September 11, 2019

MEMORANDUM FOR: Non-entitlement Jurisdictions throughout California

FROM: Doug McCauley, Acting Director
          Department of Housing and Community Development

SUBJECT: **Addendum to the State of California**
          2015-2020 Consolidated Plan

This memorandum serves as an addendum to the State of California 2015-2020 Consolidated Plan amendment. Required by the federal Department of Housing and Urban Development (HUD), the Consolidated Plan is a five-year plan that examines the housing and community development needs and lays out how federal funds will be used to address these needs.

Pursuant to 24 CFR §91.505 (a)(1), approved plans must be amended when there is a change in the method of distribution (MOD) of funds. This substantial amendment is the result of the California Department of Housing and Community Development's (HCD) comprehensive Community Development Block Grant (CDBG) Program redesign efforts. By changing CDBG's MOD, it is HCD's goal to improve the program's low expenditure rate, reduce high unspent program income balances, and streamline program processes.

Please note: The new CDBG MOD for the 2019 program year will only be described in section SP-10 of the 2015-2020 ConPlan and this addendum. References to the CDBG MOD outside of these sections are not updated and are referencing the previous MOD process applicable to program years 2015-2018. The changes to the ConPlan are highlighted in yellow.

The addendum and substantial amendment to the 2015-2020 ConPlan will be available for public comment for a 30-day period from September 11, 2019 through October 11, 2019. A public hearing will be held in Sacramento on September 24, 2019.

If you have any questions regarding the addendum, please contact Jessica Hayes, Specialist, Division of Financial Assistance, at (916) 263-6448.

ADDENDUM TO THE STATE OF CALIFORNIA 2015-2020 CONSOLIDATED PLAN

BACKGROUND SUMMARY:

In June of 2017, the California Department of Housing and Community Development (HCD) began a comprehensive Community Development Block Grant (CDBG) redesign process, in partnership with stakeholders, intended to address the state's CDBG expenditure rate, reporting, and overall program performance. Senate Bill 106 (Chapter 96, Statutes of 2017) authorized HCD to develop CDBG program guidelines in place of the existing state regulations to better align the state program with federal regulation and to mitigate any confusion regarding state versus federal requirements.

In March of 2018, HCD received a monitoring report of the CDBG program from the U.S. Department of Housing and Urban Development (HUD) that identified numerous findings and concerns regarding the operation of the state CDBG program and established timelines and expectations for correction. These reports were used in coordination with the input from the redesign process to develop the draft guidelines. The CDBG guidelines will replace the state regulations and align with HUD regulations and cite federal code and statues wherever possible.

The guidelines add flexibility to the program administration by removing fixed rating and ranking criteria and other static evaluation processes. Instead, the guidelines align with HUD's program management tools. By deferring to the HUD-required 5-year Consolidated Plan and the Annual Action Plan as implementation tools, the guidelines allow for flexibility to better identify specific community needs and priorities and to adjust the method of funding distribution and the funding application criteria to meet those needs and priorities.

The following section describes the major changes to the CDBG Method of Distribution:

The Method of Distribution (MOD) identifies how CDBG funding will be allocated between competitive and Over-the-Counter (OTC) eligible activities and what criteria will be used to identify project/program readiness and capacity. Changes to the MOD are intended to improve the CDBG program's low expenditure rate, reduce high unspent program income balances, and streamline program processes to reduce the administrative burden for grantees and HCD staff.

In prior program years, the MOD for the CDBG program has been fixed for long periods of time, with set criteria and requirements, which meant that it was reliable, but not flexible and not able to respond to changes in community priorities

or issues with program administration. For the 2019 program year, the MOD introduces a more open-ended OTC process. Previously, only certain Economic Development activities could apply for funding through the OTC process as opposed to the competitive Notice of Funding Availability (NOFA) process. As revealed in the Senate Bill 106 Report, the OTC Economic Development activities had some of the highest expenditure rates of all the available CDBG funded activities. The new MOD will include an OTC application process for Community Development capital improvement projects, including economic development, public infrastructure, public infrastructure in support of housing, multifamily housing rehabilitation, and public facilities that focuses on project readiness as a funding threshold, and includes predevelopment grants intended to help communities create a shovel ready project pipeline. Programs such as single-family housing assistance and economic development programs, public services, as well as planning grants will still participate in the competitive application process, with clear eligibility thresholds and transparent scoring criteria.

The new MOD introduces project tiering that rewards projects that are ready to begin construction immediately with project activity funding, and funnels projects that are less ready into other funding streams intended to improve readiness so that they can re-apply for activity funding.

- **Tier 1**
  - Project is ready to go to bid. Complete environmental review, site control, funding, and entitlements.
  - Tier 1 applications receive priority activity funding
- **Tier 2**
  - Project has environmental clearance and may have site control, but is not ready to bid.
  - Tier 2 applications receive secondary consideration for activity funding and may be a better fit for a predevelopment grant also available OTC.
- **Tier 3**
  - Project has a concept and has identified potential sites.
  - Tier 3 applications are not ready for activity implementation or activity predevelopment funding and may be a better fit for project planning available through competitive application.

The OTC funding will impact about 70 percent of the CDBG funding, with about 30 percent available through a streamlined competitive process. OTC will only be available for projects. Programs and planning will still be scored competitively. In the past, about 20 percent of CDBG funds were available OTC (exclusively for Economic Development projects), and all other funding was awarded competitively. CDBG funds have multiple deadlines with HUD, including a 15-month funding commitment deadline (where funds must be committed to specific projects), a

3-year expenditure deadline, and a 5-year accomplishment reporting deadline. Funds that are not committed or spent within the deadlines are a risk of recapture by HUD.

HCD has proposed a 2-year CDBG NOFA that will include both the 2019-20 and 2020-21 funding into a single NOFA to be released in January of 2020. The new MOD will require a heavily revised NOFA process with new applications and tools. This will include thorough revisions of the existing NOFA templates, revision and some elimination of the appendices, and completely new applications.

HCD's FY 2018-19 Annual Action Plan and program year will be the last year under the old CDBG state regulations. The CDBG guidelines will replace the state regulations and align with HUD regulations and cite federal code and statues wherever possible. A full summary of public comments from the citizen participation requirements will be completed and included at the end of the public comment period in the ConPlan amendment.

Describe all of the criteria that will be used to select applications and the relative importance of these criteria

The 2019 program year will be using a new MOD that includes two ways that jurisdictions may apply for funding. Programs, services, and planning grants will be scored competitively while projects will be accepted, reviewed, and awarded OTC. The competitive applications will use a very similar scoring criteria to prior grant cycles. All applications will be required to meet federal and state overlay criteria to be eligible for application review. The below summary criteria identify first the competitive criteria and then the OTC criteria. Threshold criteria are discussed later in this document.

<u>Competitive Program and Planning Applications</u> – Competitive application will be used to rate and rank programs for single-family housing assistance, economic development, public services, and general planning activities.

<u>Need</u> – HCD will assign points based on the seriousness of the locality's community development needs, and the impact the program will have on those needs. Need will be determined based on HUD-provided community data and third-party proofs.

<u>Readiness</u> – Readiness points will be assigned to the proposed activity as demonstrated by successful operation of an ongoing activity, a completed program implementation plan, local government approvals and/or agreements (if applicable), contracts with program operators (if applicable), approved and adopted program guidelines, and sufficient funding to complete the program as applicable.

Jurisdictional Capacity and Past Performance – Points will be awarded for capacity to implement the proposed activity, as demonstrated by performance on past grant-funded activities, including timeliness of clearance of general and special conditions, program income and prior CDBG program reporting, and success in clearing audit and monitoring findings. Additional capacity criteria will include the status of outside contracts, clearly identified administrative personnel, and commitments to program timelines and milestones.

State Objectives – HCD may award application points for addressing state objectives as identified in the annual CDBG NOFA. HCD will include state objective points for one or more of the following HCD priority objectives: 1) access to opportunity (e.g. public outreach, diversity of investment in areas of low opportunity, and investment in areas of high opportunity); 2) homelessness; and 3) disaster resiliency long-term planning to incentivize local jurisdictions to incorporate hazard mitigation, and disaster resiliency planning. More clarification on these HCD priorities will be provided in the NOFA. For the 2019 NOFA, it is HCD's goal to increase state objective points for CDBG.

The application process for the competitive grants will include transparent self-scoring so that applicants can assess whether their program or service is competitive for funding and where additional points might be obtained through additional readiness or capacity efforts. Applicants will be strongly recommended to submit only their highest rating programs and services and use the planning grants to build capacity and advance readiness for programs and services that are farther behind in readiness and/or capacity.

Over-the-Counter Project Applications – OTC applications will be used to award funds to eligible capital projects, including economic development, multifamily housing rehabilitation, public infrastructure, public improvements in support of housing, and public facilities.

Project Readiness – Projects will be required to meet clear readiness criteria to be considered for funding. Projects may be submitted OTC any time during the application period, however, each project will be ranked according to how close the project is to breaking ground.

Projects that are ready to prepare construction bid documents and that can commit to a fixed construction timeline will be identified as Tier One projects. Tier One projects must have completed environmental clearance, site control, local

approvals, design documents, and other criteria necessary for projects to be shovel-ready. Tier One projects will be awarded funding as it is available.

Projects that have completed part of the project predevelopment, but do not meet Tier One readiness will be identified as Tier Two projects. Tier Two projects will have completed environmental clearance and partially completed or at least initiated site control, design documents, local approvals, and other criteria as applicable, but are still six months to a year away from Tier One readiness. Tier Two projects will be eligible for OTC predevelopment funding to help them complete the necessary predevelopment activities and be ready for a subsequent OTC submittal for full activity funding.

Projects that do not meet Tier Two readiness, have been conceptualized, but have not begun the site control, environmental clearance, design, or local approval process will be identified as Tier Three projects. Tier Three projects will be encouraged to apply for a competitive planning grant to support project predevelopment and complete required criteria to meet Tier Two or Tier One project readiness. Tier Three projects will not be considered for activity funding.

The application process will help applicants identify what tier describes their projects so that they can make strategic decisions about their specific project needs and the best application process prior to submittal. Creating clear OTC criteria will improve program transparency and increase expenditures by prioritizing projects that are ready to begin construction while providing a path to readiness for projects still in predevelopment.

Jurisdictional Capacity and Past Performance – Applications will be evaluated to identify the capacity to implement the proposed activity, as demonstrated by performance on past grant-funded activities, including activity reporting and timely semi-annual program income reports, and success in clearing audit and monitoring findings. Additional capacity criteria will include the status of outside contracts, clearly identified administrative personnel, and commitments to project timelines and milestones. OTC applications will also assess progress toward state objectives as part of the capacity and past performance evaluation.

All project, programs, services, and planning efforts will be expected to adhere to budgets, deliverables, and milestone tracking identified during the application process. Failure to meet these expectations will adversely impact future applications and may result in full grant recovery and reallocation.

If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)

CDBG - The specific scoring breakdowns within the competitive application scoring categories vary based on the activity. A description of the specific criteria and associated points will be published in the applicable NOFA. Additional detail about the OTC process, including threshold and readiness review procedures will also be included in the NOFA. The NOFA will be made available on HCD's CDBG webpage at http://www.hcd.ca.gov/grants-funding/active-funding/cdbg.shtml.

HCD publishes all CDBG application materials, NOFA, applications, appendices, and instructions, on HCD's website shown above. In addition, HCD releases NOFAs by sending out an electronic notification to eligible jurisdictions, nonprofits, and consultants on the interested parties list. The notice includes links to this webpage. Additional notices are provided to inform interested parties about NOFA/application workshops, held throughout the state.

As the new MOD is a substantial change from prior years, HCD will also be preparing new applications, instructions, and training materials to help jurisdictions understand the new processes. These materials will be available online and will include opportunities for feedback to make sure application documents are accessible and that criteria, especially threshold and readiness criteria, are not subject to arbitrary interpretation or subjective decision-making. HCD plans to roll out both the new CDBG guidelines as well as the improved grant application process with substantial outreach to stakeholders and training for potential applicants.

Describe how resources will be allocated among funding categories

Pursuant to state CDBG guidelines, funding allocations are based on demand once state administration funding amounts and state and federal allocated amounts have been accounted for. The allocation for Colonias is determined based on a 5 percent allocation for FY 2019-20 and at least 1.25 percent of the total amount of funds shall be allocated for eligible Native American activities benefiting nonfederally recognized Native American communities or tribes. The 30 percent allocation for economic development will be made available for competitive economic development programs and planning and OTC economic development projects. The balance of funds will be made available for community development activities including the 51 percent allocation for housing related activities. If there is insufficient demand for the activities under the allocations, the funding will revert to the general pool of funds to be awarded to eligible applicants.

Public service activities will be capped at 15 percent and planning and administration allowances will be budgeted to stay within the 20 percent cap required by HUD. Approximately 30 percent of 2019 funds are expected to be allocated competitively, with the remainder allocated OTC. However, actual allocations will be distributed based on the eligible and qualified applications HCD receives.

Describe threshold factors and grant size limits

Source	Threshold Requirement
Federal	Debarment Check - Applicant must document they are not on the Federal Excluded Parties list.
Federal	Statement of Assurances - Must be included in the application and signed by the Chief Executive Officer.
Federal	Compliance with 2 CFR Part 200 - Signed certification required.
Federal	Citizen Participation - Applicant must meet all Public Hearings/Citizen Participation requirements.
Federal & State	Single Audit and/or Monitoring - Any single audit or program monitoring findings made by the state or HUD have been submitted to HCD on time.
State	Housing Element - Applicant must be in substantial compliance as approved by the Department by the application deadline.
State	Growth Control – The applicant has not enacted limitations on residential construction which included limitations other than establishing agricultural preserves to limitations imposed by another agency or based on health and safety needs, and the limitations meet the CDBG program regulations.
State	Resolution of Governing Body - Applicant must include a resolution from the appropriate governing body.
State	50 Percent Expenditure Rule - Applicant must have expended at least 50 percent of all CDBG funds awarded in the past five years for programs, planning, and public service applications. 50 percent rule does not apply to over-the-counter projects.
State	Noncompliance - Any funds due to the state for repayment of noncompliance items have been repaid, or the grantee has entered into a satisfactory repayment agreement, and payments are current.

State	Reporting - An applicant cannot have any overdue semi-annual or annual grant reports (overdue is anything after 30 days after the due date). In the initial year of the redesigned CDBG program, the look-back will be one year. In the second and subsequent years, the look-back will be two years.
State	Program Income - Applicant must be in compliance with the Program Income Reuse Agreement if the grantee has undertaken activities that could generate program income, including program income funded activities.

Applications must meet the state guidelines threshold requirements at time of submittal.

Grant size limits: For the 2019 NOFA, grant size limits will be in the applicable NOFA and may change as the size of the CDBG allocation changes.

What are the outcome measures expected as a result of the method of distribution?

HCD expects to improve the CDBG program's low expenditure rate and reduce high unspent program income balances. The new MOD includes an OTC application process for capital improvement projects, including multifamily rehabilitation and public infrastructure and facilities, that focuses on project readiness as a funding threshold, and that includes planning and predevelopment grants intended to help communities create a shovel-ready project pipeline, and redesigns the competitive process to incorporate transparent scoring with clear requirements for eligible projects.