - Timing of state legislative appropriations/budget cycles
- Political considerations:
 - Change of administration (e.g. new Governor)—may delay new year's program, or outgoing administration may try to pre-commit next year's money
 - Philosophical or budgetary limitations on state staffing levels and state administration funds
 - Number of other federal/state programs administered by the staff that handle State CDBG
 - Legislative involvement in program design or funding decision processes

It may take a state several years from the time it decides to revise its process to the time those changes show up in an MOD, and another year or two before positive effects become noticeable

Examples:

- Putting more money into E.D. than there is demand for may result in chronic noncompliance with timely distribution
- A state staff not dedicated to just CDBG may get diverted into handling disasters or administering supplemental federal/state funding; this means less time gets spent on CDBG administration
- States can award grants to localities before having a grant agreement with HUD, but for their sake they should make such grants conditioned upon actual receipt of their grant from HUD
- States can even award grants before submission of their Action Plan (such as in awarding two years' worth of funds through one competition), but they still have to do an annual Action Plan and they still have to meet citizen participation requirements each year
- If states award grants prior to HUD grant award, they may need to allow grantees to incur costs prior to State contract issuance, and the state may need to advance its own funds to cover any drawdown requests prior to their Letter of Credit being increased.

Method of Distribution & Timely Expenditure:

- State program design considerations as they relate to prompt implementation of activities by state grant recipients, and overall state timely expenditure:
 - Size of maximum grant awards
 - Types of activities or communities state prioritizes for funding
 - When firm financial commitments are required for other funding sources
 - Planning/engineering grant or capacity building grants as precursors to construction grants
 - Timing awards to mesh with construction season
 - Allowing pre-agreement cost incursion
 - Length of time the state allows localities to complete activities in their contracts
 - Willingness by state to grant time extensions/contract amendments to extend grantees' deadline for completing activities
 - Float funded activities by localities
 - Use of revolving loan funds by localities
 - Requiring localities to use "certified grant administrators"
 - Requiring grantees to complete environmental review, have legal commitment of other funds, complete architectural/engineering work, procure a grant administrator, etc. before grant award
 - Setting deadlines for localities to complete environmental review, have legal commitment of other funds, complete architectural/engineering work, procure a grant administrator, etc. (e.g. within "X" days of grant award), and imposing penalties for missing deadlines
 - Involvement of other state agencies in environmental/historic preservation reviews, approval of funding contracts, approval of invoices, processing of drawdown requests, does State Auditor perform audits, etc.
 - Retention of program income at local level vs. return to state
 - Aggressiveness in recapturing funds from uglgs
 - State rules, laws, procedures regarding processing of drawdowns (frequency, involvement of State Treasurer or other agency, number of people reviewing, electronic funds transfers vs. mailing checks, Cash Management Improvement Act Agreement w/ Treasury
 - Number of other federal/state programs administered by the staff that handle State CDBG
 - Philosophical or budgetary limitations on state staffing levels and state administration funds
- Basic state philosophy of what it wants to accomplish:
 - Doing smaller/simpler projects that can be completed quickly vs. targeting the toughest problems or most unsophisticated communities
 - Making fewer, larger grants to substantially improve those communities vs. more, smaller grants to make some improvements in many communities

- HUD disapproving an incomplete/unacceptable Action Plan does not affect timely distribution compliance, but can affect the state's rate of expending that year's funds: localities may be delayed in receiving their awards and thus in beginning to implement activities.

It may take several years for state changes in its procedures to have a measurable effect on rate of expenditure (changes may only apply to new grants; each may only have a small incremental improvement but are significant in combination)

Examples:

- Funding lots of affordable housing projects or housing rehab projects may mean slow expenditure rates because these can be time-consuming, slow-moving projects
- Coordination of other funding sources (e.g. EPA + RUS + CDBG for infrastructure) can mean delays in project construction if CDBG \$ awarded before other sources are committed
- Allowing 108 projects which are combined with EDI or BEDI grants means waiting for HUD funding competitions to see if those funds will become available
- Some states practice "anti-creaming": targeting their money to the greatest need may mean funding grantees with no capacity, institutional problems, funding activities that will be very slow-moving
- A state staff not dedicated to just CDBG may get diverted into handling disasters or administering supplemental federal/state funding; this means less time gets spent on CDBG administration

Reporting/Recordkeeping & Timely Expenditure:

- State sub-granting of funds to units of local government in IDIS
- State drawdowns in IDIS can be sent directly to local government bank account
- State requirements re: retention of program income has implications for IDIS, state recordkeeping
- State requirements regarding level of financial documentation localities must submit with drawdown requests —and state approval process--affects other reporting requirements and affects speed of drawdown processing
- Electronic/automated reporting by localities to state

Timely Distribution and Expenditure of Funds
Comparison of Entitlement vs State Program

	Entitlement	States
Statute	Ref: HCDA § 104(e)(1) [HUD] “shall...make...reviews and audits to determine - (1)... whether the grantee has carried out its activities...in a timely manner...and whether the grantee has a continuing capacity to carry out those activities in a timely manner; ...	Ref: HCDA § 104(e)(2) [HUD] “shall...make...reviews and audits to determine - (2)...whether the State has distributed funds to units of general local government in a timely manner...”
Regulation	24 CFR 570.902 ... HUD will consider an entitlement recipient to be failing to carry out its CDBG activities in a timely manner if: (i) Sixty days prior to the end of the grantee’s current program year, the amount of entitlement grant funds available to the recipient under grant agreements but undisbursed by the U.S. Treasury is more than 1.5 times the entitlement grant amount for its current program year; ...	24 CFR 570.494 ...The state’s distribution of CDBG funds is timely if: (1) 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; ...
HUD Issuances/ guidance	Timeliness Bulletin, Jan 2001 Timeliness Policy Letter (Sanctions) 11/20/01 Pub HUD-2002-13A-CPD, Keeping Your CDBG Funds Moving (May 2002)	Notice: CPD-06-12
Distribution	Not applicable.	Regulatory requirement: 100% of funds obligated & announced within 15 months of grant agreement (goal of 95% within 12 months encouraged); Program income and recaptured funds are expeditiously obligated & announced.
Expenditures	Regulatory requirement: 60 days prior to end of program year funds available to the recipient but undisbursed by the U.S. Treasury can not exceed 1.5 times the grant amount for its current program year.	No expenditure requirement defined in law or reg.

	Entitlement	States
Statute HCDA 104(e)	[HUD] “shall...make...reviews and audits to determine - (1)... whether the grantee has carried out its activities...in a timely manner...and whether the grantee has a continuing capacity to carry out those activities in a timely manner; and	[HUD] “shall...make...reviews and audits to determine - (2)...whether the State has distributed funds to units of general local government in a timely manner...”
Regulation	<p>§ 570.902 HUD will review the performance of each entitlement and HUD-administered small cities recipient to determine whether each recipient is carrying out its CDBG assisted activities in a timely manner.</p> <p>(a) Entitlement recipients.</p> <p>(1) Before the funding of the next annual grant and absent contrary evidence satisfactory to HUD, HUD will consider an entitlement recipient to be failing to carry out its CDBG activities in a timely manner if:</p> <p>(i) Sixty days prior to the end of the grantee’s current program year, the amount of entitlement grant funds available to the recipient under grant agreements but undisbursed by the U.S. Treasury is more than 1.5 times the entitlement grant amount for its current program year; and</p> <p>(ii) The grantee fails to demonstrate to HUD’s satisfaction that the lack of timeliness has resulted from factors beyond the grantee’s reasonable control.</p> <p>(2) Notwithstanding that the amount of funds in the line of credit indicates that the recipient is carrying out its activities in a timely manner pursuant to paragraph (a)(1) of this section, HUD may determine that the recipient is not carrying out its activities in a timely manner if:</p> <p>(i) The amount of CDBG program income the recipient has on hand 60 days prior to the end of its current program year, together with the amount of funds in its CDBG line of credit, exceeds 1.5 times the entitlement grant amount for its current program year; and</p> <p>(ii) The grantee fails to demonstrate to HUD’s satisfaction that the lack of timeliness has resulted from factors beyond the grantee’s reasonable control.</p>	<p>§ 570.494 Timely distribution of funds by states.</p> <p>(a) States are encouraged to adopt and achieve a goal of obligating and announcing 95 percent of funds to units of general local government within 12 months of the state signing its grant agreement with HUD.</p> <p>(b) HUD will review each state to determine if the state has distributed CDBG funds in a timely manner. The state’s distribution of CDBG funds is timely if:</p> <p>(1) 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; and</p> <p>(2) Recaptured funds and program income received by the state are expeditiously obligated and announced to units of general local government.</p> <p>(c) HUD may collect necessary information from states to determine whether CDBG funds have been distributed in a timely manner.</p>