



OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-7000

MAY 16 2013

MEMORANDUM FOR: All HUD Field Offices  
All Entitlement CDBG Grantees  
Insular Area CDBG Grantees  
Hawaii Nonentitlement County CDBG Grantees

FROM: Yolanda Chávez, Deputy Assistant Secretary  
for Grant Programs, DG

SUBJECT: Corrective Action for Violation of the Public Services and  
Planning and Administration Caps  
Community Development Block Grant (CDBG) Program

This memorandum provides guidance on the corrective action available when there has been a violation of the 20 percent planning and administration cap or the 15 percent public services cap, or both, by CDBG entitlement grantees. Information on these caps and the appropriate corrective action is presented below.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (HCDA) [42 USC 5305(a)(8)], codified at 24 CFR 570.201(e), states that no more than 15 percent of the entitlement grant made for that program year plus 15 percent of the program income received during the grantee's immediately preceding program year may be used for public service activities. The 15 percent cap was imposed by 1983 amendments to the HCDA. Under section 105(a)(8), certain grantees that were previously expending a higher percentage of their funds on public services are permitted to obligate more than 15 percent for public service activities, up to the percentage or dollar amount of their public service obligations in 1982 or 1983 (see Attachment 1). In addition, when a qualified Community-Based Development Organization carries out public service activities in a HUD-approved Neighborhood Revitalization Strategy Area, such public services are not counted against the 15 percent public services cap.

Section 105(a)(12) of the HCDA provides for the use of CDBG funds to pay planning and administration costs for the CDBG program. Section 105(a)(13) provides for the use of CDBG funds to pay planning and administration costs for the HOME Investment Partnerships Program (the HOME Program) and federally-approved Enterprise Zones. These provisions are codified in the Entitlement CDBG regulations at 24 CFR 570.205 and 570.206. The 20 percent planning and administration cap is not contained in the HCDA, but has been included in annual appropriations acts for the CDBG program since 1978. This provision is codified in the regulations at 24 CFR 570.200(g), which states that no more than 20 percent of the entitlement grant made for that program year plus the program income received by the grantee and its

subrecipients during that program year may be obligated for planning and administration costs. The 20 percent planning and administration cap is applicable to all planning and administration obligations authorized by sections 105(a)(12) and (13) of the HCDA.

Compliance with the public service and planning and administration caps is based on obligations rather than expenditures. (Attachment 2 provides an example of obligations versus expenditures in determining cap compliance.) HUD Field Offices must be sure that errors in computations are not made when making findings of non-compliance with the public service and/or planning and administration caps. When grantees exceeded the public service and/or planning and administration caps by obligating more than the permitted amounts, as a corrective action the Department has often permitted grantees to under-obligate by the amount of the overage in the following program year.

The regulations at 24 CFR 570.910 provide for corrective and remedial actions when there has been a deficiency in program performance or a violation of CDBG program requirements. While HUD has previously permitted under-obligation in a future year as an acceptable corrective action for over-obligation against these caps, this approach is not identified in 24 CFR 570.910. The Department's position is that the appropriate corrective action for a violation of the public service or planning and administration cap is to advise the recipient to reimburse its program account or letter of credit for any amounts expended in excess of the cap for the program year in question, and to reprogram the use of the funds in accordance with applicable requirements. The reimbursement must be made with non-federal funds, and generally within one year of the finding that the cap has been exceeded. The Department will not accept under-obligation in a following program year, or a voluntary grant reduction in a following year, as corrective actions for non-compliance with these caps.

HUD Field Office staff with questions concerning this matter may contact the Entitlement Communities Division at (202) 708-1577. Grantees with questions may contact their local HUD Field Office.

Attachments

**ATTACHMENT 1**

CDBG Entitlement Grantees with Exceptions to 15% Public Service Cap

<b>GRANTEE</b>	<b>STATE</b>	<b>PUBLIC SERVICE MAXIMUM PERCENT</b>	<b>PUBLIC SERVICE MAXIMUM DOLLARS</b>
Little Rock	AR	28.72%	\$660,000
Berkeley	CA	17.48%	\$572,842
Danbury	CT	21.96%	\$131,000
Greenwich	CT	16.25%	\$120,447
Meriden	CT	27.26%	\$220,000
New Britain	CT	22.76%	\$445,732
New London	CT	34.57%	\$317,700
Norwich	CT	23.28%	\$217,000
Waterbury	CT	15.13%	\$376,500
Des Moines	IA	22.00%	\$1,084,820
Chicago	IL	37.72%	\$40,000,000
Wichita	KS	18.90%	\$1,163,310
Boston	MA	18.00%	\$4,190,220
Fall River	MA	42.00%	\$1,278,060
Baltimore	MD	24.07%	\$6,616,500
Lewiston	ME	18.00%	\$178,000
Portland	ME	33.10%	\$752,000
Ann Arbor	MI	30.70%	\$396,000
Kalamazoo	MI	26.09%	\$495,880
Westland	MI	21.40%	\$380,000
St. Joseph	MO	19.80%	\$401,704
Clifton	NJ	20.18%	\$314,450
East Orange	NJ	19.00%	\$493,640
Elizabeth	NJ	20.80%	\$561,000
Irvington	NJ	20.00%	\$384,000
New Brunswick	NJ	18.00%	\$175,000
Newark	NJ	25.90%	\$3,496,915
Paterson	NJ	36.20%	\$1,449,000
Perth Amboy	NJ	28.00%	\$332,000
Trenton	NJ	24.50%	\$1,063,268
Woodbridge	NJ	28.60%	\$210,500
Albuquerque	NM	17.72%	\$763,200
Reno	NV	26.00%	\$265,720
Mount Vernon	NY	26.60%	\$574,000
Poughkeepsie	NY	31.90%	\$400,354
White Plains	NY	29.60%	\$332,200
Cleveland	OH	24.62%	\$7,731,000
Euclid	OH	27.74%	\$226,597
Lancaster	PA	21.00%	\$393,750
Providence	RI	20.91%	\$1,573,896
Houston	TX	16.77%	\$3,942,292
Seattle	WA	35.00%	\$4,876,431

Note - Grantees receive benefit of "whichever method of calculation yields the higher amount" per 42 USC 5305(a)(8).

## ATTACHMENT 2

### Example of Public Service and Planning and Administration Caps Being Based on Obligations

Grantee A's program year begins on July 1. Grantee A received \$500,000 in FY 2011 CDBG funds and \$40,000 in program income in program year 2010. Under the 15 percent cap, the grantee's maximum allowable obligations for public services for program year 2011 would be \$81,000. The grantee chooses to obligate the entire \$81,000. On June 15, 2012, the grantee has paid \$75,000 of its public service obligations, with the remaining \$6,000 due on July 15, 2012. For its 2012 program year, the grantee obligated \$80,000 for public services, which is 15 percent of its FY 2012 grant plus 15 percent of program income earned in program year 2011. By June 30, 2013, grantee A has expended all of its public service obligations during program year 2012 (\$80,000) and the \$6,000 that was obligated in program year 2011, for a total of \$86,000. This is acceptable, as the grantee did not obligate any more than \$81,000 for public services in program year 2011, although some of the obligations were not paid until program year 2012. Grantee A has also complied with the public services cap during program year 2013, even though its expenditures exceed 15 percent of its grant plus program income.

### Example of Previously Permitted Under-Obligation

Grantee B obligated seven percent more (or \$10,000) than it was permitted for planning and administration costs in its program year 2011. Previously, Grantee B would have been advised to under-obligate for planning and administration costs by \$10,000 in program year 2012, decreasing the amount it could expend for planning and administration costs for program year 2012.