



OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

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

MAY 13 2013

MEMORANDUM FOR: All CDBG Urban Counties
HUD Field Office CPD Directors

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

SUBJECT: Exchanging Community Development Block Grant (CDBG) Funds
between Units of General Local Government in Urban Counties

It has come to the Department's attention that participating units of general local government (UGLGs) in an urban county have been exchanging their CDBG funds with other participating local governments in the county. More specifically, units of local government in a county agreed to transfer their sub-allocations of CDBG funds received from the county to other participating local governments in the county, in exchange for a lesser amount of unrestricted local government funds. These exchanges took place with the tacit approval of the urban county.

Although HUD has only identified one Urban County grantee that engaged in this practice and while there is no explicit statutory or regulatory provision that prohibits such an exchange of CDBG funds, HUD discourages this practice. This is viewed as a violation of the spirit and intent of the CDBG program to serve low- and moderate-income persons. HUD will therefore ensure no other grantee will engage in this practice.

An urban county may distribute CDBG funds to participating UGLGs in the manner it chooses, but the county must ensure that its program meets all CDBG program requirements. As stated at 24 CFR 570.501(b), "the recipient [urban county] is responsible for ensuring that CDBG funds are used in accordance with all program requirements. The use of designated public agencies, subrecipients, or contractors does not relieve the recipient of this responsibility." The urban county is also responsible for preparing the Consolidated Plan/Action Plan and for making the required certifications identified at 24 CFR 91.225. Therefore, it is the urban county's responsibility to identify CDBG activities to be carried out, the location of those activities, and to ensure that funded activities are consistent with the Consolidated Plan and the objectives of the CDBG program. HUD is concerned that an urban county that allows UGLGs to exchange CDBG sub-allocations may, in essence, be delegating to local governments certain program management responsibilities that legally rest with the county, as the CDBG grantee.

If an urban county chooses to distribute CDBG funds to all of its participating UGLGs, the county's Action Plan must identify the specific activities and UGLGs that will receive funding, so that citizen participation requirements are met and so that the Action Plan meets the requirements of 24 CFR 91.220(d) and 91.225(b). In accordance with the provisions of 24 CFR 570.501(b) and

570.503, the county should set implementation deadlines on UGLGs for activities the UGLG will administer. If an UGLG does not identify a viable activity within the established deadlines, or does not carry out the initially-identified activity, it should be the county's responsibility, as the grantee, to determine when funds should be recaptured and to what other activities and communities the funds should be reallocated. Counties are reminded that such recapture and reallocation of funds is likely to trigger the requirements for substantial amendments to an Action Plan at 24 CFR 91.105(c) and 91.505.

HUD reserves the right to not recognize a cooperation agreement between an urban county and an UGLG if there is substantial evidence that the participating UGLG does not cooperate in the implementation of CDBG activities [see 24 CFR 570.307(b)(2)]. In such a situation, the UGLG would not be allowed to participate in the urban county's CDBG program, and its population and other demographics would not be used in determining if a county qualifies as an urban county or in determining the amount of the urban county's CDBG allocation.

For these reasons, the Department strongly discourages the practice of allowing exchanges of CDBG funds between urban county participants for any purpose. Should the Department discover future instances of this practice, the cooperation agreement between the urban county and the participating UGLG may not be recognized.

If you, or any member of your staff, have any questions concerning this matter, you may contact Stanley Gimont, Director, Office of Block Grant Assistance, at (202) 708-3587.