

## Appendix G: Use of Funds for Program Administration and Technical Assistance

### Introduction

The one percent technical assistance (TA) set-aside was made available to State CDBG grantees in 1992 by its inclusion in Section 811 of the Housing and Community Development Act of 1992. The set-aside is codified at Section 106(d)(5) of the Housing and Community Development Act of 1974. The one percent set-aside of the state's grant amount was to pay for technical assistance to local governments and nonprofit program recipients.

The amount of the TA set-aside increased when the 2004 Consolidated Appropriations Act amended Section 106(d) of the Act to allow states to use up to three percent of their allocations (from that year and all subsequent years) for administrative expenses, technical assistance, or a combination thereof ("Mix and Match" provision). This is in addition to the base amount of \$100,000 that states may use for these purposes. All amounts used to pay administrative expenses, in excess of the \$100,000 base amount, must be matched, on a one-for-one basis, with the state's own funds. Amounts used for the provision of technical assistance expenses are not subject to the match requirement and are presumed to have met a national objective.

The 2004 statutory change and subsequent regulatory revisions provide increased flexibility for state grantees in utilizing funds for both administrative and technical assistance activities. For example, a state grantee could choose to increase the amount of CDBG grant funds used to pay administrative expenses to \$100,000 plus 2.5 percent of its total allocation, in which case the state would have only 0.5 percent available for technical assistance activities. On the other hand, a state grantee could choose to spend two percent of its allocation on technical assistance activities, leaving only \$100,000 plus one percent for administrative expenses.

The total spent on both administrative and technical assistance activities may not exceed \$100,000 plus three percent of the grant amount. The amounts expended for administrative expenses and technical assistance expenses are presumed to have met a national objective and thus are not subject to the requirement to meet a specific national objective.

Consistent with this statutory change, the proposed rule, published October 17, 2008, included a revision to the regulations at Section 570.489(a)(1). On April 23, 2012, HUD issued the final rule, "State CDBG Program: Administrative Rule Changes" which responded to comments and made the interim rule final. This change provides states with increased flexibility to allocate up to three percent of CDBG funds between administrative expenses and technical assistance, according to the individual state's preference.

The text of the following notice provides guidance to states and HUD field staff on the use of what was *previously* a one-percent set-aside for technical assistance. Although the amount of the set-aside has been revised, as described above, the text is provided here in order to provide specific guidance on the distribution and use of technical assistance funds by state grantees.

### Purpose

This notice provides guidance to states and HUD field staff on the use of the one percent Technical Assistance Set-Aside that has been available for use by State Community

Development Block Grant (CDBG) grant recipients since its inclusion in Section 811 of Housing and Community Development Act of 1992. The set-aside is codified at Section 106(d)(5) of the Housing and Community Development Act of 1974 as amended (the Act). The provision does not appear in the State CDBG regulations. This Notice replaces CPD Notice 96-08, dated December 12, 1996, entitled “Use of the 1% Set-Aside for Technical Assistance in the State Community Development Block Grant program.”

## Background

The State CDBG Operating Instructions for FY 1993 (CPD Notice 93-07) included some guidance on how to calculate the one percent amount for assistance. That notice stated that states can devote up to one percent of each CDBG grant for technical assistance activities and that technical assistance activities do not count against the state’s administrative cap, and do not require a match. The State CDBG Operating Instructions for FY 1994 (CPD Notice 94-07) clarified that the one percent Technical Assistance Set-Aside did not count against the 20 percent planning and administration cap.

Due to a continuing interest by states in utilizing this provision of the Act, CPD Notice 96-08 was issued to provide additional guidance. In the reissuance of this notice, we have added examples of ways states can assist Public Housing Authorities (PHA’s) in fulfilling their PHA plan obligations under the Quality Housing and Work Responsibility Act and ways states can fulfill their obligations to provide assistance to troubled PHA’s.

## Guidance

Section 106(d)(5) of the HCDA provides, “From the amounts received under paragraph (1) for distribution in non-entitlement areas, the state may deduct an amount, not to exceed one percent of the amount so received, to provide technical assistance to local governments and nonprofit program recipients. 24 CFR 570.480 (c) of the State CDBG regulations provides that the Secretary will give maximum feasible deference to the state’s interpretation of the statutory requirements and the requirements of this regulation, provided that these interpretations are not plainly inconsistent with the HCDA and the Secretary’s obligation to enforce compliance with the intent of Congress contained in the Act.” In accordance with these provisions, the Department has taken an expansive view of the one percent technical assistance provision and has permitted states to use it for any activity that does not clearly violate the Act. The state is required to include the proposed use of one percent technical assistance funds in its method of distribution that is contained in the state’s consolidated plan.

### A. Distribution of the Technical Assistance Set-Aside

States may distribute the Technical Assistance Set-Aside as follows.

1. Provide the technical assistance directly with state staff.
2. Hire a contractor to provide the assistance.
3. Use sub recipients such as Regional Planning Organizations as providers or securers of the assistance.

4. Directly allocate the funds to nonprofits and units of general local governments (UGLG's) to secure/contract for technical assistance. If a Public Housing Authority (PHA) is an official arm of a unit of general local government, or is a nonprofit, a state can provide TA funds directly to a PHA. If a PHA is a quasi-governmental entity or a special-purpose governmental entity separate from the UGLG, the state cannot provide funds directly to the PHA. Assistance can be provided indirectly by passing such funds through a UGLG or a nonprofit organization.
5. Pay for tuition, training and/or travel fees for specific trainees from UGLG's and nonprofits.
6. Transfer funds to another state agency for the provision of technical assistance.
7. Contract with institutions of higher education (IHE's) such as Historically Black Colleges and Universities to provide the assistance.

#### **B. Ineligible Uses of the Technical Assistance Set-Aside**

The one percent Technical Assistance Set-Aside may not be used by states for the following activities.

1. Local administrative expenses not related to community development.
2. Any activity that cannot be documented as meeting a technical assistance need.
3. General administrative activities of the state not relating to technical assistance, such as monitoring state grant recipients, rating and ranking state applications for CDBG assistance, and drawing funds from the Department.
4. Activities that are meant to train state staff to perform state administrative functions, rather than to train UGLG's and nonprofits.

#### **C. Eligible Uses of the Technical Assistance Set-Aside**

The one percent Technical Assistance Set-Aside may be used by states for the following activities.

1. Providing UGLG's with the capability of using the Integrated Disbursement and Information System (IDIS). The purchase of appropriate materials and equipment including computers and computer software for UGLG's is eligible to aid in developing and sustaining increased capacity at the local level.
2. Compiling the infrastructure needs of the non-entitlement jurisdictions in the state so that UGLG's will know specifically what their needs are in developing CDBG applications. This is not a specific plan on how to improve an area or community, and does not count against the 20 percent planning and administration cap as a planning activity.
3. Writing technical assistance handbooks or developing technical assistance in other media (film, slides, and computer programs) for potential applicants and program participants.

4. Giving workshops (including satellite conferences) on applying for and implementing CDBG programs.
5. Funding peer-to-peer technical assistance.
6. Funding attendance by UGLG and nonprofit personnel at regularly scheduled workshops and academic courses that will enable the attendees to improve their capacity to implement a CDBG program.
7. State staff time that is spent on technical assistance provided onsite during a monitoring visit is eligible under the set-aside. Likewise, technical assistance sessions to help potential applicants for State CDBG funds learn the application process are an eligible technical assistance expenditure.
8. Training state staff to provide technical assistance to UGLG's and nonprofits on specific aspects of program administration or application preparation (for example, economic development loan underwriting, procurement rules, Davis-Bacon requirements).
9. Entitlement grant recipients may be invited to state-sponsored training using the one percent set-aside provided that their participation does not increase the cost of training, and does not prevent UGLG's and nonprofits eligible to participate in the State CDBG program from attending the sessions due to space limitations. If permitting entitlement grant recipients to attend increases costs, the entitlement grant recipients should be charged an amount to make up for the increased costs caused by their inclusion.
10. Development and implementation of a community development certified practitioner certification for UGLG personnel.
11. Assistance provided to UGLG's in affirmatively furthering fair housing. This can include assistance in preparing an analysis of impediments to fair housing (AI). This can also include assisting PHA's in developing the AI component of their PHA plans and ensuring consistency between PHA and state AI's.
12. Providing assistance to UGLG's to help plan and implement community revitalization strategies.
13. Providing TA to troubled PHA's to help them improve their operations.
14. Providing support for interagency coordinating committees or "one stop shops," at which local governments and various funding agencies review community needs or proposed projects, and identify the most appropriate funding resources to address the need or project.

#### **D. Documentation**

In order for an activity to be eligible as technical assistance, the state must be able to document that the activity is providing technical assistance to a local government(s) and/or a nonprofit program recipient(s). This documentation may be reviewed by HUD staff when the State CDBG program is monitored.

## Conclusion

This is not meant to be an all-inclusive list, but rather to provide examples of eligible technical assistance activities. It is noted that the one percent technical assistance category is not subject to the national objective requirements, whereas the technical assistance that is permitted under Sections 105(a)(19) and (22) of the HCDA must meet a national objective.