

Module 8

REPORTING AND RECORDKEEPING REQUIREMENTS



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Goal:

To learn about reporting and recordkeeping requirements under the State CDBG program and how to carry out those responsibilities at the field office.

OBJECTIVES:

1. To provide and discuss with participants model record keeping requirements.
2. To provide information on the Caper \PER.
3. To provide information on how the IDIS system is to be used in meeting reporting requirements.
4. To provide an opportunity for Field Office staff to discuss issues on CAPERS, PERS, and IDIS and to ask questions.
5. To provide information on how HUD closes out State grants.

Time: 1 hour

Materials: Model Recordkeeping Requirements (draft update)
CPD Notice 07-06(a), Interim Reporting Requirements for the State Performance and Evaluation Report (PER) pending Re-engineering of the Integrated Disbursement and information System (IDIS)

MODULE TALKING POINTS

- I. **BACKGROUND AND AUTHORITATIVE FRAMEWORK** - Reporting and record keeping are requirements of both the entitlement and state CDBG programs, however, there is a difference as to how they are implemented. Due to the maximum feasible deference concept of the State CDBG Program, reporting and record keeping under the State CDBG program can take many forms.
 - A. **HUD's Responsibilities** – HUD has the statutory responsibility to monitor and oversee the State CDBG Program, as well as responsibility to report to Congress annually on program progress. Section 104(e) of the HCDA (codified in the regulations at 24 CFR 570.493) requires that HUD (the Secretary) determine at least annually whether States have:
 1. Distributed funds to UGLGs in a timely manner,
 2. Followed the Method of Distribution as described by the State in their annual action plan,
 3. Carried out their responsibilities under program certifications, the statute, regulations, and other applicable requirements, and
 4. Made reviews of UGLGs to determine whether UGLGs have:
 - a. Carried out activities in a timely manner
 - b. Carried out their responsibilities under program certifications and requirements, and
 - c. Possess the continuing capacity to carry out program activities.
 - B. **State's Records and Reports** - Provide the Basis for HUD's Assessments. The regulations essentially say that the state shall establish adequate recordkeeping requirements for itself and UGLGs to allow us to carry out our responsibilities.
 - C. **Responsibility for Grant Administration** -- When a state accepts responsibility for administering the state CDBG program, it accepts the responsibility for establishing a record-keeping system that enables HUD to perform our required reviews and assessments (24 CFR 570.490), and the state to review its grant recipients' financial and project progress. The project progress is reported to HUD (24 CFR 570.491).

II. RECORDKEEPING REQUIREMENTS

- A. Two Facets: State Recordkeeping and Local Recordkeeping
- B. Requirements – Recordkeeping requirements are included in the State regulations (Subpart I) under 24 CFR 570.489 (Administrative, including Audits) and 24 CFR 570.490 (Recordkeeping).
 - 1. 24 CFR 570.490, covers the requirements for state records, UGLG records, record access, and record retention. Under 24 CFR 570.490(a)(2), the state shall keep records of its funding decisions reached under the method of distribution, as well as the criteria used in selecting the local government grant recipients, so that they can be reviewed by HUD, the Inspector General, Government Accountability Office and citizens.
 - a. State records – States and HUD will jointly agree on required state records sufficient to enable HUD to carry out our annual review responsibilities, and states will establish and maintain such records.
 - b. UGLG records – States will establish recordkeeping requirements for UGLGs sufficient to allow HUD and the State to carry out review responsibilities.
 - c. States and UGLGs must also keep Financial Management records.
 - d. Cross-cutting records that must be kept by both the State and UGLGs.
 - Civil Rights
 - Labor Standards
 - Relocation, Replacement Housing and Real Property
 - Acquisition
 - Environment
 - e. Records kept by the State and UGLG must specifically include data on the racial, ethnic, and gender characteristics of applicants, participants, and beneficiaries of the program.

- C. Model Recordkeeping Requirements – At the time the State CDBG regulations became effective (December, 1992) HUD and States agreed on the model recordkeeping requirements. The current version is in Appendix I of the State Guide, and is the reference to be used for evaluating recordkeeping systems. In the State Guide, HUD updated references, and described some of the limitations of this document – for example, since the model predates the regulatory requirement for public benefits standards, it does not include the requirement to have records to substantiate compliance with these standards.

HUD is in the process of updating the model recordkeeping requirements. HUD is providing you with a draft of these requirements and we ask for your feedback.

- D. State Systems and Flexibility -- Each state is required to verify that its grantees have recordkeeping systems and report progress to the state. The state may prescribe procedures for grantees or leave it for each grantee to devise as long as the objectives and requirements are met. According to 24 CFR 570.489(d), the state must ensure that the funds are being used in compliance with all applicable statutory and regulatory provisions; funds are being used for reasonable and necessary costs of operating the programs; and that funds are not spent to carry out other responsibilities of state and local governments. States also may adopt procedures that are more restrictive than required by HUD.
- E. Record Retention -- States AND UGLGs are required by 24 CFR 570.490 (d) to retain records for the **greater** of three years from HUD's closeout of the grant to the state (not the state's closeout of individual grants) or the period required by 24 CFR 570.487 (other applicable laws) and 24 CFR 570.488 (displacement, relocation, etc). Records that are the subject to an investigation, audit or review should be retained until the reviews are completed in order to allow HUD to complete its oversight functions.

Citizen participation record retention requirements for States are listed in the Consolidated Plan regulations, 24 CFR 91.115(g). States and UGLGs are required to make records available/accessible to the public, as well as the state's and UGLG's use of funds from the formula programs covered by the Consolidated Plan, for the preceding five years. Because this rule is newer than the State CDBG regulations (1995 vs. 1992) and is broader (covers all 4 formula programs), it takes precedence.

So what this ultimately means is:

- Local governments have to keep records for grant recipients
- States have to keep records for five years after the fiscal year of their grant, or for 3 years after closeout of the grant from HUD to the state for that fiscal year, whichever is longer. Since it generally takes states more than five years before they are ready to close out a given year's grant from HUD, the 3-years-after-closeout period is likely to be the later date.
- Other applicable laws may require certain types of records to be retained for even longer.

F. Access to Program Records [24 CFR 570.490(c)]

1. HUD, IG, and GAO have access rights to all records about program administration, receipt, and use of funds.
2. State will provide citizens with reasonable access to information about past use of CDBG funds, and ensure that UGLGs do the same (Note – personal records are subject to state and local privacy laws.)

G. Failure to Document versus Failure to Comply - 24 CFR 570.493(b) stipulates that “A State’s failure to maintain records . . . **MAY** result in a finding that the State has failed to meet the requirement to which the record pertains.” Field staff have the option to make a “failure to document” a compliance finding. Staff may want to consider factors like whether this is an oversight or isolated incident, or an overall system inadequacy in deciding whether to make findings based on inadequate documentation.

H. Summary:

- States have to keep records of local governments and local governments have to keep records for grant recipients.
- States have to keep records for three years after the fiscal year of their grant, or for 3 years after closeout of the grant from HUD to the state for that fiscal year, whichever is longer. Since it generally takes states more than five years before they are ready to close out a given year's grant from HUD, the 3-years-after-closeout period is likely to be the later date.
- Other applicable laws may require certain types of records to be retained for even longer.

III. REPORTING REQUIREMENTS

24 CFR 570.491 (Reporting). States will submit an annual performance and evaluation report consistent with Consolidated Plan requirements located at 24 CFR Part 91.

24 CFR 91.520 Consolidated Plan reporting requirements –

General –

- Progress in carrying out Consolidated and Annual Plans.
- Description of available resources and investment.
- Geographic distribution of investments.
- Families and persons assisted (numbers and racial/ethnic).
- Actions taken to Affirmatively Further Fair Housing.
- Comparison of the proposed versus actual outcomes for each outcome measure and explain if applicable, why progress toward meeting goal was not made.
- Other actions.

CDBG –

- Description of the use of CDBG funds during the year.
- Assessment of that use compared to plan objectives.
- Nature of and reasons for changes in program, and what changes are planned based on experience during the year.
- Number of extremely low, low, and moderate-income persons served by each activity where required for eligibility and national objective compliance, PER.

A. Performance Report: Timing and Due Dates -- Each state establishes its' program year cycle; and performance reports are required to be submitted to the respective HUD field office no later than 90 days after the end of the program year. If the 90-day deadline ends on a non-business date it must be submitted the previous business day.

1. Grants Management System – A State reporting cycle is related to its program year. For HUD Field Staff, functions for our review and assessment of the State CDBG program relate to both the State’s program year cycle and the phases of the Grants Management System. As a reminder –

Day 1 Grantee begins program year

Day 75 CAPER report from PY available to citizens

Day 90 CAPER report due to HUD, HUD begins report review and annual community assessment

Day 150 HUD sends prior year review letter to grantee

Day 180 Grantee comments on prior year review letter, HUD revises if necessary

Day 210 HUD finalizes prior year review letter, now available to citizens

Day 285 Grantee makes Consolidated Plan available to citizens

Day 315 Consolidated Plan Due to HUD

2. What Do Reports Include Currently?

- a. **CAPER** (Consolidated Annual Performance and Evaluation Report)

Annual reporting requirements are met through the CAPER, a consolidated report for all 4 formula grant programs (CDBG, HOME, ESG, HOPWA) to be submitted to HUD within 90 days after the close of the jurisdiction’s program year. Subpart D of Part 91 contains the Consolidated Plan content requirements for the State program, and 24 CFR 91.520, prescribes the requirements for performance reports.

- b. **PER** (Performance and Evaluation Report)

This is the State CDBG portion of the CAPER. The annual report for states is called the Performance and Evaluation Report (PER). The requirements for this report are in CPD Notice-07-06(a) (see appendix).

There is a fundamental difference between how the Entitlement program and the State program track funding. In the Entitlement program, funds are essentially tracked on a program year basis: what was obligated and expended during program year 2007 (e.g. 7/1/07 – 6/30/08), regardless of what year’s money is involved. The State program tracks money over the life of a given fiscal year’s allocation (e.g. the FY 2008 grant). A state’s PER is essentially a series of PERs, one for each fiscal year’s allocation that is still open, showing what has been done with that allocation during the program year addressed by the CAPER.

The PER is comprised of 2 parts:

1. Part I summarizes the financial status and national objective expenditures for each open grant. It also includes detailed information for each funded activity. Notice CPD-07-06(a) now provides that states may submit the standard IDIS PR03 report to satisfy the activity detail requirement. Current plans for reengineering IDIS will permit states to generate Part I of the PER directly from IDIS with no additional manual submission required.
2. Part II is a narrative statement describing how the state carried out its Strategic plan and Action plan for the program year. The contents of the narrative are specified at 24 CFR 91.520.

c. **IDIS** (Integrated Disbursement and Information System) Reports

IDIS is the draw down and reporting system for the four CPD formula grant programs. It is a nationwide database which provides HUD with current information regarding the program activities underway across the Nation, including funding data. HUD uses this information to report to Congress and to monitor grantees. The system allows grantees to request their grant funding from HUD and report on what is accomplished with these funds. It provides a set of pre-configured reports which grantees may use to track, review and monitor their grant program activities. More information on IDIS and current plans for system reengineering is included in Module 10.

D. What About Field Review Guidance?

1. Consolidated Plan Regulations at 24 CFR 91.520, include a list of the required performance report components for the CDBG program.
2. CPD Notice 07-06(a), is the most current guidance on review of PER information and includes a PER review checklist (in manual).

E. Field Review Timing – CAPERs are submitted 90 days after the state's program year end. Field staff should complete their substantive review of the CAPER/PER in order to remain on track with the GMP timetable.

V. CLOSING OUT STATE CDBG PROGRAM GRANTS

CPD Field Office and State staff must make the necessary reviews and audits to ensure that statutory and regulatory requirements that govern the State CDBG program have been met prior to closing out a State CDBG program grant.

A. General Close-out Criteria - HUD can close out a State CDBG grant when the following criteria have been met:

1. The state has disbursed to recipient units of general local governments (UGLGs) all CDBG funds included in the Method of Distribution for the fiscal year whose grants are to be closed out, except funds remaining for state administrative expenses and audit;
2. Section 104(e)(2) of the HCD Act stipulates that HUD's reviews and audits must document that the State has distributed its CDBG funds to UGLGs in a timely manner and in conformance with the method of distribution in its statement, and that the State has carried out its certifications in compliance with this statutory requirements of the HCD Act and other applicable laws. The State is required to make such reviews and audits of UGLGs as may be necessary and appropriate to determine whether they have satisfied the applicable performance criteria and ensure that all CDBG-funded activities are eligible and meet a national objective;
3. As part of the financial review, CPD Field Office must confirm that the 15% public services cap and 20% planning and administration cap are not exceeded; and that administrative costs and technical assistance (TA) do not exceed the 3% combined threshold and that the state has met the required match for administration; and
4. The audit(s) of the state covers all funds in the allocation to be closed; there should be no outstanding monitoring and/or audit findings. Where costs have been incurred since the most recent audit, the state may enter into a written agreement which will require the state to submit to HUD the amount of any costs not allowed by subsequent audits or CPD Field Office reviews.

B. Financial Reviews

CPD Field Office must be able to confirm the following:

1. CPD Field Office must confirm that the 15% public services cap and 20% planning and administration cap are not exceeded.

2. Administrative costs and TA do not exceed the 3% combined total, and the State has met the required match for administration).
3. Program Income-(system must be in place to account for and manage all program income earned).
4. Program Income at the Local level—whether received before or after closeout of the grant, PI is treated as additional CDBG funds & subject to requirements of the Act (unless it totals less than \$25,000 in a single year).

C. Preparation of Financial Status Report

1. The State completes the Financial Status Report and it is sent to HUD within 30 days after the State has satisfied the criteria for closeout of the grant.
2. State may use any format for the report pursuant to 24 CFR 570.489(d) (2) provided:
 - a. Information is officially certified for accuracy.
 - b. HUD is able to determine that the total grant allocation is consistent with the grant agreement amount.
 - c. Program income is accounted for.
 - d. The total amount expended is shown.
 - e. Estimates have been made for any third party claims remaining.
 - f. The total amount of grant funds to be cancelled is shown.

D. Review of Financial Report

Upon receipt of the form, HUD will:

1. Ensure the accuracy of the report, that the necessary reviews have been completed and that the report is consistent with other available information (e.g. LOCCS information).
2. Prepare a letter or certification signed by Director of CPD (certifies HUD's approval of information for the Fort Worth Accounting Center).

E. Proposed Changes to the Close-out Procedures

A new Close-out Notice will include:

1. A format that enables States to close out CDBG program grants from Fiscal Year (FY) 1982 to FY 2005.
2. Streamlined procedures for closing out grants where the criteria for closeout have been met for grants awarded beginning in FY 2006.
3. The format includes a verification process and a certification that State CDBG funds have been properly spent and that all other aspects of the program have been completed in a timely manner.

F. Conclusion:

Closing out grants enables states to properly account for CDBG funds expended and to determine the applicable dates for record retention purposes, as well as eliminate the burden of having to submit annual performance and evaluation reports for grant years that are closed out.