

Program Design and Method of Distribution



U.S. Department of Housing and Urban Development



State Responsibilities

- ◆ **Each state is responsible for designing its own program, setting funding priorities and selecting recipients.**
- ◆ **Philosophy of the Program is to give states...**





Maximum Feasible Deference

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Maximum Feasible Deference (MFD)

- Intent is to give states the ability to interpret the law
- As long as the interpretation is not inconsistent/contradictory with the HCDA of 1974, as amended
- MFD is not in the Statute; in the regulations at 24 CFR 570.480(c)





State Program Design-Major Components

- **A Consolidated Plan-identifies conditions, needs and priorities**
- **A Method of Distribution (MOD)-identifies kinds of activities and communities the State wants to fund**
- **A Citizen Participation Process-both at the State & Local Level including a process for dealing with complaints**





State Program Design-Major Components (Continued)

- **A Set of Administrative, Fiscal & Procedural Requirements to be followed in implementing activities**
- **A System by which the State draws & tracks the dollars—both those drawn from the Line of Credit and for program income, at both the local government and the State level**





State Program Design-Major Components (Continued)

- **A Process by States to ensure that grantees are carrying out their activities in compliance with all Federal & State Program Requirements**
- **Processes for Closing Out completed activities/grants and obtaining/reviewing audits thereof**





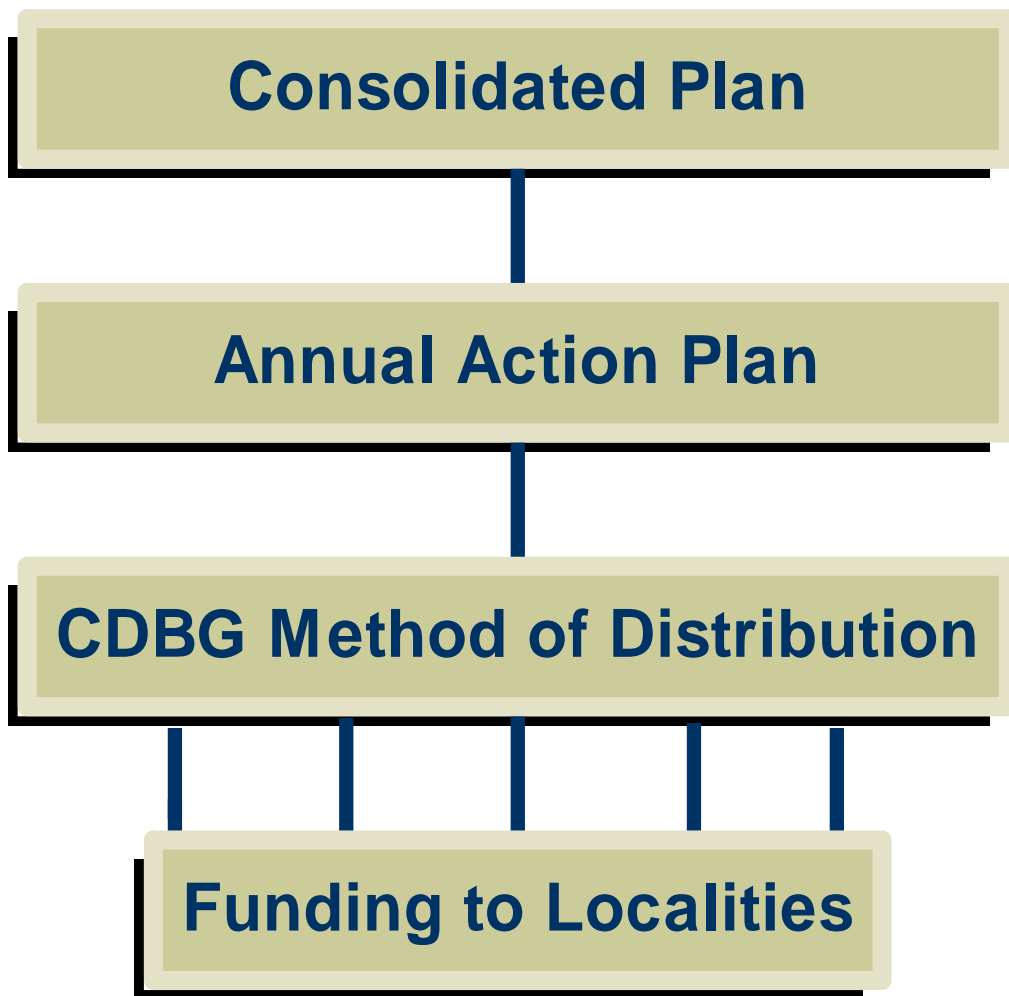
State Program Design-Major Components (Continued)

- **A Process for Collecting Program Accomplishments and reporting performance to HUD**





The Flow of CDBG Funds to Local Governments





Common Funding Categories

- **Comprehensive vs. Single Purpose**
- **Separate Public facilities/Economic Development/Housing Categories**
- **Separate Urgent Needs Category**





Common Funding Categories-continued

- **Planning Only Grants**
- **Mini-Entitlements**
- **And many others...**

State must consult with UGLGs in developing MOD and spell out all selection criteria





Common Selection Processes

- **Funding Competitions-annual or multiple rounds per year**
- **First come, first serve, non-competitive**
- **Two stage, pre-application/full application**





Common Selection Processes-continued

- **Formula mini entitlement**
- **Regional Fair Share**
- **Can mix and match (one category first come, first serve, others competitive...etc.) as long as this is spelled out in MOD.**





Distribution of Funds to Local Governments

24 CFR 91.320(d) states that the grantees' action plan must contain:

- **A description of the States' method for distributing funds to local governments;**
- **A description for using funds expected to be received under formula allocations, related program income and other HUD assistance during the program year; and,**





Distribution of Funds to Local Governments (continued)

24 CFR 91.320(d) states that the grantees' action plan must contain:

- A description of how the proposed distribution of funds will address the priority needs & specific objectives**





Distribution of Funds to Local Governments (continued)

24 CFR 91.320(e) states that the grantees' action plan must contain outcome measures for activities included in its action plan in accordance with guidance issued by HUD.

- **Is incorporated into IDIS**
- **Consists of three objective categories, and three outcome categories**
- **Based on choice of objective and outcome, as well as national objective, IDIS will identify the specific indicators to be used for the activity.**





Distribution of Funds to Local Governments (continued)

24 CFR 91.320 (f) continues by stating that action plan also must have:

- **A description of the geographic areas of the State to which it will direct assistance, including:**
 - **Areas of minority concentration**
 - **Rationale for the State's geographic investment priorities**





Method of Distribution

24 CFR 91.320 (k) states that the MOD shall contain a description of:

- **All criteria used to select applications, including the relative importance of the criteria if developed**
- **How all CDBG resources will be allocated among all funding categories**
- **The threshold factors & grants size limits to be applied**





Method of Distribution

24 CFR 91.320 (k) further states that the MOD must provide sufficient information so that units of general local government will be able to:

- **Understand and comment on it;**
- **Understand how their applications will be judged;**
- **Be able to prepare responsive applications.**

24 CFR91.320(k) (1)(i) permits HUD to monitor the method of distribution as part of its audit and review responsibilities under §570.493(a)(1).





Method of Distribution

The MOD may provide a summary of the selection criteria, providing that the details are set forth in application manuals and widely distributed.





Method of Distribution

The MOD shall also contain descriptions of:

- Any available Section 108 loan guarantee amounts & how applications will be selected, if state will allow 108s
- The State's process & criteria for approving local community revitalization strategies, if the state will allow CRS





Method of Distribution

§570.490(a)(2) :

- Added in 2006 to require states to keep records of their funding decisions reached under their MODs
- “including all the criteria used to select applications from local governments for funding and the relative importance of the criteria (if applicable), regardless of the organizational level at which funding decisions are made...”
- Real life example





Distribution of Funds- Statutory References

HCDA Section 106(d)(2)(C) requires a State to certify that:

- **It will not refuse to distribute \$ to any UGLG on the basis of the eligible activity selected by the UGLG to meet its needs, but..**
 - This does not prevent a State from establishing priorities in distributing such amounts on the basis of the activities selected
- **It has consulted with local elected officials from UGLGs in determining the MOD**





Distribution of Funds-Statutory References

HCDA Section 120 states:

No community shall be barred from participation in any program authorized under this title solely on the basis of population...





Method of Distribution— Current Issue

- **Issue of HUD reviewing ConPlan and later finding the implementation of the MOD results in a monitoring finding**
- **Bar for approval of ConPlan low—unless substantially incomplete, ConPlan is approved**





When Developing the MOD, States Must...

- Identify the total amount of resources available (including PI and recaptures)
- Identify funding categories and dollar amounts per category
- Specify application deadlines, thresholds, applicability of 108, CRS, floats
- Provide specificity in selection criteria
- Memorialize internal application processing procedures to support decisions





Examples of Unclear State Application and Selection Criteria-Example 1

“Negotiations of financing assistance will include, but are not limited to, any or all of the following considerations:

- **Amount of financial assistance is not excessive**
- **Reasonableness of Costs**
- **Community commitments**
- **Level of risk**
- **Labor Market Considerations**
- **Other public benefits”**





What's Wrong with These?

- **Implies that there are other criteria not mentioned that the State may apply arbitrarily**
- **Specific factors are vague & undefined –what does state mean by these?**
- **Relative terms for which no definition or point of reference is provided; no indication of how the state will make such value judgements**





HUD's Expectations

- States must include ALL criteria to be used
- States should define terms they use
- The selection criteria should describe what data, factors or benchmarks will be used to evaluate applications, even if they are not absolute limits.
- While making its normal expectations clear, the State can describe the conditions under which it will consider applications, which do not meet benchmarks or negotiable criteria.





Examples of Unclear State Application and Selection Criteria-Example 2

“All Single Purpose grant applications will be scored against the following selection factors based on the applicant’s response:

- **Relative need & purpose for the project. (20 points)**
- **Health/safety considerations (0-20 points)**
- **Strength & extent of financial commitments from other sources. (0-30 points)**





Examples of Unclear State Application and Selection Criteria-Example 2 (cont)

- **Conformance with the County Plan (0 or 10 points)**
- **Project maturity (0-20 points)**
- **Rate of expenditure on previously-funded grants (0-20 points based on expenditure rate)”**





What's Wrong with These?

- **Specific factors are vague & undefined – what is project maturity or “health & safety”**
- **Relative terms for which no definition or point of reference is provided; no indication of how the state will make such value judgments**
- **Do you have any idea what kind of description/response they are expecting from applicants?**

(cont.)





What's Wrong with These?

- It's unclear whether points will be awarded across the range of points (0-5-10-12-18 etc), or is it all-or-nothing (you either get 0 or you get 20)?
- Editorial comment: Factor # 1: considers “relative need” but implies that you get 0 or 20 points—how does that differentiate relatively greater or lesser need?
- Editorial comment: Factor #2: must there be a health & safety consideration for every type of project the state will fund?





HUD's Expectations

- **State should define terms they use**
- **The selection criteria should describe what data, factors or criteria will be used to evaluate applications**
- **Applicants need to know what they are expected to submit**
- **Both State staff and applicants need to know how points will be awarded**
- **Both State staff and applicants need to know on what basis a higher or lower number of points would be awarded within the specified range**
- **Can use Urgent Need, High, Moderate and Low Need if defined**





Examples of Unclear State Application and Selection Criteria-Example 3

- **“The State’s CDBG program is competitive in nature; applications may be submitted at any time throughout the year. The State will evaluate and rank applications using the following criteria:**
- **The State recommends that applications not exceed \$200,000. A grant award should not exceed \$1,000,000; the state may waive this.**
- **A minimum local match of at least 40% of the project cost is encouraged. Matching requirements will be determined on a case-by-case basis at the point of grant award.**

(Cont.)





Examples of Unclear State Application and Selection Criteria-Example 3

- **The State will consider the applicant's population, proposed activities and ability to carry out the program in determining appropriate grant amounts.**
- **In assessing project impact, the State will consider: the level and nature of benefits to be achieved; and environmental considerations, including site selection standards.**
- **The Commissioner will consider staff recommendations in making grant awards. The Commissioner's funding decisions are final."**





What's Wrong with These?

- Implies that there are other criteria not mentioned that the State may apply arbitrarily
- Specific factors are vague & undefined –what does state mean by these? (e.g. *Whose* site selection standards?)
- Relative terms for which no definition or point of reference is provided; no indication of how the state will make such value judgments





What's Wrong with These?

- **Unclear when or how State will consider waiving the \$1,000,000 grant ceiling**
- **How will state evaluate & rank applicants against these criteria? (How *could* they?)**
- **How is this a competitive process?**
- **The Commissioner reserves the right to fund whomever he/she wants based on unspecified criteria!**





HUD's Expectations

- **The MOD should accurately describe the nature of the process**
- **State must include ALL criteria to be used**
- **The State should define terms they use**
- **The selection criteria should describe what data, factors or criteria will be used to evaluate applications**
- **Applicants need to know what they are expected to submit**
- **Where a State reserves the right to exceed maximums/minimums, it should explain the situations in which it will consider doing so**





Other HUD Expectations

- State should identify *all the specific* information they want to see, for *each* selection factor
- Different selection criteria call for different types of information, data or evidence. If there are minimum requirements for what a fundable application must contain, the state should say so
- If competitive, State should relate the degree, detail or quality of information/ evidence to how it will score the application





Example 4

Loan Committee will meet and determine which ED applications to fund.





What's Wrong With This?

No indication of any criteria that the loan committee will use to evaluate applications.





Common Responses:

- “Trust us—city managers know what we want to see...”
- “Objective scoring takes out the human factor and destroys local input...”
- “Don’t worry that it’s complicated...that’s what consultants are for”
- “The Gu’mint shouldn’t be telling us how to spend our money...”
- Have you heard a good one?

