



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

ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

MEMORANDUM FOR: All Community Planning and Development Field Office Directors,
Deputy Directors and Program Managers

FROM: James Arthur Jemison, II, Principal Deputy Assistant Secretary, D

SUBJECT: Availability of a Waiver for Community Development Block Grant
Program and Consolidated Plan Requirements to Facilitate
the Incorporation of Increased Funding as a Result of an Allocation
Error for FY 2021

PURPOSE:

This memorandum explains the availability of a waiver of certain regulatory requirements associated with the Community Development Block Grant (CDBG) program to address an error in the Fiscal Year (FY) 2021 allocation. The error affects all FY 2021 CDBG grants except for Insular Area grants, resulting in an increase in the amounts previously allocated and announced. CPD Field Office Directors, Deputy Directors, and Program Managers are instructed to inform CPD grantees operating within their jurisdictions of the content of this memorandum.

WAIVER AUTHORITY:

In accordance with 24 CFR 5.110, HUD may, upon a determination of good cause and subject to statutory limitations, waive regulatory provisions. Additional regulatory waiver authority is provided in 24 CFR 91.600. These provisions provide HUD the authority to make waiver determinations for the CDBG program. To eliminate further delays and expedite grantees' ability to incorporate the increase in funding caused by the FY 2021 allocation error that affects all CDBG grant recipients, except for Insular Area grantees, I hereby find good cause to provide the regulatory waivers below. Provisions that are not specifically waived remain fully effective.

WAIVER AVAILABILITY:

1. Citizen Participation Public Comment Period for Fiscal Year (FY) 2021 Consolidated Plan and Consolidated Plan Amendments

Requirement: 30-day Public Comment Period

Citations: 24 CFR 91.105(b)(4), (c)(2), and (k); 24 CFR 91.115(b)(4), (c)(2), and (i); and 24 CFR 91.401

Explanation: There was an error in the announced FY 2021 CDBG formula allocations, causing all CDBG grants, except Insular Area grants, to be less than what should have been allocated by formula. This error has been corrected, and updated CDBG FY

2021 allocations will be posted and transmitted to grantees. Grantees are required to follow their citizen participation plan to make an amendment to their action plan to reflect the increased grant allocation. The development of the consolidated plan is subject to the citizen participation process set forth in the grantee's citizen participation plan. A CPD grantee may also amend an approved consolidated plan in accordance with 24 CFR 91.505. Substantial amendments to the consolidated plan, such as the addition of new activities or a change in the use of grant funds from one eligible activity to another, are also subject to the citizen participation process in the grantee's citizen participation plan. The citizen participation plan must provide citizens with 30 days to comment on draft consolidated plans and substantial amendments.

Justification: Given the need to expedite actions to respond to the allocation error, HUD waives 24 CFR 91.105(b)(4), (c)(2), and (k) for local governments, 91.115(b)(4), (c)(2), and (i) for states, and 91.401 for consortia, and reduces the public comment period for grantees preparing FY 2021 Plans, amendments thereto, and amendments to prior year plans from 30 days to no less than three days. The provisions at 24 CFR 91.105(k) and 24 CFR 91.115(i), which require grantees to follow their citizen participation plans, are waived only to the extent that they allow grantees to change their public comment periods. Grantees must continue to follow their citizen participation plans otherwise. In reducing the comment period to three days, HUD is balancing the need to quickly assist communities while continuing to provide reasonable notice and opportunity for citizens to comment on the proposed uses of CDBG funds.

Applicability: This authority is in effect through August 16, 2021 and is limited to facilitating preparation of the grantee's FY 2021 Consolidated Plan or Annual Action Plan and FY 2021 Plan substantial amendments.

ADDITIONAL INFORMATION:

Due to the ongoing coronavirus pandemic, grantees and citizens may be concerned about significant public health risks that may result from in-person public hearings. The public hearing requirement is statutory and cannot be waived; however, CPD is interpreting public hearings to include virtual public hearings (alone, or in concert with an in-person hearing) if it allows questions in real time, with answers coming directly from the elected representatives to all "attendees." HUD understands the exigencies of a public health challenge and will work with grantees who make the effort to comply with citizen participation requirements and document their efforts.

If you, or any member of your staff, have any questions concerning this memorandum, you may contact the following persons regarding the waiver: James E. Höemann, Director, OBGA Entitlement Communities Division at (202) 708-1577; Robert C. Peterson, Director, OBGA State and Small Cities Division at (202) 708-1322.