



October 11, 2022

Tia Boatman Patterson
Associate Director of Housing, Treasury, & Commerce
Executive Office of the President
Office of Management and Budget
725 17th St NW
Washington, DC 20503

Dear Associate Director Patterson:

The COVID-19 presented considerable and widespread challenges to the American public. Due to the CARES Act, federal assistance offered key resources for states and localities to respond to their needs. A critical resource in this legislation has been the Community Development Block Grant (CDBG) program. Supplemental funds through CARES (CDBG-CV) have addressed important relief measures for housing, public services, and related areas promoting public health and safety.

In August 2020, HUD issued a program notice on CDBG-CV: FR-6218-N-01 (85 FR 51457).¹ The notice includes a requirement for state and local grantees to expend 80% of funds within three years of availability of funds (and 100% within six years). Understandably, the HUD-directed deadline was applied for recipients to use funds expediently in response to the pandemic. Program administrators, sub-recipients, and related stakeholders have unfortunately been challenged to meet this requirement due largely to circumstances outside of their control. These include:

- Changing needs of pandemic response
 - From March 2020 onward, circumstances with the pandemic have varied to how states and localities meet timely needs. CDBG-CV use could appear helpful to one activity and planning take place to support this response; however once the activity was underway or near implementation, public health directives would be updated and planned activities may no longer be relevant. The availability of

¹ Federal Register. 85 FR 51457. Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs. Published August 20, 2020. <https://www.federalregister.gov/documents/2020/08/20/2020-18242/notice-of-program-rules-waivers-and-alternative-requirements-under-the-cares-act-for-community>.

vaccines, for instance, shifted priorities from social distancing and related measures to vaccine access.

- Availability of other assistance
 - CARES Act along with \$5 billion for CDBG-CV included \$150 billion in flexible resources for states and localities to use for pandemic response. Subsequent federal aid was directed for rental and homeowner assistance. Further, through the American Rescue Plan Act (ARPA), states and localities received another \$350 billion for COVID-19 recovery. Each tranche of federal aid directly impacted CDBG-CV's use to ongoing pandemic needs. Perhaps the clearest example is related to housing activities. Ahead of Treasury housing assistance, many states and local CDBG programs aimed to use CV funds for rent and mortgage assistance. Treasury funds amounted to much more funding and greater flexibility compared to CDBG-CV; these resources also needed to be expended within a shorter timeframe than CV. As a result, CDBG-CV was reconsidered for other uses which requires additional time and effort for alignment with new activities.
- Capacity and supply chain challenges
 - Staff retention and attraction adds another layer of difficulty to program implementation. Capacity limitations have affected not only state and local CDBG administrators but essential partners as well including non-profits, contractors, and other government entities. Further, recent supply chain issues have cause considerable disruption to developments as well. As a result, costs associated with both labor and materials have increased significantly. Projects must either secure additional financing or update scope of work to meet the revised costs; either scenario likely means delays to projects in progress.

A third of CDBG-CV funds has been expended as of May 2022 (33%).² Many states and localities entered into grant agreements with HUD starting in mid-to-late 2020; for these grantees, the deadline to expend 80% of funds will be within one year or less. Unfortunately, conditions will likely not improve significantly enough to accommodate this timeline. HUD will in turn need to respond to grantees which fall out of compliance and cannot meet the expenditure requirement; this involves agency field staff reviewing individual grantees and apply findings with corrective actions. The depth of time and effort involved in this process – amid other responsibilities overseen by HUD personnel – will upend progress on activities already underway, and pose undue burdens on both agency staff and program administrators.

² U.S. Housing and Urban Development. Summary Status of FY2020 CARES Act Funds. May 31, 2022. <https://coscda.org/wp-content/uploads/2022/06/Copy-of-Summary-Status-of-FY2020-CARES-Act-funds-as-of-MAY-31-2022.xlsx>.

NCDA and COSCDA communicated these concerns to HUD CPD leadership earlier this year, and offered an alternative to the current expenditure requirement. In a June 2022 letter,³ we urged HUD to revise the requirement from a three-year, 80% expenditure deadline to a three-year, 80% **obligation** deadline. With the obligation standard, state and local grantees can clearly demonstrate funds are being directed to an activity and progress is underway. The updated requirement – which CDBG-CV administrators largely agree can be accommodated - also ensures resources remain dedicated to meaningful activities avoiding recapture or other detrimental measures. HUD would be able to determine the definition of an obligation and apply it consistently across state and local programs.

Ultimately, by updating this requirement to an obligation standard, HUD effectively responds to ongoing conditions in program implementation, and aligns resources with a more practical timeline. It also prevents unnecessary actions by the agency upending state and local use of pandemic-response funds. The current expenditure requirement can be altered by HUD - it was established as a part of the agency's program guidance in addition to and not required by statutory directive.

Thank you for your consideration of this request. If we can share further details, please feel free to contact us. We look forward to our continued partnership in support of housing and community development activities.

Sincerely,



Vicki Watson
Executive Director
National Community Development Association



Dianne E. Taylor
Executive Director
Council of State Community Development Agencies

³ National Community Development Association & Council of State Community Development Agencies. CDBG-CV Request. June 21, 2022. <https://coscda.org/wp-content/uploads/2022/06/NCDA-COSCDA-CDBG-CV-RequestJune2022.pdf>.