



Mr. John Gibbs

Acting Assistant Secretary, Office of Community Planning and Development
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, D.C. 20410

Re: Community Development Block Grant Waivers and Flexibilities

Dear Mr. Gibbs,

The Local Initiatives Support Corporation (LISC) would like to thank the U.S. Department of Housing and Urban Development (HUD) for quickly allocating resources appropriated to programs administered by the Office of Community Planning and Development (CPD) under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The CARES Act provides flexible resources to help local communities respond to the coronavirus, including \$5 billion for the Community Development Block Grant (CDBG) program. These CDBG resources are essential for supporting the full array of affordable housing and community development needs.

LISC and our community-based partners utilize the CDBG program to support affordable housing, community development, small businesses, workforce programming, and direct services for low-income households throughout the country. LISC is a national nonprofit housing and community development organization with offices in 36 cities throughout the country and a partnership with 89 community-based organizations serving rural communities. Our organization mobilizes corporate, government and philanthropic support to provide local community development organizations with loans, grants and equity investments; as well as technical and management assistance. LISC invests approximately \$1.4 billion each year in these communities and our work covers a wide range of activities, including affordable housing, economic development, building family wealth and incomes, education, and creating healthy communities.

LISC appreciates the CDBG flexibilities that HUD provided recently in the April 9, 2020 notice and encourages the Department to issue additional guidance to ensure fiscal year 2019, 2020, and CDBG-Coronavirus (CDBG-CV) resources are being utilized for the most pressing local needs. We recommend that HUD include the following CDBG recommendations in any additional waiver and administrative flexibility guidance.

Additional CDBG Waiver and Flexibility Recommendations

We've grouped our recommendations below by program wide needs and specific activities CDBG can support, and which more flexibility is necessary.

Urgent Need

The ongoing COVID-19 national emergency requires empowering states and localities with the resources needed to effectively respond in their communities. Clarification on the applicability and utilization of the Urgent Need national objective will provide much needed flexibility in using CDBG to support COVID-19 response efforts. It is clear that the urgent need presented by COVID-19 meets the spirit and criteria set forth within the regulations.

Recommendation: We recommend that HUD provide guidance clarifying that it is appropriate for grantees to utilize the Urgent Need national objective to fund activities directly related to COVID-19 crisis response.

Public Services

The CARES Act provides for the temporary removal of the public services cap on CDBG funds to ensure grantees have the flexibility and resources needed to respond effectively to local needs. Public services include a wide-range of eligible activities which are providing critical support to communities during the ongoing COVID-19 crisis. Similar to requests members of Congress have issued, LISC supports enhancing these efforts through the temporary removal of repetitive paperwork to lessen the administrative burdens imposed on those responding on the frontlines.

Recommendation: We recommend HUD temporarily waives or modifies income verification requirements for organizations carrying out work funded under the CDBG public services category. This recommendation would ensure organizations such as food banks and health providers are able to swiftly provide services to communities in need and increase accessibility.

Housing

CDBG can serve as an important resource for financing affordable housing projects and supporting low-income people during this crisis.

a. Rental Assistance

The CARES Act provided funding to ensure that HUD tenant- and project-based rental assistance programs have the resources necessary to support residents currently assisted through these programs. The legislation did not provide emergency rental assistance for low-income households not currently served through federal rental assistance programs, leaving many at risk when eviction moratorium expire or for those families living in housing not subject to the CARES Act eviction protections.

Recommendation: CDBG resources can currently be used to provide up to three months of emergency rental assistance and we encourage HUD to waive this regulatory cap since the coronavirus is likely to impact households for a much longer period. In addition, we recommend that the Department promote the ability of utilizing CDBG for this purpose through technical assistance and outreach so states and entitlement communities are aware and know the programmatic requirements.

b. New Construction

The CARES Act provided support for a variety of critical programs although did not include additional resources for affordable housing construction projects. These resources are needed for low-income

housing tax credit projects which may need additional project financing sources during the crisis. CDBG resources can currently be utilized to support affordable housing new construction but only under limited circumstances.

Recommendation: We recommend that HUD permit entitlement jurisdictions to allocate CDBG resources directly for affordable housing construction projects. Currently, grantees must only work through certain organization types for new construction activity. Allowing entitlement jurisdictions to spend these resources directly will assist them in addressing local housing needs more quickly.

We also recommend align CDBG new construction regulations and administrative practices with those found in the HOME Investment Partnership (HOME) program. For instance, CDBG funded construction work over \$2,000 with 8 or more units requires Davis-Bacon wage rates although HOME requirements are triggered at 12 or more units. We recommend that HUD require Davis Bacon wage rates for CDBG new construction projects with 12 or more units to be consistent between the programs. It's important that HUD align requirements as much as possible to reduce compliance costs and ease the flow of resources into critically needed projects.

Economic Development

The resiliency of businesses will depend in large part on timing and proper utilization of the supportive measures made possible with CDBG. Business owners must be provided with access to grant and loan capital and associated technical assistance as soon as possible, given many are facing massive shortfalls and, as a result, are currently making decisions on staffing levels and operations continuity. Action is needed to streamline the process and remove administrative burdens that inhibit the ability to effectively participate in CDBG supported programs and safeguard businesses from further losses.

Several LISC local offices are working with their entitlement communities on utilizing CDBG resources to support local economic development and sustain business operations. It is imperative that obstacles to quickly and efficiently meeting ongoing needs for microenterprises and small businesses are eliminated in light of the crisis.

a. Removing the DUNS Number Requirement for Microenterprise Grants and Loans

Microenterprises are an integral part of our business communities, with nearly 90 percent of the nation's businesses qualifying as such, and even more so within LMI communities. Current HUD regulations require a DUNS number for any entity receiving direct financial assistance, such as a grant or loan, prior to disbursement of funds. The intent of DUNS numbers is primarily to track those doing direct contracting with the federal government and as such, does not match the spirit of assisting main street microenterprises. The process to obtain a DUNS is often lengthy, sometimes taking up to 30 days and many businesses require technical assistance to navigate the application process. In a time of crisis these waiting periods would likely increase given the anticipated influx of applicants and would lead to needless delays.

Recommendation: We recommend that HUD waives the DUNS number requirement if a CDBG financial assistance is being utilized to support low to moderate-income owned microenterprises (LMCMC). Removing the DUNS restriction for LMCMCs will expedite the disbursement of funds and is possible based on current IDIS system requirements.

b. Allowance of Self-Certification for Microenterprises

The capacity to provide intensive, high-touch technical assistance is limited during the crisis and as such, removing duplicative documentation requirements will simplify the process for business owners seeking assistance and service providers.

Recommendation: We recommend HUD provides guidance clarifying that self-certification of microenterprise status and low-to-moderate income family status is acceptable for eligibility determinations. Such guidance should also state that self-certifications are subject to audit and fund recapture requirements to mitigate against potential abuse.

c. Utilizing Good Faith Forms

Empowering jurisdictions with the ability to provide access to timely capital should be a top priority. Allowing eligible small businesses and microenterprises to utilize good faith forms that certify their intent to use the funds to support ongoing and regular business operations will allow for sensible timelines and reduce administrative burden.

Recommendation: We recommend HUD provide guidance clarifying that good faith forms signed by the business owner that attest to the intended usage of the grant or loan funds is sufficient documentation to establish use of funds.

d. Pooling Use of Microenterprise Activities

CPD regulations already provide flexible use of CDBG to fund assistance to microenterprises and to people developing microenterprises. This includes not only direct financial assistance through grants and loans to those enterprises, but also childcare, transportation, counseling, and technical assistance. Assistance can be delivered through traditional nonprofit or for-profit subrecipients, including community development corporations, community development financial institutions (CDFIs), banks and others.

Recommendation: Given the very low compliance burden attached these activities, any small business lending program should exercise robust use of microenterprise assistance to help small businesses, including sole proprietors and gig economy workers, businesses staffed primarily by contractors, and the full range of businesses that are not eligible for the Paycheck Protection Program. HUD would not need to take any official action to permit this activity, rather the Department need only promote the use among its awardees, which have little familiarity with this activity.

HUD should exercise its alternative requirement authority to treat microenterprise assistance activities as pools rather than individual activities for the purpose of demonstrating national objective compliance. Under such an alternative requirement, a pool of awards to microenterprises would meet the low-mod limited clientele national objective if 51 percent or more of the enterprises qualify as low-mod income. Such an alternative requirement would significantly improve the ability of lenders to construct viable portfolios and deploy it quickly.

e. CDFIs as Community-Based Development Organizations (CBDOs)

Under the terms of 24 CFR 570.204(c)(3), HUD has existing regulatory authority to permit recipients to designate as CBDOs organizations that do not otherwise meet the qualifying characteristics, but instead demonstrate sufficient similarity in purpose, function, and scope to those entities qualifying. HUD should provide guidance which states that CDFIs certified by the U.S. Department of the Treasury qualify as CBDOs for the purpose of the CDBG program since they are similar entities. HUD should encourage grantees to deploy funds through CDFIs with existing capacity to manage small business lending programs. This would bolster CDFI balance sheets at a moment when many may be undercapitalized and provide a source of flexible long-term revenue for these critical community development partners, as loan repayments would not be restricted by program income guidelines.

Recommendation: We recommend that HUD exercise CARES Act authority broadly by offering blanket approval of certified CDFIs as CBDOs. To the extent that HUD chooses to exercise its waiver authority to waive public benefit requirements for lending activities carried out under 570.204 – as opposed to 570.203 – it would likely improve lending efficiency and effectiveness in this market, which today is the public benefit. Also, HUD could waive 570.209(a) underwriting guidelines for CDFI CHDOs without reducing fidelity in oversight and risk management.

Thank you for considering our suggestions on how HUD can utilize the CDBG program to respond to the coronavirus. Please contact Mark Kudlowitz (mkudlowitz@lisc.org), LISC Policy Director, if you need additional clarification or follow up on any of the recommendations provided in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Josephs", with a long, sweeping horizontal line extending to the right.

Matt Josephs
Senior Vice President for Policy