



Eric Garcetti, Mayor
Rushmore D. Cervantes, General Manager

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December 9, 2014

Council File: C.F. #14-1382, 14-0600-S125
Council District: Citywide
Contact Person: Edwin Gipson: 808-8597

Honorable Eric Garcetti
Mayor, City of Los Angeles
Room 303, City Hall
200 N. Spring Street
Los Angeles, CA 90012

Honorable Members of the City Council
City of Los Angeles
c/o City Clerk, City Hall
200 N. Spring Street
Los Angeles, CA 90012

Attention: Mandy Morales
Legislative Coordinator

Attention: Richard Williams
Legislative Assistant

COUNCIL TRANSMITTAL: REPORT BACK ON OPTIONS FOR OTHER FUNDING SOURCES TO ADDRESS THE LOSS OF FEDERAL FUNDING FOR THE CITY'S COMMUNITY BASED DEVELOPMENT ORGANIZATIONS (CBDO).

SUMMARY

On January 14, 2014, The Los Angeles Housing and Community Investment Department (HCIDLA) received a response letter from the U.S. Department of Housing and Urban Development (HUD) stating that HCIDLA could no longer provide Community Development Block Grant (CDBG) funding to CBDOs that provide services since, in HUD's determination, it would exceed the fifteen percent cap for federal CDBG Public Service funds. This letter was in response to HCIDLA's efforts to define the CDBG funding provided to the City's CBDOs as economic development-related services that are eligible under 24 CFR 570.204(b)(2)(i). In the letter, HUD stated its determination that the City's CBDOs are not doing economic development that relates to specific jobs being provided to specific employees of specific businesses. HUD determined that the activities being carried out by the City's CBDOs are public service activities and as such are subject to the fifteen percent cap as defined in 24 CFR 570.201(e).

In response to the loss of CDBG funding for the City's CBDOs, HCIDLA conducted extensive research and economic data testing into the possibility of creating several Neighborhood Revitalization Strategy Areas (NRSA) in the City. However, as has been discussed previously at the Housing Committee on November 12, 2014, NRSA's are problematic and do not work to solve the service cap problem for several reasons. First, HUD is desirous of ending the NRSA quasi program and has concerns of it being used to circumvent the fifteen percent service cap. Second, HUD has also made it clear that they would review very closely any NRSA's created by the City of Los Angeles after HUD's determination that our CBDOs are providing public services and not doing economic development. Third, the CDBG funding provided through the NRSA's would not replace the majority of the funding needed by the CBDOs and that is assuming that several CBDOs, were relocated to a NRSA approved area. Fourth, given that there are only three years left on the City's current Consolidated Plan, any NRSA's approved by HUD at this time would only exist for two years (approximately one year to get HUD's approval) before needing to repeat the entire approval process. Lastly, any replacement of City funds budgeted or expended on a project with federal funds would violate HUD's supplanting regulations.

Although a NRSA could be valuable for focused investment in a specific community to aid economic development, job creation, and supporting services, it would require a disciplined investment in those areas. A pilot could be done to assess the impact of a NRSA in a specific area and identify a community's revitalization needs, but it would not resolve the citywide services issue. When all of these issues are taken into consideration, the NRSA requirements diminish NRSA's as a practical solution to resolving service funding needs. Please see the attached NRSA Planning requirements for additional information.

RECOMMENDATIONS

The HCIDLA General Manager respectfully requests that:

1. Your office schedule this transmittal at the next available meeting(s) of the appropriate City Council committee(s) and forward it to City Council for review and approval immediately thereafter.
2. The City Council, subject to the approval of the Mayor, request the City Administrative Officer (CAO) and the Chief Legislative Analyst (CLA) to further explore funding options as detailed in this transmittal.

OPTIONS FOR CONSIDERATION

The following are the suggested options requested by the City Council to address the loss of federal funding for the City's CBDOs. It should be noted that after careful consideration, creating NRSA's is no longer a viable option for the citywide services challenge and therefore is not included in the following suggestions.

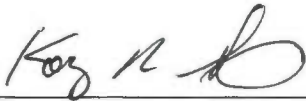
- A. The City of Los Angeles declare a Homeless Population Emergency and in turn request from HUD an emergency increase in the Public Service cap to twenty-five percent for the next five years (and if possible provide additional federal funds CDBG and HOME). This would be similar to when an emergency was declared after the Los Angeles Civil Unrest, and HUD subsequently increased the public service cap. With additional public and private funding and an increase in the HUD Public Service cap, it would be possible to effectively address the needs in Los Angeles.
- B. City and non-profit service entities enhance their connections to Los Angeles County. Many providers have other funding relationships with the County for services. These providers have begun discussions to further those relationships to identify other potential funding. HCIDLA will continue to encourage providers to seek out County funding opportunities.
- C. Identify intermediaries such as the Local Initiative Support Corporation (LISC) and foundations that would be interested in supporting the noble work of service providers. For example, Family Source Centers (FSC) track performance through a scorecard, which can be used to demonstrate the positive impact in the community through these programs. FSCs have already entered into partnerships with the Los Angeles Unified School District (LAUSD).
- D. Identify that a nexus exists between non-CDBG funded City departments and the public services funded by CDBG funded City departments. It should be noted that the City of Los Angeles police force is supported with a tremendous amount of public services provided to the City's residents by City departments providing the necessary service funding. A good example of this is the assistance provided to the Los Angeles Police Department from the Domestic Violence Programs and shelters that are funded with federal public services funds. A public service funding formula would need to be created so that when incorporated into the non-CDBG funded department's respective budgets, they would fund CBDOs and the services they provide.
- E. Continue support for public services from the City's General Fund and/or redevelopment boomerang funds. The City of Los Angeles could provide a second year of General Funds to replace the loss of federal funds for CBDOs. The City could also allocate a portion of redevelopment boomerang funds for services.
- F. A dedicated fee generated from the creation of Billboard Sign Districts can be established to fund public services in the City of Los Angeles. A portion of the funds from the districts could be considered a public benefit.
- G. Increase the fines for illegal billboards and dedicate the increase of funds generated from the fine increase to fund public services in the City of Los Angeles. This would create a new funding source for a community benefit.

FISCAL IMPACT STATEMENT

This transmittal provides information and funding options as requested by the City Council to address the loss of federal funding for the City's CBDOs. The options provided do not impact the General Funds at this time.

Prepared by:

Reviewed by:




KORY R. SMITH
Finance Development Officer II



EDWIN GIPSON
Director, Strategic Planning and Policy

Approved by:



RUSHMORE D. CERVANTES
General Manager

Attachments: HUD letter dated: January 14th, 2014
NRSA Planning requirements

RC:EG:KS:ks



U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Los Angeles Field Office, Region IX
611 W. 6th Street, Suite 1000
Los Angeles, CA 90017

JAN 14 2014

Rushmore Cervantes, Interim General Manager
City of Los Angeles
1200 West 7th Street, 9th Floor
Los Angeles, CA 90017

Dear Mr. Cervantes:

SUBJECT: Community Planning and Development (CPD) Entitlement Programs
2011 CAPER - Program Year Review Finding Two

On June 20, 2013, the Department received the City of Los Angeles' response to the 2011 Program Year Review Findings. Although the Department recognizes the City's concerns, the Department must ensure program compliance with the established regulations for the operation of Community Based Development Organizations and the intent of the program overall.

When grantees fund activities carried out by Community Based Development Organizations (CBDO) they must be projects designed to carry out neighborhood revitalization, community economic development, or energy conservation. The City has elected to carry out activities designed to increase economic opportunities for low/moderate income persons under 24 CFR 570.204(a)(2). However, 24 CFR 570.204(b)(3) makes clear that activities that would otherwise be eligible under 24 CFR 570.203 special economic development, are not eligible unless the provisions of 24 CFR 570.209, public benefit requirements, are also met. In addition, 24 CFR 570.204(b)(2) makes clear that public service activities carried out by a CBDO must, except in limited circumstances, comply with the requirements of 24 CFR 570.201(e).

The City's position is that its CBDOs are carrying out economic development-related services that are eligible under 24 CFR 570.204(b)(2)(i). HUD has determined that these activities do not meet the requirements of that paragraph. The City has not provided any documentation demonstrating the CBDO activities are directly related to specific jobs being provided to specific employees of specific businesses. In addition, the City has not provided any documentation demonstrating that the CBDO activities comply with the public benefit standards. As presently being implemented, HUD has determined that these activities are public service activities as defined in 24 CFR 570.201(e). The City does not have room under its 15 percent public service cap to fund these activities as presently designed.

In regards to the "Community Development Block Grant Program Economic Development Guidelines," published at 60 Fed. Reg. 1922 on January 5, 1995, it was issued as a final rule and to provide guidelines to be utilized in conjunction with the CDBG regulations. In the preamble, HUD provides background information that explains the regulatory changes with respect to economic development services in 24 CFR 570.203 and 204. At 60 Fed. Reg. 1925, the preamble provides

that "HUD considers this to permit such training activities only where the grantee has an agreement with a specific business(es), to actually employ the person(s) trained. This provision does not authorize programs that will merely create a pool of trained persons from which a business(es) may possibly hire." The preamble goes on to clarify that "it is appropriate to limit the type of services that may be excluded from the public service cap by qualifying under this section those (1) that are specifically designed to increase economic opportunities by supporting the development of permanent jobs, or (2) services of any type carried out under this section pursuant to a strategy approved by HUD under the provisions of 91.215(e)" Neighborhood Revitalization Strategy Area (NRSA) at 60 Fed. Reg. 1926. Although the City presumed that increasing economic opportunities is not directly tied to "development of permanent jobs" due to the fact that the Federal Register language is not included in the regulation at 24 CFR 570.204, that interpretation is clearly not supported by the language in the preamble. When interpreting regulatory requirements, review and consideration of the underlying statute and its legislative history, the regulations and rules published in the Federal Register, and any supplemental guidance issued by HUD is often necessary. Here, the preamble makes clear that economic development services, whether or not undertaken by a CBDO, must be tied to specific businesses, permanent jobs and employees. A CBDO may not carry out more general economic opportunity or "job readiness"-type services outside the parameters of 24 CFR 570.201(e). Attached is a chart that distinguishes CBDOs that invest in community economic development projects and are required to create permanent jobs and those that are located in NRSA's and are not subject to job placement.

The "presumed benefit" provisions of 24 CFR 570.208(a)(2)(A) may not be used to determine whether individual CBDO board members qualify as a low/moderate income resident of the CBDOs area of operation under 24 CFR 570.204(c)(1). The "presumed benefit" provisions may only be used to qualify certain activities as meeting the low/moderate income national objective criteria when the activity is designed to exclusively serve such persons. The City must ensure that board members who are ineligible are removed or the City must discontinue funding these organizations as CBDOs.

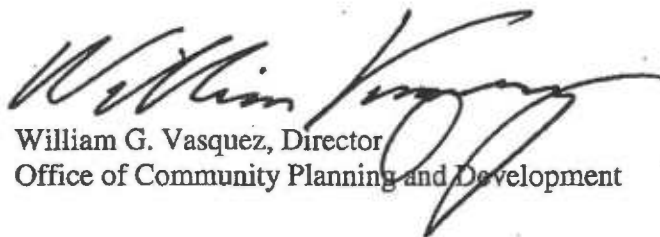
For CBDOs with board members certified as an owner or a senior officer of a private establishment serving a geographical area larger than the CBDOs area of the operation, the Department agrees that the private establishment can have a service area larger than that of the CBDO. However, the certified board member must be an owner/senior of an establishment directly located in and serving the CBDOs geographical area of operation. By definition, a CBDO has a mission to serve the needs of a specific geographical location. By having board members of establishments located in and serving the CBDOs geographical area of operation, beneficiaries of economic development or neighborhood revitalization receive a more intense level of services within the approved community. To utilize the City's example, a manager of a Wells Fargo branch bank located within the CBDO geographical area and serving that area would meet the requirement, but a regional Vice President at Wells Fargo who serves a greater area than that of the CBDOs geographical area could not be included within the 51 percent governing body's membership requirement.

As the City has described these activities, they do not qualify as economic development activities under 24 CFR 570.204(a)(2) or 24 CFR 570.203(c), and can only be funded as public services described at 24 CFR 570.201(e) which are limited to 15 percent of the City's annual allocation and prior years program income. Since funding these activities would result in the City exceeding the public service cap and because the City did not provide any additional information

supporting the qualifications of the subject CBDOs as eligible under 24 CFR 570.204, the City of Los Angeles must discontinue funding these organizations as CBDOs as of May 23, 2013. As of this date, the City may not award any additional funding to these organizations for these activities, nor may the City extend the duration of existing agreements with these organizations beyond the dates currently specified in the agreements. Failure to comply will force HUD to pursue corrective actions against the City as provided in 24 CFR 570.910. In order to fund these activities in the future, the City would need to be able to demonstrate that the entities meet the requirements of a CBDO, and would also need to establish Neighborhood Revitalization Strategy Areas (NRSAs) covering the area of operation of each CBDO. For more information on the requirements and process for designation of NRSAs, please refer to 24 CFR 91.215(g) of the Consolidated Plan regulations and to CPD Notice 96-01.

If you have any questions, please feel free to contact Michael Kovalsky or Jane Wilson, Community Planning and Development Representatives at (213) 534-2566 or (213) 534-2718.

Sincerely,



William G. Vasquez, Director
Office of Community Planning and Development

**Four Ways in which CDBG assisted activities
are exempt from the 15% Public Service Cap:**

Eligible Category	Eligible Activities and CDBG Regulation	National Objective	Public Benefit Standard?	Records to be Maintained
Special Economic Development Grantee/Nonprofit	Economic Development Projects linked to permanent jobs 570.203(a) Sec. 105(a)(14) Increases economic opportunities because linked to permanent jobs**	570.208(a)(1) – LMA 570.208(a)(2)(iv)– LMC 570.208(a)(4) – LMJ 570.208(b)(1) – SBA	Yes	570.506(b)(2) 570.506(b)(5)/(6)/(7) 570.506(b)(8)
Special Economic Development For Profit Businesses	Economic Development Projects linked to permanent jobs 570.203(b)/(c) Sec. 105(a)(17) Increases economic opportunities because linked to permanent jobs**	570.208(a)(1) – LMA 570.208(a)(2)(iv)– LMC 570.208(a)(4) – LMJ 570.208(b)(1) – SBA	Yes	570.506(b)(2) 570.506(b)(5)/(6)/(7) 570.506(b)(8)
CBDO Community ED Project Increases economic opportunities because linked to permanent jobs	Job Training linked to permanent jobs 570.204(a)(2)(i)	570.208(a)(1) – LMA 570.208(a)(2)(iv)– LMC 570.208(a)(4) – LMJ 570.208(b)(1) – SBA	Yes	570.506(b)(2) 570.506(b)(3) 570.506(b)(5)/(6)/(7) 570.506(b)(8)
CBDO – NRSA – Permanent Jobs not required	Job Readiness, creation, retention services, 570.204(b)(2)(ii)	Low/mod Area Benefit (LMA) 570.208(d)(5)(i)	No	570.506(b)(2)

*In accordance with 570.506(b)(5) – the grantee needs a written agreement with the businesses that identifies the number and types of positions/jobs that will be filled.

**See Federal Register, January 5, 1995 – CDBG Economic Development Guidelines; Final Rule – Pages 1925 and 1926 with regard to permanent jobs and job training.

Neighborhood Revitalization Strategy Area (NRSA) Planning

Background

The US Housing and Urban Development Department (HUD) allows grantees to develop comprehensive approaches to address economic development and housing needs in a designated neighborhood within their community. This approach is referred to as a *Neighborhood Revitalization Strategy Area (NRSA)*.

Grantees may designate local target areas for revitalization. Communities with approved NRSA's are offered enhanced flexibility in undertaking economic development, housing, and public service activities with their CDBG funds. This flexibility is designed to promote innovative programs in economically disadvantaged areas of the community.

HUD has provided criteria for what may constitute a NRSA and what to include as part of the strategy and grantees can submit proposed Strategies for HUD's approval to designate areas as NRSA's. A NRSA that the City of Los Angeles submits for approval would be for up to three years and would have to be complete at the end of our five-year Consolidated Plan (March 2018). There may be an option to request extensions in the future to continue NRSA's; however, there has been word that HUD may not support extensions.

NRSA Benefits

Communities with approved NRSA's have enhanced flexibility for activities with CDBG funds. This increased flexibility includes any job creation or retention effort undertaken as economic development as part of the Strategy and focusing on the NRSA is *deemed* to meet the LMI area benefit national objective requirements. Therefore, **businesses are not required to track the specific income of applicants they hire or interview**. Though businesses do need to continue to account for the number of persons who get jobs, this is a significant reduction of administrative burden to the business (and the recipient) to provide an incentive to participate in the community's job creation/retention programs.

All CDBG grantees are responsible for ensuring that a minimum level of public benefit is obtained when CDBG funds are used for special economic development projects. HUD's public benefit standards have two levels: 1) standards for individual activities and 2) aggregate standards. Economic development activities carried out in an approved NRSA under the Strategy would be exempt from the aggregate public benefit standards.

To meet the *Standards for Individual Activities*, the amount of CDBG assistance per activity cannot exceed \$50,000 per full-time equivalent (FTE), permanent job created or retained. To meet the *Aggregate Standards*, activities in the aggregate must create/retain at least one FTE, permanent job per \$35,000 of CDBG funds used. **Within a NRSA, projects would need to meet the standard of no more than \$50,000 CDBG funds per each FTE created, but the project would not be included as part of the City's higher aggregate standard of one FTE for every \$35,000 CDBG invested.**

This offers greater flexibility in selecting and implementing development activities and reduces the amount and scope of information that must be collected and documented regarding programs, and may, in turn, free up additional funds for development activities.

Another benefit to the NRSA is that jurisdictions can track scattered-site housing units, which are developed in accordance with the strategy, as a single structure. **Fifty-one percent of the total number of housing**

Neighborhood Revitalization Strategy Area (NRSA) Planning

units within the NRSA must be low/moderate income, rather than by each single structure. This permits greater leeway in applying the LMI housing national objective criteria and allows greater flexibility in using housing to assist in the revitalization of the neighborhood.

An additional benefit within the NRSA is that **all public services offered within the strategy area and carried out as part of qualified projects by a qualified CBDO are exempt from the public services cap.** This permits a more intensive level of services with the approved community, as needed to stimulate revitalization, and includes job training and other employment-related services and, as such, it can provide an important foundation for economic opportunity for neighborhood residents.

Neighborhood and Demographic Criteria for a NRSA

The submission to HUD must describe the geographic area to be covered by the Strategy. The areas covered must:

1. Be contiguous—no checkerboard areas across the community
2. Be primarily residential (≥65%); and
3. Have 70% or more of the households be low and moderate income (LMI).

Low and moderate income (LMI) families or household are those whose incomes do not exceed 80% of the median family income for the area. To put that into actual numbers, the median family income for the city is \$60,600. To consider whether a household or family is LMI, the size of the family is then considered; for a family of four, for example, the income limit would be \$64,200. Within an area designated as a NRSA, at least 70% of the households have to have incomes below this level, or the level for the size of the household.

Planning and Area Assessment

Planning for a NRSA requires consulting with the community, including residents, nonprofits, community groups, developers, local financial institutions, businesses, and elected officials. Plans currently include meetings with the community during the planning stage and after draft strategies are developed.

The areas need to be assessed beyond the level of income and residential status. For example, the strategy will need to consider elements such as:

- 1) Number and type of businesses, including service facilities such as grocery stores, drug stores, gas stations, etc., and the number of people employed by such businesses
- 2) Housing needs, rents, home prices, and quality of housing
- 3) Neighborhood improvement and public facilities, economic development, and housing projects ongoing or already funded
- 4) Current services provided in the area
- 5) Levels of unemployment
- 6) Opportunities for economic development, including access to capital (or lack thereof) to form businesses in the area
- 7) Unmet needs for facilities or services

Neighborhood Revitalization Strategy Area (NRSA) Planning

- 8) Organizations available to assist with implementing a strategy (nonprofits, Community Based Development Organizations)

NRSA Strategies Need to Include

The area strategies need to describe opportunities for economic development within the neighborhood, including activities that create meaningful jobs for LMI residents; how the strategies promote revitalization of neighborhoods and promote economic opportunities for residents. This analysis might discuss topics such as the demand for certain facilities or services (e.g., create or foster a lending institution within the neighborhood); community organizations available to assist with economic development; services that are currently unused or underutilized within the community; and fledgling projects started but unable to take root due to lack of funding.

The strategies also should identify problems or impediments the community is likely to face during implementation. Impediments might include hesitation from private sources, such as banks, to invest in the area; community opposition to development activities (NIMBY sentiments); inexperience of the community organizations involved; and crime and security concerns at project sites.

The area strategies must include goals and performance measures the City expects to achieve each year. These benchmarks may cover such areas as physical improvements, social initiatives, job creation, affordable housing units built, economic empowerment, and businesses added. After HUD's approval of the strategies, the City's Annual Action Plans will need to identify entitlement funding that will be directed toward the Strategy Area and identify performance benchmarks for each year.

Performance Measures

The Strategy must set goals and anticipated results for the implementation of the plan. These results must be described in clearly measurable terms and the City would report to HUD on its progress toward these benchmarks. Benchmarks may cover such areas as physical improvements, social initiatives, and economic empowerment. Some example benchmarks HUD provided include:

- 20 new businesses created
- 5% increase in employment
- 2 new job training centers opened
- 5% reduction in families on welfare
- Community lending institution attracted to the neighborhood
- Community business association formed
- 10 training seminars offered to area residents about small business